

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 13th June, 2019

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

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

PRAYER

PETITION

CORRUPTION AND MISMANAGEMENT IN NYAMIRA COUNTY GOVERNMENT

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I hereby report to the Senate that a Petition has been submitted through the Clerk of the Senate by Mr. Reuben Kibegwa Mageuzi, a citizen of the Republic of Kenya and a resident of Manga Ward, Nyamira County.

As you are aware, under Article 119(1) of the Constitution, and I quote-

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

Hon. Senators, the salient issues raised in the said Petition are-

(i) THAT the County Government of Nyamira has not adhered to the provisions of the Constitution on the Public Procurement and Disposal Act, which states that all projects should be procured through a competitive process.

(ii) THAT there are rampant cases of corruption, incompetence, impunity, clannism, nepotism, cronyism and plunder of public resources as an instrument of self-advancement and oppression of the residents of Nyamira County by the Governor.

(iii) THAT, the county leadership has disregarded affirmative action programmes deliberately to ensure that the minorities and marginalized groups do not participate and are not represented in the county government.

(iv) THAT, the County Assembly has contravened Article 201 of the Constitution on the principles of public finance regarding openness and accountability including public participation in project selection and financial matters.

(v) THAT, the County Government has shown undue favouritism towards relatives and funders of gubernatorial campaigns. This has led to the hiring of personal staff without proof of academic and professional qualifications.

The petitioner therefore prays that the Senate intervenes and addresses issues raised by the petitioner on the management of the Nyamira County.

Hon. Senators, pursuant tot Standing Order 225, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

What is your point of order, Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, I am wondering aloud whether in determining some of these petitions, the Standing Orders are being followed. The Standing Orders are very clear that we cannot question the proceedings of a county assembly. I am not sure whether these are proceedings of a county assembly and whether we have jurisdiction to get into the details of a county assembly as such.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senator, I thought you rose on a point of order, then you went ahead to say that you are wondering aloud. I am left wondering what you are wondering about because you have not shown us the document that you are talking about which is different from what we have just read. We have read a normal petition, and I have given Members time to contribute on that note.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, my contribution is on an issue that should be determined. The day before yesterday, someone raised concerns about a petition that was brought to the attention of the Senate as to whether the Standing Orders allow us to question the proceedings of a county assembly. However, if the Speaker has found it fit, so be it. Let us get a determination. However, it is still an issue that is bothering me.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Mutula Kilonzo Jnr., we will revisit what you have just said.

Kindly, proceed, Sen. Seneta.

Sen. Seneta: Madam Temporary Speaker, thank you for allowing me to add my voice to this Petition from Nyamira County. This Petition may be from Nyamira County, but the situation is reflected in many of our counties especially on the issue of employment. The county public service boards seem not to be independent and do not follow procedures in employment.

I wish that the Committee on Labour and Social Welfare of this House would revisit the issue of employment especially now that we have a budget that may not accommodate the taskforce that the counties are employing.

We need to consider the grades and competence as a requirement for employment. In many of our counties, it is the incompetent or unqualified people who hold positions. Some of the County Executive Committee (CEC) members take advantage of the directors working under their offices. Some governors have employed more than 15 directors in their offices.

Madam Temporary Speaker, the issue of employment in counties needs to be streamlined. We need to look at how we can make it standard so that we have people who are qualified and applied competitively to be employed.

Tenders are just being dished out in the counties without competitive procurement processes. Contracts are dished out without clear procedures. The county governments need oversight on procurement processes.

Madam Temporary Speaker, we seem to have devolved corruption, tribalism and clannism. Road construction contracts are being dished out to relatives and people who supported the governors in their campaigns without even considering their capacity. That is why you will find that new roads are out of service just after two weeks of use. Therefore, this Petition will go a long way to help all our counties. The Committee that will handle it should look at it broadly in all counties not only the County of Nyamira. We need to support that Committee so that they can look at issues concerning all counties in terms of employment, corruption and competitive procurement processes.

The Temporary Speaker (Sen. (Prof.) Kamar): To clarify the concerns of Sen. Mutula Kilonzo Jnr., I have gone through the Petition. It has nothing to do with the proceedings of the assembly. In fact, they have an issue with the county assembly. I hope that Sen. Mutula Kilonzo Jnr. has got it clear.

Sen. Hargura: Thank you, Madam Temporary Speaker. I would like to make a comment on this Petition. This could be the third Petition we are getting along the same lines this week. Kenyans are getting worried about how county executives are going about the issue of employment.

Madam Temporary Speaker, I urge the Committee to which the Petition will be committed to establish what kind of guidelines were given to the governors in terms of staffing of the governors' offices. That seems to be where the free hand is.

We also need to know the issue of the wage bill. Yesterday, I raised the issue of the formula and wage bill with the Commission on Revenue Allocation's (CRA) formula. This has been a big issue. This is one way of contributing to the high wage bill, if there is uncontrolled employment.

Sometimes, you will find a person is employed and is given unnecessarily high job groups which contribute to this wage bill. Therefore, I urge the Committee to make sure that other than just handling this Petition from Nyamira or the other one from Bungoma, which was presented here yesterday day, they should also look at the guidelines that have been issued for these executives to follow so that we see whether they are operating within them.

Sen. Olekina: Thank you, Madam Temporary Speaker. Nyamira is an interesting county which has only 600,000 people according to the statistics. This Petition is the second. Yesterday, we had a Petition from another county. I am sure that tomorrow, we will have another Petition from another county. This tells us that there is a serious problem. It is not that we do not know. Kenyans are now becoming more aggressive in trying to come up and defend the Constitution of Kenya.

This is the reason why the framers of the Constitution gave us that mandate to defend the interests of counties and their governments. I would have loved for the Senator of Nyamira County to be here today to listen to these issues. We need to know how to deal with these issues given that every county in this country inherited a huge wage bill. There are employees who were seconded from the national Government and

when the governors come in, they want to bring people who can help them deliver on their mandate.

The issue of favoritism on the people who were working with the governor during the campaign period can be interpreted differently. Therefore, I urge that as we look at these issues, we try to put ourselves in the position of both the governor and also that citizen. May be that citizen qualified to be given a job. However, because they objected or did not support the governor when he or she was running for the elections, they are sidelined. Therefore, we need to ask ourselves broadly what we can do in order to protect and ensure that when a governor is elected, he or she serves all the people; those who supported him or her and the ones who did not.

For county that has about 600,000, you will find that professionals would want to go back there and serve. That is why when they try to seek employment in their county government, they are hit by challenges of nepotism when they realised that everyone - whether it is true or not- is related to the governor in one way or the other.

Madam Temporary Speaker, so that we can deal with these issues broadly, I plead with you not to commit this Petition to only one Committee. Yesterday, the Petition was committed to the Committee on Devolved Government and Intergovernmental Relations. However, there are issues of fiducial responsibility which deal with financial management which the CPAIC interrogates on a daily basis.

I plead with you to consider a way where two committees can look at these issues so that where there is a problem, we can have a solution. Otherwise, before you realise, on a daily basis, we will be getting petitions from the 47 counties.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senators. Before we proceed, I would like to make a Communication on visiting students and teachers from Jasmina Carmel School, Nairobi

(Interruption of debate on Petition)

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM JASMINA CARMEL SCHOOL, NAIROBI CITY COUNTY

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Jasmina Carmel School, Nairobi City 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.

VISITING DELEGATION FROM ORERO BOYS HIGH SCHOOL, HOMA BAY COUNTY

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Orero Boys High School, Homa Bay.

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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.

VISITING DELEGATION FROM BUJWANG'A
SECONDARY SCHOOL, BUSIA COUNTY

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

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.

(Applause)

(Resumption of debate on Petition)

Sen. Poghiso: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Is it a point of order or intervention?

Sen. Poghiso: Madam Temporary Speaker, as you exit the whole issue of Petitions, and before you move to the next order---

The Temporary Speaker (Sen. (Prof.) Kamar): We have not finished. I still have eight people and 16 minutes for two minutes each. So, are you contributing on that?

Sen. Poghiso: Madam Temporary Speaker, I am joining you in welcoming the students. However, at the same time---

(Laughter)

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

Sen. Poghiso: Madam Temporary Speaker, I am not done.

The Temporary Speaker (Sen. (Prof.) Kamar): Are you on a point of order? If you want to contribute, I will allow you to.

Sen. Poghiso: Madam Temporary Speaker, I want to keep that point of order alive. Before you exit the whole issue of Petitions, I would like you to give me the chance to raise my point of order. Now that I am on my feet---

The Temporary Speaker (Sen. (Prof.) Kamar): Senator, is your point of order in regard to this?

Sen. Poghiso: No, it is in regards to the Petition.

The Temporary Speaker (Sen. (Prof.) Kamar): Okay, let us get the contribution and then I come to you last.

The Senate Minority Leader (Sen. Orengo): On a point of order, Madam Temporary Speaker. I think we are coming up with a practice which is not good for the

business of this House. Once an Order is called out, we should conclude it before the Chair can intervene to read a Message or welcome people to this Chamber. For example, if we are on Messages---

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Sen. Orengo! You need to remember Standing Order No.1. When we have 20 schools lined up, we should not have students walk in and out before being recognised. We have people queuing and that is okay.

Let us have Sen. Cherargei James Kiprotich.

Sen. Cherargei: Madam Temporary Speaker, maybe my name changed to James but I am Samson. Saul also changed his name to Paul on the way to Damascus---

The Temporary Speaker (Sen. (Prof.) Kamar): Sorry. This is the Senator for Nandi County, Sen. Cherargei Samson Kiprotich.

Sen. Cherargei: Thank you, Madam Temporary Speaker. I support this Petition which might be directed to my Committee on Justice, Legal Affairs and Human Rights. There are allegations of corruption, human resource and governance issues.

I agree with my colleagues that if we are not careful, we might have a scenario of all the 47 counties sending petitions concerning corruption and misuse of public property and money. If such petitions come to this House, we should involve more committees. That is the way to go. There are many corruption allegations facing many counties.

Mediation on the Division of Revenue Bill has collapsed. Many people say that we have an increase in corruption cases because we give more money to the counties. That argument is weak. Relevant investigative agencies should do their work. The Directorate of Criminal Investigation (DCI), the Ethics and Anti-Corruption Commission (EACC), the Director of Public Prosecutions (DPP) and the Judiciary have failed because people have lost trust in those institutions except the Senate.

Sen. Boy: Asante, Bi. Spika wa Muda, kunipa fursa hii kuchangia *Petition* iliyoletwa hapa. Ni jambo la kusikitisha kwa sababu kuna malalamiko kuhusu ufisadi na ukosefu wa kazi katika kaunti 47. Tusipochunga, tutakuwa na *petitions* 47 hapa.

Naunga mkono hii *Petition* iliyoletwa hapa kwa sababu swala hili linafaa kutatuliwa. Kule Kwale, kila mara ninapopiga kelele kuhusu ufisadi, watu wanapuza na kujiuliza kama mimi ni kiranja. Mojawapo ya majukumu yetu ni kuchunguza matumizi ya pesa za umma.

Tunafaa kushughulikia hii *Petition* haraka iwezekanavyo ili watu wa Nyamira wapate haki yao.

Sen. Cheruiyot: Madam Temporary Speaker, I would like to make a brief comment on this issue. It could partly be because of our problem as a Senate or a constitutional challenge.

At the beginning of this Parliament, I brought an amendment to the County Governments Act which we eventually passed albeit late. It sought to ensure that chairpersons of the County Public Service Boards (CPSBs) have got at least a training and an understanding of how public human resource works. We delayed in passing that Bill but right now, it is before the National Assembly. Unfortunately, by the time the Bill is effected we will have to wait for another five years because most counties are recruiting chairpersons of CPSBs. The people who were appointed in 2013 were not as

crooked as the majority that we have. Therefore, they may have given due consideration to issues of professionalism.

I can assure you that in most counties, many governors make their cronies heads of CPSBs. They hand lists to them and ask them to employ those people. Basically, it will be difficult for us to control this, unless we get the Public Finance Management (PFM) Act that is before the National Assembly.

We also need to control the percentage and the number of people to be employed in every department. We should not just, for example, tell them that they should not have more than 70 per cent of their budgets going to recurrent expenditure. We should ensure that---

(Sen. Cheruiyot's microphone went off)

The Temporary Speaker (Sen. (Prof.) Kamar): Two minutes are over. Let us have Sen. Orengo representing Siaya County.

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, I support this Petition because it applies to nearly all the counties. Yesterday, we had a petition about Bungoma. If you look at the root cause of the problems being encountered there, it is the same with what is being experienced in Nyamira and Siaya counties.

One of the biggest fault lines we have in the Constitution, which we need to rectify, is describing governors as the Chief Executive Officers (CEOs) of the counties. Not even the President of the Republic of Kenya is described as the CEO of the Republic. That has made it possible for the governors to have chairpersons of CPSBs and speakers they want. They do not abide by the law we made here and the Constitution that posits the executive authority in the county executive committees.

I hope that in the fullness of time, since the Senate has been working on a document which was a product of a committee led by the Senate Majority Leader and Sen. Mutula Kilonzo Jnr., we should try to rectify that by looking at the powers of the governors as provided in the Constitution and the County Governments Act. If we do not that, we will create small dictators in the counties. Some of the governors will tell you that if they are offered cabinet positions, they will not accept. They would rather remain governors.

I thank you.

Sen. Kinyua: Madam Temporary Speaker, I support this Petition. This Petition is not unique to Nyamira County. It cuts across the 47 counties. Sometimes it bothers me when we sit here and talk about increasing money that goes to the counties but a lot of it is lost through corruption. It beats logic why more money should be taken to the counties yet it is not used for the intended purposes.

We should encourage county assemblies to do oversight because they are the first call of oversight. Since Senators are not given money for oversight, then it becomes difficult for us. We can keep talking here until cows come home.

We had a petition yesterday and we may have another one tomorrow. If we do not fix the problem, we will keep receiving petitions because there is nothing that can be done.

I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, we still have six minutes. Those who want to contribute should restrict themselves to one minute, so that more Members get a chance to contribute.

Let us have Sen. Mwaruma.

Sen. Mwaruma: Thank you, Madam Temporary Speaker. I stand to support this Petition.

This Petition is a reflection of the despondence amongst citizens because they feel that nothing is being done when it comes to corruption and nepotism. The petitioners brought this Petition here because the county assemblies are not playing their oversight role and the citizens feel that the Senate can be of help. There is evidence that there is corruption in the counties. Many Members of the County Assemblies (MCAs) have acquired a number of vehicles in a span of two years and people can tell that they have acquired them through the acts of corruption but they cannot do anything. People are employing their own cronies and the people cannot do anything about it.

The Committee on County Public Accounts and Investments Committee told us that Taita-Taveta County was given more than Kshs200 million. Why did the Office of the Controller of Budget (CoB) release such an amount of money?

This Petition is well placed. We can take it up and address the generic issues across the counties.

Sen. (Dr.) Milgo: Thank you, Madam Temporary Speaker. I also stand to support this Petition. It is evident that we shall soon have petitions from all the 47 counties. This Petition is touching on labour, finance and procurement. It is evident that there are many questions on management especially the management of resources that go to the counties.

Recently, we questioned what the County Executive Committee (CEC) Member in charge of roads in my county was doing. They had been constructing a bridge using bricks but they have now pulled it down. That means that the public funds that were used to construct the bridge have gone to waste.

Employment should also be looked into. A colleague has said that the county public service boards should comprise of well-trained individuals who can identify the right CECs to take care of the resources that are being sent to the counties. If nothing is done, we will just be transacting petitions in this House.

Sen. Wario: *Asante Madam Temporary Speaker, kwa kunipatia nafasi hii. Ninaunga Petition hii mkono. Magavana wamekuwa wakiandika watu kazi. Wenyekiti wa tume ya kuajiri watu hawafanyi kazi yao kwa sababu wanaelekezwa na magavana.*

Petition hii imekuja wakati mzuri. Hii Petition sio ya county moja bali ni ya counties zote.

Sen. Linturi: Thank you, Madam Temporary Speaker. I support this Petition. What has been enumerated by the Petitioner is the truth and nothing but the whole truth. It is not that we do not have adequate laws to deal with the problems that are facing the counties. The problem is the enforcement of the relevant legislation that relate to procurement, hiring of officers and the rest.

I want us to think of a way of dealing with this matter proactively so as to bring them to a stop. You will realise that we---

(Sen. Linturi's microphone went off)

The Temporary Speaker (Sen. (Prof.) Kamar): Sorry, your one minute is over.

Sen. (Eng.) Maina: Thank you, Madam Temporary Speaker. My time starts now.

This Petition is a cry of a sad situation that this House is witnessing helplessly. I am sad that the little oversight money that this House was asking for has been removed from the budget. There is gluttony and greed in the counties and our people are suffering. We are witnesses to that. Wananchi are suffering because they see theft at their doorsteps. It is better when that theft happens at the national Government.

Therefore, we need a wholesome approach to this matter. It should not just be a petition and we should not just talk about it or write reports which will be kept somewhere and later be used to light fire. We need a holistic approach from this House.

The Temporary Speaker Sen. (Prof.) Kamar: Thank you. Sen. Mwangi. You have one minute.

Sen. Mwangi: Thank you, Madam Temporary Speaker, for this opportunity. We have a problem in this country and governors are behaving like presidents. They do not believe that they are supposed to serve the people of Kenya. Instead, they believe that they should loot the money given to them by the Senate. As Senators, we are supposed to oversee yet we have not been given a single cent to do that. All the money has been left to the governors who are looting billions of shillings. We have created 47 units of theft. Governors are stealing public funds with impunity.

The Temporary Speaker Sen. (Prof.) Kamar: Thank you. Could we hear from Sen. Wetangula? You have one minute.

Sen. Wetangula: Thank you, Madam Temporary Speaker. This Petition reflects all the other petitions that we have received in this House.

As an oversight House and a House that protects and defends counties, this House must resist attempts by other institutions to truncate and frustrate its oversight roles. I expected the Committee on Justice, Legal Affairs and Human Rights, chaired by the Senator of Nandi, to stand on the Floor of this House and challenge a recent judgement in the courts of law that said that the Senate can only oversee funds sent to counties from the national Government and not funds collected in the counties. That is an absurdity. This House must defend and protect its ability to oversee counties.

Madam Temporary Speaker, I request that you add me a minute. Secondly, the National Assembly has palmed off the Kshs500 million that was meant for oversight activities in the counties. That is another area of assault on not only devolution, but also on the powers and capacity of the Senate.

Thirdly, the Committee on Devolution and Inter-Governmental Relations can pick some of these issues that are topical and are everywhere. As a Committee of this House, you do not have to wait for petitions to come to this House. You have a duty, ability and capacity to call the Council of Governors (CoG) and individual governors, and speak to them on matters accountability and probity. This will ensure that public funds are properly protected and sent to counties to do what they are meant to.

The idea of governors lining their pockets at the expense of the people of this country is a common knowledge. What we do about it is what is lacking.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Finally, we will have Sen. Poghisio. Please, Members who want to contribute, we cannot continue because we have already beyond our half an hour.

Sen. Poghisio: Madam Temporary Speaker, this is just to say that I support the Petition. We must support the strengthening of oversight in this House, so that some of these issues cannot be repeated in other areas. We have counties which began very well, but before the end of the year, employment and the wage bill have been exceeded without following and rules. This House must stand firm against such kind of things.

I ask the Committee to scrutinise this Petition properly, so that when it comes back to the House, we can sort out this matter once and for all.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senators. Pursuant to Standing order 232--- I think I made a reference to the wrong one earlier. It is Standing Order No. 232 and the earlier one was Standing Order 231. Pursuant to Standing Order 232(1) the Petition stands committed to the Standing Committee on Justice, Legal Affairs and Human Rights. I am sure they have taken note of every contribution.

In terms of Standing Order No.232(1), the Committee is required, in not more than 60 calendar days from the time of reading the prayer, to respond to the Petition by way of a report, addressed to the Petitioner and laid on the Table of the Senate.

I thank you.

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

Next Order.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Poghisio, you had booked a point of order. Go ahead. What is it?

Sen. Poghisio: Thank you, very much, Madam Temporary Speaker. I thought before you left the Order on Petitions, that Standing Order No.100 and Schedule 3 of our Standing Orders speak clearly about Members. Standing Order No.100 speaks about being responsible for the accuracy of the information that a Member brings to this House. The other one speaks about petitions; the lay out, how you present petitions and how they qualify to be properly before the House.

I think we are getting to a place where petitions are not scrutinised for validity. I can give you an example: There is a particular petition that came the other day on mass failings from the Kenya school of Law. The names of the Petitioners were altered. There were crossings and it qualified. What is the interest, for example, of a Senator purporting to present a petition for another county when the Senator of that county is just here?

(Applause)

Madam Temporary Speaker, yesterday, the country was treated to some circus on the issue of the Deputy Governor of West Pokot County. That Petition is defective. I told the Speaker that and he arranged for us to meet before it was read. The Petitioner who is not here should have declared interest---

The Temporary Speaker (Sen. (Prof.) Kamar): Senator, I do not know where you are going because you are prosecuting a request you made to the Speaker and got an answer from him. I would rather you stop it there because according to Article 119(1) of the Constitution, and I want to quote it again because I quoted earlier, it says-

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

As far as that Standing Order is concerned, let anybody petition. If by any chance the petitioner feels that the Petition should go straight to the House, let it do so. The Standing Orders do not specify that you must be the presenter of the Petition.

Please, take your seat. I am trying to help you that there are other channels of consultations, but the Standing Orders help and guide us here. The way the Standing Order has come out, the Petition that came yesterday and even today are properly in the House. It was not the only one; I think we had another Petition from Bungoma County, which was not read by the Senator for Bungoma.

Please, rest it there and let us do other consultations outside the House.

(Sen. Poghiso spoke off record)

I think I have rested your point of order because, otherwise, it will not be a point of order. You are prosecuting something that you should seek better approach to.

(Sen. Poghiso spoke off record)

You are not on record and we cannot hear you. There is a point of order over your point of order already from the Senate Majority Leader, Sen. Murkomen and Sen. Wetangula.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, generally on the issue, Sen. Poghiso, Sen. Cherargei and I had a discussion with the Speaker about petitions. I think the message I got from that consultation was that as Senators in this Chamber, we must all act in good faith amongst ourselves.

If a matter is so intricate with the functioning of a Senator in his county, there is nothing in the Standing Orders that says it must be brought by the Senator of that county. However, in good faith, it is important for colleagues to consult over such petitions. Good faith facilitates good relationships in the House.

The Speaker at that time had organised for a session of Sen. Cherargei and Sen. Poghiso to agree before the Petition was brought to the House. I think as a matter of practice, maybe that is something that your office, as the Speaker--- We can also consult outside the debate of the Chamber, so that going forward, Members can agree on how to move forward.

Sen. Wetangula: Thank you, Madam Temporary Speaker. Yesterday, when the distinguished Senator for Nandi County presented a Petition from West Pokot County, the Senator for Nairobi City County attempted to bring it to the attention of the Chair. Unfortunately, the Chair just brushed it aside.

I agree with the Senate Majority Leader that rules of decorum and respect for each other and respecting boundaries of leadership and representation require that if citizens from another county ask me to present a Petition on their behalf, courtesy requires that I have to go to my colleague, explain to him and seek his concurrence or consent.

The Temporary Speaker (Sen. (Prof.) Kamar): I think we are again prosecuting it.

Sen. Wetangula: Madam Temporary Speaker, I am going to give the way forward---

The Temporary Speaker (Sen. (Prof.) Kamar): It is exactly the very explanation I was telling the Senator that outside the Standing Orders, we can negotiate. So, let us not prosecute---

Sen. Wetangula: Madam Temporary Speaker, if you hear me, you will understand me. The Standing Orders are not meant to create disharmony between us, but for the orderly running of business in this House. I urge the Chair, including you, that if a Member of this House wants to present a petition from another county in a manner that you feel has not been properly consultative, it is easier for the Speaker to read the petition to the House than to let Members quarrel over who will present a petition from another county. That way, we will not have this situation where Sen. Poghisio is feeling angry, unhappy, ignored and unconsulted. He has the right to do so.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Since I have allowed interventions, there is an intervention from Sen. Cheruiyot, who I believe was in the consultation meeting.

Sen. Cheruiyot: No, Madam Temporary Speaker; I was not there. However, I just wanted to remind our colleagues that where the Standing Orders may fall short, I have always felt that traditions have also guided us as a House, and it is one of the considerations. Therefore, as the Senate Majority Leader ably pointed out, and which has been ably espoused by Sen. Wetangula, it is good that we keep that tradition of consulting each other.

Thank you, Madam Temporary Speaker.

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

Proceed, Sen. (Prof.) Ongeru.

Sen. (Prof.) Ongeru: Madam Temporary Speaker, I do not intend to initiate a debate. Yesterday, when this matter came up before this House, I approached the Chair and said quite categorically that it is in bad faith for anybody to prosecute a case of Kisii County when I am already representing the people of Kisii County in this House. The Speaker assured me yesterday that this matter will be sorted out. Therefore, I am not alarmed when I see Sen. Poghisio raising this point of order, because I think we must follow certain decorum on how we want to relate to one another in this House. A ruling from the Speaker's Desk would be a very important ruling on how these petitions must be prosecuted for the future.

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

Lastly, Minority Leader, do you still want to say something?

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, I rise because we have discussed the point of order raised by the Senator for West Pokot County. However, he had not finished making his point, and I think that is very unfair. He should have been allowed to prosecute it and if you were not going to allow him, then nobody else should have commented on that point of order.

Having said that, Madam Temporary Speaker, traditions and conventions are very important. That is why they are factored in Standing Order No.1(2). Even when visiting our own counties, it is good manners and is part of the conventions that I have known for a long time, that if I wanted to go to Nakuru County, then I would inform the Senator of that county. For that reason, I am very happy about the Senator for Kericho, because he told me yesterday that he will be visiting Siaya. Similarly, the other time when the Majority Leader was coming to Siaya on a private visit, he gave me that information. Therefore, the next time I come to Eldoret, I will inform you in good time.

The Temporary Speaker (Sen. (Prof.) Kamar): Do that next time, because I think you have been sneaking in without informing me.

(Laughter)

Order, hon. Members! The reason I allowed this is because it was going outside the Standing Orders, which was also corrected by the Majority Leader. However, I did not mean not to give him time to conclude. I wanted him to conclude, but only after listening to his colleagues. I, therefore, give you only one minute to finalise.

Sen. Poghiso: Madam Temporary Speaker, it will require the Chair to make a ruling on this; not necessarily on who represents what, but on the quality of approvals for these things. If you look at the case that I have just presented, it is possible that sometimes in the process, we allow this House to be used by people of interest. Also, on declaring interest, the Senator for Nandi County should have declared his interest in this matter. They share a common name with the petitioner, and that name can only be said in Swahili. It is the one that the Governor of West Pokot County used to describe this person.

(Laughter)

The Senate Majority Leader (Sen. Murkomen): On a point of order, Madam Temporary Speaker. The records of this House indicate that the Senator for Nandi County is called Sen. Samson Kiprotich Cherargei. Is the Senator for West Pokot County in order to try to call the Senator for Nandi *mulumulwas*?

(Laughter)

Worse still, is sharing a name with someone, a position of interest enough to be necessary to declare here?

Hon. Senators: Yes!

(Loud consultations)

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Senators!

Sen. Poghio, I had given you one minute and you only have 15 seconds left. We must close this debate because I was trying to avoid discussing ourselves. We said that if there is a proposal that is coming forward, let us discuss it outside here instead of discussing colleagues on record.

Sen. Poghio: Madam Temporary Speaker, I will not tire the House on this matter. I did not name anybody; I did not even say the name I was going to say. It is mostly in Swahili.

Now, Madam Temporary Speaker, if I were to appeal to you, the purpose will be to make sure that we approve the petitions that meet the threshold to be allowed in this House for purposes of prosecution.

Thank you very much, Madam Temporary Speaker.

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

As I said earlier, we should stick to our Standing Orders as much as possible whenever we are prosecuting issues. We have noted your concern and the practice in the House, which we really believe we should adhere to. However, if there is anything that we want to change in our Standing Orders, we all know the procedure. I, therefore, rest it at that.

Next Order.

PAPERS LAID

FINANCIAL STATEMENTS OF VARIOUS COUNTY AGENCIES/FUNDS

The Senate Majority Leader (Sen. Murkomen): Thank you, Madam Temporary Speaker. I beg to lay the following Papers on the Table of the Senate today, Thursday, 13th June, 2019-

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

Report of the Auditor-General on the Financial Statements of Nyeri County Elimu Fund for the Year ended 30th June 2018.

Report of the Auditor-General on the Financial Statements of Laikipia County Assembly Members Car and Mortgage Fund for the Year ended 30th June 2018.

Report of the Auditor-General on the Financial Statements of Kisii Demonstration Farms Fund for the Year ended 30th June 2018.

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Report of the Auditor-General on the Financial Statements of Laikipia County Assembly Staff Car and Mortgage Fund for the Year ended 30th June 2018.

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

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

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

(Sen. Murkomen laid the documents on the Table)

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

STATEMENTS

CHALLENGES FACED BY KENYANS APPLYING FOR E-PASSPORTS

Sen. Cheruiyot: Thank you, Madam Temporary Speaker. Pursuant to Standing Order 48(1), I rise to seek a Statement from the Committee on National Security, Defence and Foreign Relations on the challenges faced by Kenyans seeking to acquire e-passports.

Madam Temporary Speaker, in the Statement, the Chairperson should address the following concerns that have been raised by Kenyans-

- (1) State the number of passport issuing centers available across the country;
- (2) Explain the measures being undertaken to alleviate the suffering Kenyans undergo as they queue every morning at Nyayo House from 3.00 a.m. in order to stand a chance to be served on a particular day; and,
- (3) State the plans by the national Government, if any, to decentralize this service and ensure that Kenyans can access passport issuing services with ease.

I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): I will allow a few interventions.
Kindly, proceed, Sen. (Dr.) Ali.

Sen. (Dr.) Ali: Madam Temporary Speaker, the issue of passport is a very emotive one in the north eastern parts of Kenya and the Muslim Community. Every year, very many Muslims go for the Hajj Pilgrimage. Muslims undergo a lot of problems at the Immigration Department while processing their passports to travel for the Hajj Pilgrimage. Some people are even told to avail the birth certificates of their mothers and fathers. Where can a 70 years old man get the birth or death certificate of his parents?

In the entire Wajir County, births and deaths registration offices are only found in Wajir Town. Some places like Dadajabula and Bute which are located 200 and 300 kilometers away respectively, people have a rough time getting passports.

Madam Temporary Speaker, whenever Muslims want to travel for the Hajj Pilgrimage, they have to use a lot of money to bribe brokers. Some Muslims are forced to approach the Supreme Council of Kenya Muslims (SUPKEM) for intervention to get passports. Some Muslims have to be interviewed by the National Intelligence Security (NIS) agents when they apply for passports. There are very serious issues surrounding issuance of passports.

We used to have a passport processing office in Garissa which has been closed for the last several years. The day before yesterday, the Cabinet Secretary, Ministry of Interior & Coordination of National Government, Dr. Matiang'i, opened a new passport processing office. I, therefore, request the Committee to urge the Cabinet Secretary that more passport processing offices be opened in other regions.

I thank you.

Sen. Faki: Asante sana, Bi. Spika wa Muda, kwa kunipa fursa hii kuchangia taarifa ya Seneta wa Kaunti ya Kericho, Sen. Cheruiyot. Maswala ya pasipoti imekuwa donda sugu kwa wakaazi wa pwani kwa jumla hususan wale waumini wa dini ya Kislamu. Sheria inayotumika kuwapa Waislamu pasipoti ni tofauti na sheria inayotumika kuangalia maombi ya pasipoti ya Wakenya wengine.

Hivi majuzi tulikuwa na mchakato wa kuandikisha Huduma Namba. Stakabadhi zilizokuwa zinahitajika kuandikisha Huduma Namba zilikuwa kadi ya kitambulisho au cheti cha kuzaliwa pekee lakini kupata pasipoti, unahitajika kuleta vyeti vya kuzaliwa za babu na babu.

Babu yangu alipozaliwa, Kenya haikuwa imepata uhuru. Kenya ilipata uhuru mwaka wa 1963. Kwa hivyo, sitapata cheti cha kuzaliwa cha babu yangu kuonyesha kwamba yeye ni Mkenya kwa sababu Kenya haikuwa imepata uhuru alipozaliwa. Donda sugu la pasipoti limekuwa likiwapa Wakenya wengi hususan wale wa kaunti ya Mombasa na miji mingine ya pwani shida kubwa.

Bi. Spika wa Muda, maeneo mengine penye ofisi za pasipoti ni kama Kisumu, Nakuru, Kisii, Embu na maeneo mengine ambapo mwendo ni kama kilomita 100 au 50 kutoka Nairobi. Wale wanaohitaji huduma hizi kwa wingi wamenyimwa nafasi za kuwa na pasipoti. Kwa mfano, pwani nzima, ofisi ya pasipoti ni moja tu mjini Mombasa.

Naunga mkono taarifa hii ili tuhakikishe Wakenya wanaweza kupata pasipoti kwa njia rahisi. Nafasi za kazi hapa Kenya ni adimu, kwa hivyo wengi wakiwa na pasipoti, wataweza kuenda kufanya kazi katika nchi zingine ili waweze kujielendesha kimaisha. Ikiwezekana, Kamati husika inafaa kutembelea ofisi za pasipoti ili wajionee shida zinazowakumba Wakenya.

Bi. Spika wa Muda, Wakenya wengine wenye dini ya Kiislamu huambiwa kwamba lazima wafanyiwe *vetting*. Hakuna sheria inayosema kwamba lazima mtu afanyiwe *vetting* ndipo aweze kupata pasipoti. Ikiwa mtu ana kitambulisho au cheti cha kuzaliwa, hafai kufanyiwa *vetting* anapotafuta pasipoti.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I have a large list of Senators who want to contribute to this statement yet we only have 10 minutes. I am

going to be strict on the time. Each Senator should strictly take a minute to make his or her contribution.

Sen. (Eng.) Hargura: Madam Temporary Speaker, the issuance of passports has been a problem even before the introduction of the new passports. However, the problem is now compounded because even those who had passports need to acquire the new ones.

If the Government is serious about issuance of passports, it has to decentralize the whole process of issuance of passports. I have been to Nyayo House severally to assist people who had urgent cases. There are elderly people from northern eastern Kenya who camp at Nyayo House throughout. That shows that there is a need to have a center in that region. I urge the Committee that instead of just asking where the passport issuance centers are, to also propose that the issuance of passports be decentralized the way the national identification cards are being done and the final step in the issuance of passports should be done in Nairobi. The rest of the processes should be done at the regional level.

Sen. Olekina: Asante sana, Bi. Spika wa Muda, kwa kunipa fursa hii kuchangia taarifa hii. Ningependa kuhimiza Kamati husika kuangalia kama kuna uwezo wa kuairisha tarehe ya 31 Augosti mwaka huu kama tarehe ya mwisho wa kutumia pasipoti za awali.

Ofisi za pasipoti zinafaa kufunguliwa katika kaunti zote ili Wakenya waweze kupata pasipoti kwa urahisi. Kaunti ambazo zina ofisi za pasipoti ni Nairobi, Mombasa, Kisumu, Uasin Gishu, Kisii na Embu. Kwa hivyo, watu kutoka kaunti zingine watalazimika kusafiri hadi maeneo niliyotaja ili wapate pasipoti zao. Naomba wakati kamati itaenda kuchunguza na kumhoji Waziri katika Wizara ya *Interior and Coordination of National Government* wamhimize kufungua ofisi za pasipoti katika maeneo mengine.

The Temporary Speaker (Sen. (Prof.) Kamar): Asante, Sen. Olekina.

Kindly proceed, Sen. Wetangula. You have one minute.

Sen. Wetangula: Madam Temporary Speaker, I support the Statement by Sen. Cheruiyot. However, we have to tackle the issue from where the problem starts; the primary documents that lead to the acquisition of a passport; the birth certificate for minors and the identification card for adults. Those of us from frontier counties like Trans Nzoia, Bungoma, Busia, Siaya, Migori and all the others, it is impossible to get a national identification card unless you go through a very harrowing process. You are sometimes asked to go and bring your great grandfather's identification card.

We know that the use of ID cards in this country came the other day. So, where do you get an ID card of your great-grandfather? We would like the Committee to invite the Cabinet Secretary to discuss how to streamline all these processes.

Finally, I agree with those who have spoken before me that issuance of passports should be decentralized to all counties.

Sen. Wario: Asante, Bi. Spika wa Muda, kwa kunipatia nafasi hii. Swala la kupata pasipoti katika Kenya haswa kwa jamii ya Waislamu imekuwa ndonda sugu. Mimi natoka sehemu ya Tana River, na huko hatuna ofisi ya kutoa pasipoti kwa watu wetu. Watu wengi katika sehemu hiyo haswa wazee kama babu yangu hawana vyeti ambavyo vinahitajika kama vile vyeti vya kuzaliwa ama vile vya kifo. Sijui tutavitoe wapi kwa vile Kenya ilipata Uhuru mwaka wa 1963 na babu yangu alifariki kabla ya

mwaka huo. Nitapata shida kubwa sana kama nitaambiwa nitafute cheti cha kuzaliwa cha babu yangu ili nipate pasipoti. Kwa hivyo, tungependelea huduma ya kutoa pasipoti ienezwe katika kaunti zote ili Waislamu waweze kutuma maombi yao ya kupewa pasipoti katika sehemu za---

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Wario, your time is up.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I agree entirely with those who have said that we need to devolve the issuance of passports.

The essence of devolution is to treat entities equally and fairly. There is no explanation why the residents of Nairobi City County should be favored in as far as the issuance of passports is concerned compared to someone who comes from Mandera. This process should be devolved to every county. That is what Articles Nos.6 and 174 of the Constitution are talking about.

Secondly, there is also need to establish more offices that process passports in Nairobi. The Department of Immigration should be moved away from Nyayo House because the location is not suitable to cater for the long queues of citizens who go there to apply for passports.

Just as the Independent Electoral and Boundaries Commission (IEBC) is saying that they want an office that is situated out of town and with proper space, I think we should also do the same for the Immigration Department.

Thank you, Madam Temporary Deputy Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): The next Statement is from the Senator for Nandi County, Sen. Cherargei to seek a Statement from the Senate Committee on Education.

Hon. Senators: *Mundu Mwasi!*

(Laughter)

Sen. Cherargei: I confirm the name as mine. Let us proceed to the Statement. I cannot stoop too low to engage faceless cartels that were talking earlier today.

RE-APPOINTMENT OF PROF. TERESIA AKENG'A AS
VICE CHANCELLOR OF THE UNIVERSITY OF ELDORET

Sen. Cherargei: Madam Temporary Speaker, pursuant to Standing Order No. 48(1), I rise to seek a Statement from the Standing Committee on Education on the reappointment of Prof. Teresia Akeng'a as the Vice Chancellor of the University of Eldoret. In the Statement, the Committee-

- (1) Should explain the procedure used in the renewal of her appointment;
- (2) State whether the Commission for University Education and the university Chancellor approved her reappointment;
- (3) Explain how the issues that were raised during her first term in office regarding her academic qualifications and professional growth were resolved; and,
- (4) Clarify the status of the university employees especially casuals who are alleged to have worked for years without being confirmed in the appointments.

Thank you, Madam Temporary Speaker.

Sen. (Dr.) Langat: On a point of order, Madam Temporary Speaker. I want to confirm from the Senator for Nandi County whether we have cartels in this particular House who were discussing some matters earlier on. It is a serious issue for a Senator of his caliber to call fellow Senators cartels. He must withdraw and apologize.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Cherargei, did you say there are cartels in this House?

Sen. Cherargei: Madam Temporary Speaker, I said there are spirits and representatives. I did not say there are cartels in this House.

The Temporary Speaker (Sen. (Prof.) Kamar): What is the definition of spirits?

Sen. Cherargei: Madam Temporary Speaker, these are things that are non-existent. They cannot be seen physically.

The Temporary Speaker (Sen. (Prof.) Kamar): If the spirits cannot be seen, then you did not see them.

The Senate Majority Leader (Sen. Murkomen): On a point of order, Madam Temporary Speaker. The reason why we raised the point of order at that point in time is because we did not want it to slip unnoticed. Sen. Cherargei, whom we respect, is a Chairperson of the Committee on Justice, Legal Affairs and Human Rights; which includes good governance. Earlier on, he said that there are Senators in this House who are faceless cartels who spoke earlier.

Madam Temporary Speaker, if you remember very well Sen. Poghisio, Sen. Olekina, Sen. Orengo, Sen. Wetangula and I are among the Senators who spoke earlier. This is a House of record, honour and respect of colleagues. The debate was about respect of colleagues, institutional and representation jurisdiction of hon. Senators. Sen. Cherargei should realize that some of the names I mentioned qualify to be his grandfathers. Therefore, calling them faceless cartels, including Sen. Poghisio in particular, who came to Parliament in 1988 before Sen. Cherargei was born, is a very serious issue.

Madam Temporary Speaker, I would like you to give direction for the hon. Senator to withdraw and apologize.

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, I think the Senate Majority Leader has spoken for me. In the spirit of decorum and integrity of the House, when the issue was raised about the Senator for Nandi County, the Majority Leader stood in his defense quite positively. One should be able to stand in defense of your colleagues. Standing in the Chamber to call us faceless cartels and yet he is my Chairman in the Committee on Justice, Legal Affairs and Human Rights; I am beginning to doubt his integrity as a lawyer.

(Laughter)

I shall leave that for another time. What he said is undoubted and it can be proved by the HANSARD tomorrow. The only alternative for him is to withdraw and apologize, then we can move on.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Cherargei. Can you withdraw those remarks?

Sen. Cherargei: Madam Temporary Speaker, I have listened keenly and I was following the proceedings from the office. So that everyone goes home happy and excited, I withdraw and apologize.

Sen. Wetangula: Madam Temporary Speaker, I listened to that request for a Statement very carefully. It is a Statement that has to do with an institution in the county represented by the Speaker on the Chair. The Statement has been brought by the Senator for Nandi County.

The Vice Chancellor of Eldoret University, Prof. Teresia Akeng'a, is my constituent from Tongaren Constituency in Bungoma County. In the last Parliament, there was an assault against Prof. Akeng'a. At that time, those who were assaulting her were even calling her a Luo; as if being a Luo is wrong. One Senator even went, chained the gates and allowed goons to flush out Prof. Akeng'a from her office.

Madam Temporary Speaker, if this is the beginning of a similar attempt, I put it on record that it is a misguided and criminal act that will bring disharmony in a sector of education where we have not been picking and choosing vice chancellors on the basis of their ethnicity. It is wrong and dangerous.

I urge the distinguished Senator for Nandi County to rethink his stand on it because it is misadventure that will land him into problems for nothing. I will not sit here to watch and see Prof. Teresa Akenga, a professor of distinguished career, who has led this university from a college to a full fledge university with a charter with over 10,000 students, rubbished while we watch.

Madam Temporary Speaker, it is your county and I cannot challenge you while you are in the Chair. When you leave the Chair, I will seek audience with you to hear whether the Senator for Nandi is a proxy questioner or he is asking---

(Laughter)

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. I hope that is not a threat. We have an able Chairperson of the Committee on Education who will prosecute it. It is a right of everyone to raise issues and questions in this House. Let us not prosecute somebody using last year's evidence.

Before we go to the next Statement, I conclude by saying that the earlier Statement by the Senator for Kericho stands committed to the Committee on National Security, Defence and Foreign Relations as was articulated. The second Statement by the Senator for Nandi stands committed to the Committee on Education.

We have one more Statement under Standing Order No. 47(1).

Sen. Mwaruma: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): I did not see anyone on a point of order. I only saw Sen. Wetangula.

Proceed, Sen. Mwaruma.

Sen. Mwaruma: Thank you, Madam Temporary Speaker. I stand to support the Statement by Senator for Nandi, Sen. Cherargei. In doing so, I state that I had a similar

Statement almost a month ago which was directed to the Committee on Education which was about appointment of substantive vice chancellor of Taita Taveta University. However, it has taken a long time to get that response.

Madam Temporary Speaker, when some of these Statements take too long to be responded to, they are overtaken by events.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. When the Chairperson stands, he will say something about that.

I see another point of order from Sen. (Prof.) Ongeru.

Sen. (Prof.) Ongeru: Madam Temporary Speaker, I stand a concerned person on matters of education. You and I have had a privilege and opportunity of being Ministers for Education at some appropriate moments.

When it comes to the appointments of vice chancellors, the process is vigorous. It goes through a lot of stages. I would not accept a situation where this House is used as a clearing House for a system which is set in place and goes through a full proof process. This House is being treated to a position where we are requested to start investigating that process.

(Sen. (Prof.) Ongeru's microphone went off)

The Temporary Speaker (Sen. (Prof.) Kamar): Add him 30 seconds.

Sen. (Prof.) Ongeru: Thank you, Madam Temporary Speaker. I am a Member of the Committee on Education. I sound a warning that let us not enter into areas that we have no competence in, particularly the institutions of higher learning. Let us leave it to the people who are well versed with that process of appointment. However, unless there is corruption or something which cuts across Chapter Six of the Constitution on integrity issues, we need to leave it to the right bodies to do the appointments.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. You are a Member of the Committee. Therefore, you will prosecute that Statement there.

Sen. Murkomen: Madam Temporary Speaker, I was here last term and the same issue of University of Eldoret was emotive and almost led to physical blows in this Chamber.

I would like to convince colleagues that we look at it from the positive side. Members of that Committee includes Sen. (Prof.) Ongeru, Sen. (Dr.) Langat and yourself. These are people who have worked in the universities.

The University of Eldoret is facing so many problems. It is not just the appointment of Prof. Akenga, but serious financial problems. They have many staff who they are struggling to absorb and there are a lot of managerial challenges that are not necessarily within the university. I would rather see it from a positive perspective that the reasonable Committee of the Senate is trying to help the university to move forward.

Madam Temporary Speaker, you are a founding principal of that college. So, that experience is necessary. Let this House benefit from it. I have no doubt in my mind that the intention of the associations and the people who sit in the Committee on Education will lead to a positive result that will take our university forward.

We, as Senators, should sound a warning that we must follow the necessary procedure. However, let us not close ourselves to the possibilities of positive recommendations that will take the university forward.

I have had an opportunity to sit with the vice chancellor and I was informed that the challenges they are going through are enormous. I hope the Committee will help to make the institution better. They will also bring a report to this House that will help Senators to also become part and parcel of the solution to the problems that they are facing.

The Temporary Speaker (Sen. (Prof.) Kamar): Chairperson of the Committee on Education you have issues of two universities hanging around you. Before that, I have seen a request from Sen. Mutula Kilonzo Jnr..

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Temporary Speaker. It is true that in the last session, we were treated to some drama about Moi University by one of our colleagues. It did not end well because he was charged for many things. However, eventually there was no success because in the process of doing the Petition, or whatever question that was raised, it was mixed with politics. Therefore, at the end, he did not succeed.

For purposes of the Senator for Nandi County, it is important that, as the warnings are being issued, there should not be politics in it because it will not end well. As Sen. Melly said, it ended up being very noisy and messy. Sen. Melly smoked himself out of this Senate, possibly because of some of these things. I am issuing a friendly warning and advice about such issues.

The Temporary Speaker (Sen. (Prof) Kamar): Why are we becoming a House of threats?

The Chairperson of the Committee, Sen. (Dr.) Langat, please, touch on the other university. I think you have two problems on your hands.

Sen. (Dr.) Langat: Madam Temporary Speaker, on the first issue facing the universities, we have been following it up. However, I was told by the Ministry of Education that vice chancellors and principals undergo through rigorous interviews and it is no longer the mandate of the Ministry. They have transferred this to the Public Service Commission (PSC). Right now, we are following from there.

On the issue of the University of Eldoret, we will handle it with a lot of professionalism, so that we avoid politics in it. In two weeks' time, we will have handled that particular Petition and be open to make sure that all interested parties come on board.

The Temporary Speaker (Sen. (Prof) Kamar): Thank you. We expect you to bring the two reports on the University of Eldoret and The University of Taita-Taveta.

(Interruption of debate on Statements)

COMMUNICATION FROM THE CHAIR**VISITING DELEGATION FROM MWAGHOGHO
SECONDARY SCHOOL, TAITA-TAVETA COUNTY**

Hon. Senators, before we move on to the next Statement under Standing Order No.47(1) by the Senate Minority Leader, I wish to communicate that we have teachers and students in our public gallery.

I would like to acknowledge the presence, in the public gallery this afternoon, of visiting teachers and students from Mwaghogho Secondary School in Taita-Taveta County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf the Senate and my own behalf, I wish them a fruitful visit.

(Applause)

Sen. Mwaruma: Madam Temporary Speaker, I would like to join you in welcoming Mwaghogho Secondary School to the Senate. We have a bi-cameral Parliament made up of the Senate and the National Assembly. We are now in the Senate. I can see my friend, Rono. Feel welcome.

During my time when I was learning how to teach young people and adults - that is called andragogy - I came across something called experiential learning. What you are doing is experiential learning, that is, learning through experience. In experiential learning, you need to reflect what you are seeing here and what happens in class. During my days, I did not have an opportunity to visit the Senate, but you have---

(Sen. Mwaruma's microphone went off)

The Temporary Speaker (Sen. (Prof) Kamar): Thank you, Sen. Mwaruma. Yes, Sen. Orengo.

(Resumption of debate on Statements)

**APPEAL FOR SOLIDARITY AND HUMANITARIAN
ACTION IN THE REPUBLIC OF SUDAN**

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, allow me pursuant to Standing Order No.47, to raise a Statement on an issue of regional concern. This is an urgent appeal for solidarity and action on the humanitarian situation in the Republic of Sudan.

The people of the Republic of Sudan, through legitimate, peaceful and unarmed protests, managed to force President Bashir out of office, partly bringing an end a quasi-military and authoritarian regime that lasted three decades. The people of the Republic of Sudan, in a process of positive political action that saw women play a prominent role in

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leadership and on the streets, triumphed over violent anti-democratic and coercive elements of the State.

Since December 2018, the affairs of the Republic of Sudan have been presided over by the Transitional Military Council (TMC). The African Union (AU) from the outset took a firm and principled position that the Republic of Sudan must return to civilian rule in line with the Lome Declaration of July, 2000, on the organization's framework, concerning the response to unconstitutional changes of government.

Initially, the AU gave the TMC a period of 15 days to restore civilian rule. On 30th April, 2019 the AU Peace and Security Council extended the period to 60 days. It is instructive that opposition political parties and the alliance of civil society and professional organizations agreed to engage with the TMC to determine the pathway to democracy and constitutionalism. The institution of a transitional mechanism designed to establish a civilian authority with the participation of the TMC, which as it should, will comprise a majority of membership of civilians against the military in the governing organ.

Madam Temporary Speaker, on 3rd June, 2019, what was previously a peaceful and people driven process took a violent turn when the military used excessive force to disperse the protestors in a crackdown that was both abrupt and arbitrary. The death toll, injuries and damage caused is a matter of great concern.

Credible information from doctors and other sources have asserted that more than 100 people have lost their lives as a result of unjustified and brutal interventions by state security. Some bodies have even been thrown into the River Nile.

Madam Temporary Speaker, whereas the concerns expressed and interventions made that the AU and the international community have been commendable, including the recent visit to Khartoum by the Ethiopian Prime Minister in view of the escalating humanitarian and human rights situation prevailing in the Republic of Sudan, the Government of Kenya is urged to lobby the AU to-

(1) Call for an emergency session on the Republic of Sudan with a resolve that a mediation team to resolve the conflict and return the country to a civilian lead democratic governance be appointed. This is to be achieved by affirming the AU's resolution rejecting the coup and demanding transition to a civilian authority and following through the AU's option to suspend the Republic of Sudan in all AU activities until constitutional order is restored.

(2) Urgently invite opposition forces such as the Sudan Professional Association and the Forces for Freedom and Change to address the AU Security Council in order to deepen understanding of their perspectives and objectives.

(3) Reinforce the mediation team to help oversee the transition to full civilian authority and support a broader programme of conflict resolution, transitional justice and institutional reforms during the transition, and if necessary, deploy an AU observer mission to the Republic of Sudan to sustain dialogue and cooperation.

(4) Reiterate African solidarity in support of the Sudanese people and their international guaranteed human rights of freedom of expression, association, peace and security and the right to choose their own government.

(4) Propose a comprehensive package of political and material support for the transition to a new civilian transitional government, once this is constituted and establish as a special taskforce to oversee the transition in the Republic of Sudan, until a civilian government is in place.

Madam Temporary Speaker, in relation to Sudan, this is one revolution in which women have played a leadership role in the boards and the streets. If there is a country that should now be led by a woman, it is the Republic of Sudan.

Sometimes people speak negatively about Islamic countries. However, most elected women or heads of States are found in the Islamic countries, especially in the Indian sub-continent and the Far East. We are in solidarity with the women of Sudan.

The Temporary Speaker (Sen. (Prof.) Kamar): We have 15 minutes only to make comments on the issue of Sudan.

Sen. Kang'ata: Madam Temporary Speaker, allow me to congratulate the only second liberation hero here who is Sen. Orengo for bringing the issue concerning our brothers and sisters in Sudan. As an Africanist, I believe Africa must be free. When one African is in bondage, every African is in bondage. So, we must always fight for freedom of each and every African, so that we ensure that the African man is free.

I have been observing the revolution in Sudan and I have a message that my brother, Sen. Orengo, should relay to those revolutionists. To me, it is being tactical. I say so because there are situations where people fight and win, but they still push on without understanding that other parties are also strong. The revolutionists achieved their objective by forcing Omar al-Bashir out of Government. They also forced the army to enter into negotiations. Instead of agreeing to the concession by the army, they went back to the streets. That may have prompted the army to fight back. As a result, all their achievements were unraveled.

The same thing happened in Egypt. The so-called Muslim Brotherhood forced Hosni Mubarak out of power and won when they went for elections. However, instead of consolidating the gains, they gave their enemies a chance for another counter coup. So, at times, during a revolution, when you allow the so-called hotheads to take over, you lose all the gains because that is an opportunity to regroup and counter. If I were an adviser of the revolutionists in Sudan, I would have asked them to agree to some of the ideas.

If I may recall, the bone of contention was the formation of a council composed of the civilians and the army. The next issue was who will head it. The civilians wanted to have a civilians' government for two years, but the army wanted a shorter period. To me, a more tactical group should have agreed to those demands as opposed to being radical and unravel all the gains they may have achieved in the interim period. In as much as people should push for democracy, revolutionists should be told to be more tactical.

Sen. Omogeni: Madam Temporary Speaker, I congratulate my good friend who is a senior counsel, Sen. Orengo, for raising the Statement before the House. I sympathise with the people of Sudan because we have seen in the news about sad cases of women who have been raped and people killed by a repressive military regime which has been in office for the past one month or so. As a people, we ask for an urgent solution to the crisis facing our brothers and sisters in Sudan.

We had the Organisation of African Unity (OAU) that was extremely toothless. It is the hope and expectation of many people in Africa that the AU should have teeth to bite and bring to an end the violence being vested on civilians by the military rulers of Sudan.

Kenya is one of the biggest trading partners of Sudan because most of the tea grown in this country is sold to Sudan. One of the busiest markets of Kenya Airways is Sudan because we have daily flights to Khartoum. People who transit to other countries in the north also go through Khartoum. That should be something of concern to us. We need to find a solution to the problems facing the people of Sudan sooner than later.

What is witnessed in Sudan is a culmination of the wind of democracy that has been blowing in Africa. The former president of Sudan is one of the longest serving dictators because he was in office for more than 30 years. We should congratulate the courageous people of Sudan who wedged sit-ins and conducted demonstrations until they forced him out of office. We should ensure that the transition allows the people of Sudan to have a democratically elected government. We should see democracy take root and not allow Sudan to go the way of Libya and become a banana republic.

I fully support the initiative by Sen. Orengo. I urge the President and leaders in this region to move in quickly to ensure that there are no more deaths in Sudan. They should protect Sudan from becoming a banana republic and ensure we have a transition from military to civilian rule within the shortest time possible.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. The last Statement is by the Senate Majority Leader, pursuant to Standing Order No.52(1).

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 18TH JUNE, 2019

Sen. Kihika: Hon. Senators, pursuant to Standing Order No.52(1), I hereby present to the Senate the business of the House for the week commencing Tuesday, 18th June, 2019. Before I proceed, allow me to commend all hon. Senators who were present in the House during yesterday's sitting where the Senate considered a total of six Bills, five of which will be transmitted to the National Assembly for consideration. I continue urging all Senators to be present in the House, so that we expeditiously conclude on the remaining Bills as and when scheduled by the Senate Business Committee (SBC).

Hon. Senators, on Tuesday, 18th June, 2019, the SBC will meet to schedule the business of the Senate for the week. Subject to further directions by the Committee, the Senate will consider Bills due for Second Reading and Committee of the Whole on Tuesday, 18th June, 2019. The Senate will also continue with consideration of business that will not be concluded in today's Order Paper.

On Wednesday, 19th June, and Thursday, 20th June, 2019, the Senate will consider business that will not be concluded on Tuesday and any other business scheduled by the SBC.

Hon. Senators, I continue to urge standing committees to expedite consideration of the Bills before them and to table reports within the stipulated timelines. This will enrich debate at Second Reading stage and facilitate the House to effectively navigate the

Committee of the Whole stage. Further, we have quite a number of petitions and statements referred to standing committees. I urge respective standing committees to expeditiously conclude with pending petitions and statements before them.

Finally, hon. Senators, at the close of business next week, the Senate will proceed on a one week recess and thereafter resume its sittings on 2nd July, 2019, pursuant to the Senate Calendar.

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

(Sen. Kihika laid the document on the Table)

Sen. Kang'ata: On a point of order, Madam Temporary Speaker.

POINT OF ORDER

PROCESSING OF THE DIVISION OF REVENUE BILL

The Temporary Speaker (Sen. (Prof.) Kamar): What is your point of order, Sen. Kang'ata?

Sen. Kang'ata: Madam Temporary Speaker, allow me to rise pursuant to Standing Order No.93 and question why the Senate Majority Leader, through the Office of the Chief Whip, did not schedule next week major discussion on how the Budget of this country can be led by the National Assembly today and also by the CS. It is now a matter in the public realm that the negotiations between the Senate and the National Assembly have collapsed- the so called Mediation Committee - on what we call the Division of Revenue Bill.

Madam Temporary Speaker, Article 218(1) provides that-

“At least two months before the end of each financial year, there shall be introduced in Parliament--

(a) a Division of Revenue Bill, which shall divide revenue raised by the national government among the national and county levels of government in accordance with this Constitution;”

Section 191 of the Public Finance Management Act (PFMA) also provides that Parliament must discuss that Bill together with what is called the Medium Term Budget Policy.

Madam Temporary Speaker, the public out there wants to know why mediation collapsed today officially. What happened? The budgeting process has several stages, stage number one is budget formulation; stage number two is the approvals; stage number three is the implementation and the final stage is the auditing process.

Now that the Budget approval has technically collapsed, I would want to hear from those who are sitting in that Committee, what happens? Will the Government grind to a halt because we do not have an approved Budget? On what basis can the CS today proceed to make a statement whereas the amount that is going to be spent by the national

Government or even the county level has not been ascertained? What happens when you have a situation where the Government cannot, technically speaking, withdraw money or execute a budget because the approval process today has, for the first time in history, collapsed?

Those are major issues in this country. We need to tell Kenyans what happens. Will our public employees continue drawing salaries? People want to know, for instance, what happens to the taxation? They want clarification on that. Will the Government have the legal mandate to tax Kenyans as a result of the collapse of the mediation today?

We must also look at this point; what is the power of the Senate when it comes to the Budget making process? Are you saying that we are powerless as a House? We, therefore, want the leadership of this House to explain to Kenyans what the legal implication of the collapse of the mediation process today is because this is historical. I want the people of Murang'a County to continue enjoying and getting the goodies from the Government.

Those are the issues I would propose to my seniors here to explain to Kenyans and, probably, also schedule that business next week.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. Your concern was initially to the Senate Majority Leader. I will give him a chance to respond. However, let us hear from the Chair of the Committee, Sen. (Eng.) Mahamud, so that it is clear about whether the mediation has collapsed forever or not.

Sen. (Eng.) Mahamud: Thank you very much, Madam Temporary Speaker. I thank the Senator for Murang'a for prompting this question. It is true that the two Houses of Parliament appointed a Mediation Committee, in which we five of us from this House were members. In fact, we participated in the mediation process, which was required to be finalized by today, 13th June, 2019. The mediation process will, of course, report to the Speaker as required under Standing Order No.161. Whether there was an agreement or failure, that will be reported officially in the way required.

For now, let me inform the House that the mediation actually failed or collapsed. It means that the Bill that was before both Houses is no longer there.

In terms of process, I am thinking that the process of the Division of Revenue Bill must be restarted again. The originating House is the National Assembly who must restart the process. I think the Speaker of that House, using Standing Order No.1 can start the process of that Bill again. It, therefore, means that the whole process of the Bill will restart only by a publication period, whether shortened or taken to the full length. Then the public participation, passage by one House, reference to the other House and the process will continue again. Once again, it will depend on what figures the originating House will put in again when restarting the process because we disagreed on the figure of equitable allocation to the counties.

Madam Temporary Speaker, there are a lot of overlaps within the Constitution in terms processing or making the Budget.

Article 218(1) provides that-

“At least two months before the end of each financial year, there shall be introduced in Parliament--

(a) a Division of Revenue Bill, which shall divide revenue raised by the national government among the national and county levels of government in accordance with this Constitution;”

Article 221(1) also provides that-

“At least two months before the end of each financial year, the Cabinet Secretary responsible for finance shall submit to the National Assembly estimates of the revenue and expenditure of the national government for the next financial year to be tabled in the National Assembly.”

It is, therefore, a concurrent process, which can be very confusing.

Madam Temporary Speaker, the process which starts, of course, according to Article 221, in the National Assembly cannot be concluded without a Division of Revenue Act in place. There must be a Division of Revenue Act in place before you pass budget expenditures for a budget of the national Government. Further, an Appropriation Act which follows thereafter cannot be passed without the Division of Revenue Act being in place. Section 39(4) of the PFMA states that-

“Where a Bill originating from a member of the National Assembly proposes amendments after passing the budget estimates and the appropriation Bill by Parliament, the National Assembly may only proceed in accordance with—

- (a) the Division of Revenue Act;
- (b) Article 114 of the Constitution; and
- (c) any increase in expenditure in a proposed appropriation is balanced by a reduction in expenditure in another proposed appropriation or any proposed reduction in expenditure is used to reduce the deficit.

Madam Temporary Speaker, the process which CS Rotich started today while it seems to be in line with the Constitution, but it is not because you cannot finalize the process without the Division of Revenue Act being in place. It is the same way that county governments cannot pass their own Appropriation Bills and pass their Appropriation Acts without having the County Appropriations Revenue Act in place.

We expect the Bill to be republished, but there is no crisis for the counties alone. The crisis will be for the country as a whole. I want us to take that position, as a Senate, that without the Division of Revenue Act in place, there will be no consolation by the national Government that they are going to spend money and appropriate funds while the counties will not have the same privilege. That is not true.

The Division of Revenue Act must be agreed on before we appropriate. The Appropriation Act must be assented to before the Division of Revenue Act is in place. Senators must be alive to that fact.

We must monitor the process constitutionally, politically or using any other method in order for us to put this country in the right track. The confusion created by the Constitution must be cleared. We have told the team on the other side that budget starts with the Division of Revenue Act. All the other processes are preliminaries. They can only be finalised when Division of Revenue Act is in place.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I would like to thank Sen. Kang'ata for raising this important matter which is alive.

I want to remind the Senators that we have been fighting this process since 2013. The first Division of Revenue Bill was never considered by the Senate because the National Assembly tried to pass the Division of Revenue Bill and Budget Estimates and Appropriation Bill without considering the role and the responsibility of the Senate. Those of us who were in Senate at that time went to court to seek for advisory opinion. I am giving this background because it is important.

After the collapse of the Division of Revenue Bill, I saw the National Assembly Majority Leader address the press and he said that the Supreme Court just gave a mere opinion which is not binding in law. However, it is important to note that the 2014/2015 budget and the subsequent budgets are now based on the advisory opinion of the Supreme Court. That means that the Division of Revenue Bill cannot be passed without the input of the Senate. That was the first call of this Senate in terms of fights for the resources that are going to counties.

I also want to disclose that I was part of the taskforce before 2013. We fought hard to have two different financial laws. At that time, we wanted to have the County Public Finance Management Law and the National Government Finance Management Law. I was in a small committee together with Mutakha Kangu and former governor, Mr. Julius Malombe. I remember the back and forth that we had with the Treasury functionaries that included the current Permanent Secretary on whether we should have clear processes in terms of budgeting. Finally, it was forced on Parliament because the majority in Parliament may never have appreciated the importance of devolution.

Most of our proposals are in the PFMA. The Act properly sequences how the budgeting process is supposed to be done in this country. It starts with Division of Revenue Bill which is supposed to come out by 30th April. There is also the process of tabling the draft Appropriation Bill to the National Assembly when tabling the Division of Revenue Bill and that draft Appropriation Bill is to be debated and passed.

The act that the CS, Mr. Rotich is engaged in is strange in the Constitution and does not have meaning. He does not have to appear before the National Assembly. His being there is similar to the appearance of any other CS before the National Assembly or the Senate. He would have done what he is currently doing in the National Assembly in his office or in a hotel in Mombasa or anywhere else. Under the Constitution, there is no such thing. He is doing it because we kept the traditions and the prestige of how the budget is to be presented by the Executive.

It must be known that budgeting is a function of Parliament under this Constitution and Parliament is not just the National Assembly, but it is the National Assembly and the Senate. The budgeting process starts with the Budget Policy Statement, the Division of Revenue Bill which now goes with the County Allocation of Revenue Bill and the appropriations that are done by the National Assembly at the national level and county assemblies at county level. The national Government is to debate the budget through the National Assembly and the County Executive is to debate its budget through the county assemblies.

That can only be done if the Division of Revenue Bill has been done. The Division of Revenue Bill gives the national Government and the county governments a basket of the resources which they can then budget and appropriate. As I speak, the act of the CS does not worry me because it is strange in law. What concerns me is what the National Assembly will do once the Budget Estimates and Appropriation Bill has been delivered. They will have to shelve them until we complete the Division of Revenue Bill processes. That is what it should be. That is the exact process that we must follow.

We cannot eject the National Assembly and neither can we say that they should not debate this appropriation and so forth. If they proceed with the Appropriation Bill as it is and attempt to pass it, my advice to the President would be that he should not sign it. However, if he goes ahead and signs such a law before the Division of Revenue Bill is agreed upon, then that law is null and void. In that case, the people of Kenya must declare that law null and void because the Constitution requires the Division of Revenue Bill to be passed by both Houses before going to that.

Where are the checks and balances if the Constitution intended that the Division of Revenue Bill be ignored during the budgeting process? The failure of the Division of Revenue Bill at the national level was intended to push the National Assembly and the national Government to look for an agreement in good time. That is why the operations of the national Government were to stop together with those of the counties.

If the national Government is to be allowed to just proceed as it is, then it means that they will not care of what happens to county governments. That is why they will always expect, as they did in this situation, us, the Senate, to go to mediation and just say that 'we agree with your figure' because we do not want the operations of the counties to fail.

There is an erroneous process or mentality implanted in the minds of the people in the national Government and the National Assembly. They think that we are still running a centralised system of Government or that the national Government is giving donations to county governments. Let it be known that both the national and county governments depend on Parliament to allocate for them money through the budget process. None of them is superior to the other when it comes to allocation of that money.

In as much as the CS has a responsibility for the overall budget, Parliament has to treat counties as a whole and the national Government as a whole. It has to allocate the resources with equity. People have to stop saying that they have helped counties or that they have given them more money. The national Government and counties are both given money by the people of Kenya through Parliament. They are all to account for that money through county assemblies, the National Assembly or the Senate.

We are in an important historical moment. The challenges we are going through right now are not new. We have dealt with them for the last six years. At the moment, there is a spirit of knowledge moving around the country where people are getting to recognise the things that we used to talk about. Previously, people would ask for the disbandment of the Senate when we talked. They would say that we had slept on the job. However, the mediation process on the Division of Revenue Bill has received national interest and scrutiny in a way that it has never received in the last six years. This is an opportunity for us to make this case to the logical conclusion. I am glad that some civil

society organisations have gone to court though I do not agree with them when they say that they can stop Parliament from receiving documents from the CS.

If Parliament proceeds with the Appropriation Bill and want it to be signed before the Division of Revenue Bill, that will be null and void and unconstitutional. This House should be able to work with like-minded people to include this law in the rubric of the legislation that we want, as a Senate, to be declared unconstitutional.

The Temporary Speaker (Sen (Prof.) Kamar): Hon. Members, we are running out of time. I will give everybody three minutes so that you ventilate a little bit. However, it was coming out of a point of order for the Senate Leader Majority to expound and for the Chairperson of the Mediation to explain exactly how the process collapsed this morning.

Since we have a long list of Senators who want to contribute, I will give you three minutes each.

Sen. Omogeni: Thank you, Madam Temporary Speaker. I do not want to be seen to be challenging the ruling of the Speaker, but the issue that we are debating this afternoon is very important. Our relevance and existence as a House depends on what we deliberate here this afternoon. I want to beg that you extend the period from three minutes to at least five minutes.

The Temporary Speaker (Sen (Prof.) Kamar): I had already ruled three minutes. Let us start with that for now.

Sen. Malalah: Thank you, Madam Temporary Speaker. I want to join the Senate Majority Leader in acknowledging that a dark cloud hangs precariously above us today. This is the saddest moment that we have since I was sworn in. This is simply because the Senate is being undermined. I am surprised that we have degenerated into a fight between the National Assembly and the Senate.

I want to remind the Members of the National Assembly that we were all elected to represent the *mwananchi*. Article 1 of this Constitution clearly gives us the mandate to represent the *mwananchi*. We do not have a category of *mwananchi* representing the national Government and one representing the county governments. It is sad that this country is in the lowest moments just because we have sibling rivalry between the National Assembly and the Senate.

Madam Temporary Speaker, we are not debating about a figure that will change much in the economy of this country. We are only debating about Kshs11 billion. As I speak right now, it is sad that we have institutions which were grappling with issues of corruption and yet they have been allocated a tune of Kshs10 billion in the budget. The National Youth Service (NYS) has also been allocated Kshs10 billion more; the National Intelligence Service (NIS) has been allocated an additional of Kshs10 billion and yet the 47 county governments are only requesting for a mere Kshs11 billion. What is wrong with that?

Madam Temporary Speaker, Schedule Four of our Constitution clearly states the functions that are devolved and the functions that are centralized. Money should follow functions. For example, the health docket has been devolved to the county governments. However, you will realize that the budget for the Ministry of Health equals the budget of five or six counties in this country.

It is very sad that today we are experiencing a situation whereby we have a stalemate in this country. I want to assure Kenyans and respective county assemblies that we will not be disadvantaged by this stalemate. Let us use this stalemate to strengthen and set a precedent that will liberate us from these shackles of impunity.

Madam Temporary Speaker, we have hope in the provisions of this Constitution that even if we have a stalemate right now, we will sort out this problem once and for all. The Constitution provides that in case the Division of Revenue Allocation Bill is not passed, the respective county assemblies will use or will have a vote on account of about 50 per cent. I was just trying to assure the county assemblies and the county governments that we still have a provision of a Vote of Account of 50 per cent of the previous budgets to spend. Therefore, they should not feel as though the operations of the county governments will hit a stalemate and not operate in the next six months. They still have a window to operate within six months as we try to solve this stalemate.

The Temporary Speaker Sen. (Prof.) Kamar: Sen. Mutula Kilonzo Jnr, you have four minutes.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, I want to disclose that the team that was duly appointed by this Senate walked out on the mediation after we discovered that we were dealing with people who do not understand what we were talking about.

Madam Temporary Speaker, we were treated to a condescending attitude. We were given nursery lectures about our mandate. Somebody had the audacity to purport that our mandate under the Division of Revenue and Mediation was to look at one small portion of the Schedule, which was county Revenue. They even purported that the Schedule that is in the Division of Revenue had changed and that it was not the correct one. They even gave us lectures about austerity measures, what governors are doing, costing of functions *et cetera*.

Madam Temporary Speaker, we asked the fundamental question under Article 202: Is Kshs314 billion out of a budget of Kshs3 trillion and collections of Kshs1.9 billion equity under Article 202 of the Constitution? Division of Revenue and national Revenue shall be divided equitably. The notion of 15 per cent is not equity. We should not get into that argument about 15 per cent.

Madam Temporary Speaker, we are in a constitutional moment. When the national Government through the National Assembly increases the budget of the NIS by Kshs12 billion; net revenue to the national Government by Kshs200 billion and then pretends and purports that by increasing Kshs314 billion to Kshs316 billion, they have done counties a favour, we were not going to sit and listen to such delinquency. An amount of Kshs2 billion is divided among 14 counties and yet a leader of this country proposed this without blinking an eyelid and they were not struck by thunder. They do this and they think they have done you a favour. It is time to say devolution in Kenya is not the stepchild of Kenya; it is a creation of the Constitution.

Madam Temporary Speaker, somebody purports that Senators have no mandate in the Division of Revenue to look at the pot where the money is coming from. Then what is the purpose of having a Division of Revenue? It was inferred that it is not our business to

check whether it is Kshs1.9 billion or Kshs3 trillion, that is not our work. You wait until we give you the bottom line. We left the meeting. We left them sitting in the meeting.

In 2017, we left Mutava Musyimi seated in a room. The President signed an appropriation law, but the Division of Revenue was still published again. We were called for a special sitting because they recognized that you cannot do any appropriation under the Public Finance Management Act (PFM) or any changes in the estimates until we have a Division of Revenue. The Division of Revenue is the only thing that stands between Kenyans and the Senate. We will not budge; we will not accept and we must refuse.

What is more important is that if you increase the national Government allocation to counties by 13 per cent, and all we are asking for is that we use a factor of four per cent, which we used last time, they tell you: "Take Kshs2 billion or leave." Who do they think they are serious? Where do they think they live? Who do they think elected us?

Madam Temporary Speaker, the Senate must stand up so firmly that if we precipitate a crisis, let it be. This is because the President with the Deputy, sitting on the hill, must be informed that we are not walking around in Parliament. We were elected and the Constitution is there to protect us, and Kenyans will protect us. We told the National Assembly Majority Leader: "Go to the public and tell them that you have given us Kshs2 billion as a favour and see how that will end up." We will stand with the law. The law is that since the year 2013, this is one of the core functions of the Senate.

Madam Temporary Speaker, I am glad to say that our team stood to the last man and woman for the Senate and the Republic of Kenya.

Thank you.

(Interruption of debate on Point of Order)

COMMUNICATION FROM THE CHAIR

RE-ORGANIZATION OF THE ORDER PAPER

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Members, allow me to give a communication on the re-organisation of the Order Paper, because the interest here is enormous. I can see we will dwell here for a while. However, there is a Motion we must dispense with today on the Sittings of the Senate outside Nairobi. We must prosecute that Motion today, so that planning begins here and in Kitui County, if we pass it.

After consultation, we have agreed that we defer Orders No.8, 9 and 10. We will, therefore, continue with this debate and go straight to Order No.11, and the next Orders will proceed as per the Order Paper.

COMMITTEE OF THE WHOLE

THE COUNTY PLANNING (ROADS, PAVEMENTS AND PARKING BAYS)
BILL (SENATE BILLS NO. 18 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY OUTDOOR ADVERTISING CONTROL BILL
(SENATE BILLS NO.19 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY LAW COMPLIANCE AND ENFORCEMENT
BILL (SEN. BILLS NO.26 OF 2018)

(Committee of the Whole deferred)

(Resumption of debate on Point of Order)

Sen. Omogeni: Thank you, Madam Temporary Speaker. I must say that of late, I love being a Senator because I am seeing Senators from both sides of the House debating issues that affect the people of Kenya whom we represent and reside in counties. I congratulate the team that was doing the Mediation, Sen. Mutula Kilonzo Jnr. and company. Kudos to you! You stood firm and on the right side of history, because you have shown that the Senate is there to defend devolution. We should not be cowed. We must continue to be firm in exercising our mandate under Article 96, which is to represent counties and their governments.

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

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

Madam Temporary Speaker, as a senior lawyer I have read Article 218(1)(a) of the Constitution. It is clear as day and night. It says-

“A Division of Revenue Bill, which shall divide revenue raised by the national government among the national and county levels of government in accordance with this Constitution.”

There is no way one can come up with any Appropriation Act to allow the national Government to spend money before you agree how you share the revenue that

has been raised nationally. The first thing to do is to share the money. Once you have the portion that will be spent by the national Government, then you can come up with an Appropriation Bill.

I thought we have lawyers in the National Assembly. This is elementary. Even anybody in first year can understand. This Constitution is very clear in Article 2.

It says-

“This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.”

Whether you are in the National Assembly or the Cabinet Secretary for the National Treasury and Planning, you are bound by this Constitution. You will not run over Kenyans and say that because you have the title of the National Assembly, you can disregard this Constitution and the interest of counties and their governments.

As a senior lawyer, we will fight this issue on this Floor. If we do not win, I will be in court and will declare any Appropriation Bill that is passed by the National Assembly unconstitutional. We will fight them from the High Court of Kenya, Court of Appeal to the Supreme Court, because we are here to defend this Constitution.

(Applause)

Madam Temporary Speaker, I remind Cabinet Secretary for the National Treasury and Planning, Mr. Rotich, what Article 2(2) of the Constitution says-

“No person may claim or exercise State authority except as authorised under this Constitution.”

There is no way he can claim to exercise any authority that is contrary to this Constitution, by purporting to go to the National Assembly to read the Budget before we are agree on the Division of Revenue Bill. He is acting contrary to Article 218 of the Constitution. What he has done today is tantamount to abuse of office and he must be told in a very clear language.

The Temporary Speaker (Sen. Nyamunga): Well spoken. Let us have the Senate Minority Leader, Sen. Orengo.

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, I must begin by thanking the team that we sent for this mediation. You have stood firm and shown that when the Senate speaks, it does so with one voice on matters of principle. There are no two sides of the House. In fact, there was one time when people thought we should send the leadership of this House, because that is what the National Assembly did. We said that we had confidence in all our Members. I am so happy and glad that our Members stood firm during the process of mediation.

Madam Temporary Speaker, the Senate is not an illegitimate or foster child of the Constitution. It is a creation of the Constitution. This is a historical moment because what is happening, slowly and gradually is that somebody is trying to write us out of the Constitution, if we are not very careful. Sometimes when people want to oppress others, they do not begin in a big way, but in a small way. The Mediation team has done very well.

Madam Temporary Speaker, what Sen. Omogeni is saying is not only true, but also the constitutional position. If you read the Constitution backwards, from the provisions dealing with the control of public finance, when the Auditor-General reports on audit of the finances of the Republic of Kenya, he does not report to the National Assembly, but to the entire Parliament, including the Senate. That means that every coin that the national Government spends is not just the business of the National Assembly, but Parliament, which includes the Senate.

When the Controller of Budget makes decisions that require Parliamentary sanction, it must also come to the Senate, and not just to the National Assembly. This is a historical moment and we must fight to the end.

This time, we are asking the substantive Speaker of the Senate not to look backwards when the moment comes because I think everybody is prepared for this confrontation in the court and everywhere where we can be heard. He should show leadership like the previous Speaker did. We went to the Supreme Court, which clearly spelt out the parameters of both Houses of Parliament. The Supreme Court ruled that every business under the Republic of Kenya, including every financial or even matters of security is the business of the Senate and the National Assembly.

Madam Temporary Speaker, if you are not careful in this moment and time, because we have only two to three years to the elections--- What is happening at the moment is so critical that I am so encouraged that we are standing firm, through the Mediation Committee. The Senate will be firm in all this process to ensure that the Constitution of the Republic of Kenya is not eroded.

It does not matter what the National Assembly is doing now as long as it can be proved to be unconstitutional. All they are doing is wasting their time. It does not matter what the CS for the National Treasury, Mr. Rotich, is doing, because as the Senate Majority Leader has rightly pointed out, the business of presenting budgets, as it was in the old days, is no longer a constitutional legal requirement. What he is doing today is a good day for him to carry a briefcase and wear some roses, but in effect, it has no legal significance.

Madam Temporary Speaker, I associate myself with the views that have been expressed and give *kudos* again to the Chairman of the Committee on Finance and Budget, the Majority Chief Whip, the Minority Chief Whip, Sen. Olekina and Sen. Sakaja; you have made us proud. This unity is also teaching this country a lesson. We are going through a very crucial period. If this Senate does not stand firm in the next one year, even the politics of this country will go haywire. I can say without fear of contradiction, that the only House that can now oversight the Government properly is the Senate.

(Applause)

The National Assembly has just become an extension. It is not even an extension, because we can have an extension that is vital. Even if this extension is cut off, the Republic can still survive because they are doing what they should not be doing. They have become more executive than the Executive instead of a House of Parliament.

(Applause)

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We can even disagree as members of different political parties. However this country is very proud when it hears this Senate speaking in one voice on matters of principle.

Madam Temporary Speaker, I was actually on my way out, but when I heard the Chairman of the Finance and Budget Committee – who led the team in the Mediation Committee – speak, I said I must run back and contribute to this important intervention.

The Temporary Speaker (Sen. Nyamunga): Thank you, Sen. Orengo.

Hon. Senators, I would really like to be fair to all of us. There are still many requests to contribute on this issue. However, taking into account that we must dispense with Motion No.11, it will be in order for us to take as little time as possible to make comments, because the gist of the point of order is already clear.

Proceed, Sen. (Eng.) Hargura.

Sen. (Eng.) Hargura: Thank you, Madam Temporary Speaker. In the life of an individual or an institution, there always come a time when they have to prove their worth. This is the time for this Senate.

(Applause)

We have already, through the courts of this country, established that we have a duty in the enactment of the Division of Revenue Act. That is where we are again supposed to make another progress and make it clear that the interest of the counties is taken care of once that Bill comes to the Floor of this House. That is where we are now having problems with the National Assembly who do not seem to understand why we need to have these counties. They also do not seem to understand why we need devolution.

Madam Temporary Speaker, mine is to urge all the Members that we have to prove to this country that what the National Assembly is doing is not right, and that the counties are where the people of this country reside. Therefore, if they think that they are giving donations to the counties, it has to be very clear, as it has been said clearly, that it is Parliament which actually shares the money between the two governments. The national Government is behaving like it gives donations to the county governments, and the National Assembly is trying to enforce that position.

Mine is to urge my colleagues that we have to put our feet down and ensure that devolution grows in this country through progressive increment of allocation of funds. We have to do this by making sure that the Division of Revenue Bill is brought back again.

Madam Temporary Speaker, the technical organization, in this case is, is the Commission on Revenue Allocation (CRA), which has clearly, through scientific means, come up with a figure which we are also supporting. Where does the National Assembly get its figure and try to increase the revenue for the national Government? Functions have been devolved and county governments are not getting what they are supposed to get.

I come from a county where right now we are experiencing diseases which are supposed to be handled by the national Government, for example, Kala-azar. However, it is not doing anything; it is saying that health is a devolved function, yet the money is not

going to the county governments. The said Department of Health is getting no money. We, therefore, have to put our feet down and make sure that devolution survives.

The Temporary Speaker (Sen. Nyamunga): Proceed, Sen. (Prof.) Ongeru.

Sen. (Prof.) Ongeru: Thank you, Madam Temporary Speaker. Let the country know that the team that was negotiating for us has our full mandate. Let the country know that we stand by the supremacy of this Constitution in the accordance with Article 2 of our Constitution. Let the country also know that in accordance with Article 201, the Principles of Public Finance, sub-section b(i) and (ii), the burden of taxation shall be shared equally. I believe that *mama mitumba*, *mama mboga* are paying Value Addition Tax (VAT) and everything else, which will form part of the revenue raised for sharing. Article 201(b) states-

“The public finance system shall promote an equitable society, and in particular-

- i. The burden of taxation shall be shared fairly;
- ii. Revenue raised nationally shall be shared equitably among national and county governments; and”

Madam Temporary Speaker, no one is doing anybody any favour. It beats my imagination that you can stand up and say that the national budget is Kshs3.02 trillion and that the revenue raised rose from Kshs1.6 trillion to Kshs1.9 trillion now. In every way you look at it, there is an increase of revenue; then you want to come and say that in respect to county governments, we reduce the allocation. You then add that if you must reconsider, you will only give a paltry Kshs2 billion for 47 counties. This is not equitable and it is not in accordance with the Constitution.

What they are doing today is an exercise in futility until the Division of Revenue Bill is in place. There will be no Appropriation Bill coming for approval. For that matter, I expect the President not to sign that Appropriation Bill into law. This is because it will be based on a nullity that has not taken care of the equitable sharing of resources among the national Government and the county governments.

This is a constitutional moment. For us, as a Senate, we must stand our ground because I believe we are on the right course. Let Kenyans rally behind us, because this is their money that they must use it for equitable development in all the corners of this Republic of Kenya. There is no discrimination, whether it is in Wajir, Kisii, Nyamira or Kisumu counties. There must be equitable sharing of these resources. We are only demanding that we must get our pound of flesh that we have invested through the taxation.

Sen. Olekina: Madam Temporary Speaker, today, I am a very proud Senator. I am proud of Sen. (Eng.) Mahamud, Sen. Kihika, Sen. Sakaja, Sen. Mutula Kilonzo Jr. and, of course, myself, for having stood firm for the people of this Republic. We fought for devolution; today when we sat down in that Mediation Committee, we were guided by Article 202 of the Constitution as well as Article 96 that has brought us here.

We are here to defend the interests of counties and their governments and also to ensure that the funds or taxes which are collected or raised by the national Government are shared equally amongst the two levels of Government; the county and national Government.

I want to tell Kenyans that today, the National Assembly failed you. They failed you because the Members of the Mediation Committee from the National Assembly went there as an extension of the national Government and their interest was only to ensure that the national Government gets money. It is very sad because the Constitution is clear that revenue raised nationally shall be shared equitably among the national and county governments.

Madam Temporary Speaker, when we went to look at the Division of Revenue Bill, I was perplexed when a Member of the National Assembly told me that I was only limited to looking at the money going to county governments. When we asked the justification for giving the National Youth Service (NYS) an additional Kshs10 billion, they said: "No. You cannot look at that. We have no money."

I am so proud to be a Member of the Senate because of its attentiveness to detail. The figures which were proposed in the Budget Policy Statement did not just come out of nowhere. The Commission on Revenue Allocation (CRA) looked at the average inflation for the last three years which was about 6.9 per cent and recommended that we get an additional Kshs21.7 billion which brought the figures to Kshs335 billion. When we asked our colleagues from the National Assembly, they said that they do not know where the money is coming from.

Madam Temporary Speaker, we have to relate our thinking, reasoning, championing and defending this Constitution through facts. Those are the facts we had on the table. Today, I am proud that we said no to Kshs316 billion because we want more services and more money to go to county governments.

Under Article 203 of the Constitution, it is very clear that when money is being shared, you have to do so looking at the need to ensure that county governments are able to perform the functions allocated to them. This Constitution has devolved health. How do we expect county governments to have drugs and build facilities, yet you maintain a budget of the Ministry of Health here, which is equivalent to the money that you send to five counties?

I want to tell---

(Sen. Olekina's microphone went off)

Madam Temporary Speaker, just 30 seconds!

The Temporary Speaker (Sen. Nyamunga): Add him the 30 seconds.

Sen. Olekina: Madam Temporary Speaker, I want to tell Kenyans that we said no because we want them to get services. We said no because we believe that devolution is the only thing that will help you.

We are in the current situation because of the National Assembly. If you look at the same Article 203, it is clear. When we raised these issues, our colleagues did not want to hear anything about it.

Article 203(3) says-

"The amount referred to in Clause (2) shall be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly."

Until today, the National Assembly has piles of the Auditor-General's audited financial statements as recent as 2017 but they are still considering the money based on 2013/2014 Financial Year. It is a shame and Kenyans must know that the Senate is the only arm of this Republic that will defend them.

Finally, Kenyans must know that whatever is happening today at the National Assembly is an effort in futility. Until we have the Division of Revenue Bill agreed upon and passed by the two Houses, this is just a public relations exercise.

Sen. Cherargei: Thank you, Madam Temporary Speaker, for this opportunity. I have seen the mood of the House. It is so sad that the Cabinet Secretary (CS) for National Treasury and Planning has decided to disregard the Constitution.

Our position as the Senate is clear that from the baseline of Kshs314 billion, we will not go down further than that. The Mediation Committee came down from Kshs335 to Kshs327 billion. Now that the mediation has collapsed, the Government should be shut down so that we can allocate more money to counties.

I have heard the tired line from Members of the National Assembly that the reason counties should not be allocated more money is because there is corruption. That is a very weak line of argument. We must allocate more money to counties. I have seen that out of Kshs3 trillion, they will pay around Kshs800 billion into public debts. According to Article 96 of the Constitution, if we fail in this, there is no need of existence of the Senate in this country because we will have failed in our mandate of protecting and ensuring the interests of counties.

Madam Temporary Speaker, as the Committee on Justice, Legal Affairs and Human Rights, we are in the process of auditing more than 15 legislations that were passed by the National Assembly without the input and concurrence of the Senate. That is the length we will go to, to fight in this House and out there in the corridors of justice in the Judiciary so that we can protect the integrity and the existence of this House for the benefit of Kenyans.

Thank you.

Sen. Wambua: Thank you, Madam Temporary Speaker. I will be very brief having read the mood of the House.

I want to begin by congratulating the mediation team from the Senate led by our able Chairperson of the Committee on Finance and Budget, Sen. (Eng.) Mahamud; the Majority Whip, Sen. Kihika; Minority Whip, Sen. Mutula Kilonzo Jnr.; Narok Senator, Sen. Olekina and the Senator for Nairobi City County, Sen. Sakaja.

Initially in the morning, I was worried by the trend that this matter was taking. However, I must say that this evening, I am a very proud Senator because this House has stood its ground as the true champion of devolution. There can never be any explanation as to why we have moved our national budget to more than Kshs3 trillion and we are unable to allocate a paltry Kshs327 billion to counties. It does not make sense. If this should necessitate a lockdown in Government, so be it. So that now, the Senate and the National Assembly must sit down again and agree on the way forward but for us in the Senate we must insist that more funds should follow functions in the counties in a devolved system of Government.

I support.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, that brings us to the end of that point of order.

Next Order.

MOTION

SITTINGS OF THE SENATE OUTSIDE
PARLIAMENT BUILDINGS, NAIROBI

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I beg to move the following Motion-

AWARE that the Senate of Kenya as established in the Constitution plays a critical role in the linkage of the devolved governments and the national Government by representing and serving the interests of the counties and their governments;

FURTHER AWARE that on 21st June, 2018, the Senate resolved to hold plenary and Committee sittings in Uasin Gishu County from 24th to 28th September, 2018, and further resolved that similar sittings be held in all regions of the country during the term of the current Parliament;

NOTING that the Senate held its first plenary and Committee sittings away from Nairobi in Uasin Gishu County from 24th -28th September, 2018 providing an opportunity for several sectors of society to directly engage with the legislative arm of government through public participation on various issues, as well as participate in oversight through inspection of various projects and programs of national and county governments;

COGNIZANT that holding the plenary and Committee sittings of the Senate away from the traditional premises at the Parliament Buildings in Nairobi has great potential to, among others-

(i) enhance the interaction between the Senate and County Governments;

(ii) bring the Senate closer to the counties and the general public;

(iii) provide an opportunity to members and staff of county assemblies to learn and borrow best practices from the Senate;

(iv) promote the role and work of the Senate;

(v) highlight existing opportunities for people to get involved in the work of the Senate;

(vi) develop and strengthen capacity and partnerships at the county level; and,

(vii) enhance public awareness regarding the Business of the Senate.

NOW THEREFORE, pursuant to Article 126 (1) of the Constitution and Standing Order 31 (1) of the Senate, the Senate resolves

that its plenary and committee sittings be held in Kitui County from 16th to 20th September, 2019.

Madam Temporary Speaker, this is a very important Motion. We are raising this Motion at a time when we are debating a serious responsibility of this House. As you have heard from most of our colleagues in the previous interventions, we have been discussing about the importance of the Senate when it comes to the budget processes. Citizens of this Republic are still asking questions. As I said earlier in my contributions, even Members of the National Assembly, including the Majority Leader, still need to be educated on the responsibility of the Senate when it comes to budgeting processes.

Madam Temporary Speaker, you cannot go to budget estimates and appropriation at the national level, when you have not completed The Division of Revenue Bill. I have also insisted that this institution of the Senate is not personal. It is an institution for the people of Kenya. It should not be that because Sen. Murkomen is sitting here, we should bastardize and fight that institution. That is why when we stand here and say that we want more money to go to counties, we are not saying it because we come from Mars or we are more interested in counties than Members of the National Assembly.

For this country to develop we should not pay lip service to the question of devolution and giving resources to the entities that are supposed to assist us develop. Where the Leader of the Majority in the National Assembly and the Leader of the Minority in the National Assembly come from are by index some of the most marginalized areas in the country. They need more money. It does not matter the relationship between the Member of Parliament and the Governor. What is important is what those resources can do. What legacy are we trying to establish for those resources to make a difference in our local counties? Therefore, we must not be petty.

As I insisted, for the benefit of the country, the budget and Appropriation Bill that was tabled today by the Cabinet Secretary in the National Assembly, there is no need to stop him because it is not law. However, having read the Constitution and having fidelity to it, the Budget and the Appropriation Bill at the National Assembly cannot be assented to by the President until we have a proper Division of Revenue Bill that has been passed by both Houses of Parliament. That is when the county assemblies and National Assembly will now do their responsibilities of appropriating money, when the Senate and National Assembly will have agreed on the proper version of the Division of Revenue Bill.

Having said that, as the Senate, we made a choice that we are the people's institution. We will subject ourselves to the wishes of the people of Kenya and do everything possible to bring governance closer to the people. This is because Article 174 of the Constitution talks about the existence of devolution as a mechanism for taking services closer to the people.

We want the people to feel their Senate and present issues that are affecting them; to learn and understand the importance of this institution. The future Senators who are being born today, some of whom will be young students that will visit us when we go to Kitui County, will be inspired. This is because they will be seeing their Senator interacting and debating in the Chamber with other Senators from other parts of the country. That is how to influence and impact other generations going forward.

The Senate has learnt from its experience in Uasin Gishu County, where we had an opportunity to highlight the issues of maize. The conversation and discussion that is going on about the plight of maize and maize farmers was amplified by the Senate when we went to Uasin Gishu County. The conversation about health and the state of referral hospitals, including Moi Teaching and Referral Hospital, was amplified by our participation in that region. There were also issues relating to Petitions concerning Nandi, that is with regard to tea and fluorspar mining issues. All those issues we debated and canvassed in Eldoret became part of the national conversation because the Senate was in the North Rift region.

The Senate Business Committee (SBC), having looked at all the factors, which include the availability of accommodation in the region and the facilities that will facilitate debate, including meeting halls, decided that this time round, in the month of September, from 16th to 20th, the Senate should go to Kitui County.

Kitui County is in the eastern part of the country. It has a fantastic Senator in the name of Sen. Enock Wambua, who is a celebrated journalist and man of integrity. He is a very committed man when it comes to national unity and interaction with other people of this country. I know Sen. Wambua personally and his commitment on matters of devolution and passion in this House towards making devolution better for this country.

Madam Temporary Speaker, Kitui County is also one of the few counties in this country which has pioneered and elected a woman governor in the name of Gov. Charity Ngilu. Therefore, it will be a fantastic opportunity for us to visit that county with a great county assembly. Kitui County gave us some of the great leaders across the country in various spheres. I know athletes that came from Kitui County whom we will celebrate when we go there. We have leaders that have led this country for many years, including the former Vice President.

Therefore, I cannot wait for September. The first Chief Justice under the new Constitution was from Kitui County. The first black Chief Justice was also from Kitui County. The county has so many things that we want to go and explore. Kitui County has beautiful men and particularly women.

(Laughter)

We say handsome men and beautiful women come from Kitui County. We will go and establish the truth of that statement when we visit the county. When we go to Kitui County we will not just debate issues that relate to that county only. Issues that affect Makueni and Machakos counties will also be discussed. Machakos has a lot of proximity to Nairobi County, but it also borders Kitui County. This is an opportunity for us to take governance closer to the people.

Madam Temporary Speaker, I urge the Senate and Senators, including all the committees of the Senate, to start preparing certain debates and motions that will be presented on behalf of the committees that are relevant to that part of the country and can be properly highlighted as national issues from that region.

In the Senate Business Committee (SBC) we have agreed that as much as possible, unless emergencies occur, all committee travels in and outside the country will

be suspended within that period. We have due notice to be given so that no trips are planned around that period to allow all of us to go to Kitui and enjoy the interactions with the citizens from that part of the country.

Madam Temporary Speaker, finally, I do not want to talk much, but I am proud of this House. I challenge us to continue highlighting issues. The SBC directed the Committee on Justice, Legal Affairs and Human Rights to audit all the legislation that we think is unconstitutional.

I was told that the other two Bills on amendments of the sports law and another one on national cohesion are almost ready to be presented to the President for assent. The spirit of the term national cohesion alone should start by respecting the institutions that deal with the law. There should be proper cohesion and coexistence between both chambers of Parliament.

I have shared my views with the relevant institutions to look at that very important legislation, so that it comes to this House first. Therefore, I challenge the Senate, including the Minority side, that we should not blame ourselves. We should not use the handshake moment to go to sleep when it comes to our responsibility in so far as oversighting national and county governments, protecting and defending devolution.

Many people who earlier spoke here talked about the seriousness of this House and that they want to protect it. We are not protecting the Senate for the sake of it. The question we are asking ourselves is why we need a strong working Senate. It is because we want a strong working devolution. The Senate is just an institution to facilitate what is more important, which is devolution.

Madam Temporary Speaker, when we were debating the security laws, Sen. Orenge spoke in the Chamber and directed his comments to Sen. Beth Mugo. However, he was looking at me. He said something that has remained important for each one of us, now that all of us who are here must look at the question of posterity.

In every law or Motion that we pass in this House, we must always remember that; suppose it was applied to us at our weakest point, would we be happy with that legislation? That is the same thing. We should also ask ourselves: Suppose we were governors, part of the national Government or we get the worst President in future who does not believe outrightly on devolution, are the things we pass and the precedence we are setting in this House of such nature that it will protect us at that point in time when we have the worst people in office? Therefore, we must ensure that this Senate works.

Madam Temporary Speaker, I have told Members of the National Assembly to assume that they are governors, Members of County Assembly (MCAs) or Senators. It is not a hypothetical argument. I suspect that one of the eight leaders in the National Assembly from Majority or Minority side will come here, not because they want to. They will try to run for other seats, for example, that of the governor. However, suddenly, they will find themselves in a situation where the only seat they will be able to win is a senatorial seat and then they will come to the Senate.

I am not casting aspersions on those who were in the National Assembly in the last term and came to this House. However, most of them had very low opinion of the Senate. I can say that without any fear of contradiction. I saw Sen. Sakaja and Sen. Mutula Kilonzo Jnr., last night debating seriously why the Senate is important and, so

forth. However, I can tell you that if you go to the archives, there were days when Sen. Sakaja - it is on record - had a low opinion about this House. It is on record that there are days when Sen. Outa had an extremely low opinion of this House. There was a time Sen. (Eng.) Mahamud, who is now fighting the Division of Revenue Bill was a Member of the National Assembly's House Business Committee (HBC) and he had a low opinion about this House.

Madam Temporary Speaker, I do not want to talk about the Speaker. This is because I do not wish to collide with you. However, I never saw your comments but you were in that House and now you are here. A number of our colleagues in the National Assembly will find themselves in this House. When they will be coming here, they will be looking at the archives and wondering what Sen. Orengo, Sen. Mugo, Sen. Olekina, Sen. Kihika and I did. That is why we must insist on doing the right thing, which is protecting this Senate for the sake of Kenyans, devolution and posterity.

I said and I will repeat that I have made up my mind to do everything that is within my capacity at the moment, to facilitate a strong Senate for a strong devolution. This is because I do not know which seat I will go for next term but it does not matter. What matters is that when the history of our time is written, how we spend our time here, it must be kind to us, whether we did it for the experience of the short moment or for posterity.

I beg to move and request the Senate Minority Leader to second.

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, I wish to second this Motion.

First of all, I associate myself with the very eloquent speech made by the Senate Majority Leader. I thank him for the leadership he is showing in so far as the integrity of this House is concerned. He has done extremely well. I have been in corridors where I have seen him take a stand that nobody else would feel comfortable with.

I am happy that the second station for us to go *mashinani* is Kitui County. Sen. Wambua is my good friend. It looks like Sen. Wambua is everybody's friend. I do not know whether he has given us some drug. The popularity of choosing Kitui had something to do with one Sen. Wambua because he has touched the hearts, minds and souls of everybody in both sides of the House.

I also know that Kitui is one of the most expansive counties in the country. It is almost part of the former Coast, North Eastern and Central provinces. Also, part of what we call Nairobi is Machakos which is a neighbour to Kitui. If you want to know how big Kitui is, as you drive past Thika, it takes you a short time, past Matuu, to get into Kitui.

The Governor of Kitui County is somebody we have worked with for a long time. We congratulate the people of Ukambani for producing leaders from all experiences. As a lawyer, some the greatest lawyers in this country come from Kitui. For example, we have graduates from Harvard Law School and some professors who have taught there. The first female Cabinet Minister also came from Kitui - if I am not wrong.

There are so many things to say about Kitui, its people and the expansive natural resources, although there are some controversies about coal. Under that soil, there must be a lot of more that can be extracted for the good of the country.

Going out to the people is a result of the need to ensure effective representation to the people of Kenya. Although we protect the counties, we cannot protect or defend counties without representing the people. When Members in this House react to Petitions or Statements and contribute to Bills, I have the general feeling that Senators represent the people of this country more than any other institution in this country. Going to Kitui is a demonstration that we are not satisfied just talking from Nairobi.

Apart from the Presidency, we are the only apex institution that holds formal sessions in the counties because the President goes to all parts of the country. Sometimes the Cabinet meets informally outside the capital City but most of the meetings are held in this City. As far as I understand, neither the Supreme Court nor the National Assembly has held sittings outside the City.

It is important to ensure that those who never have the opportunity to come to Nairobi to see how our institutions work have a glimpse of how the Senate does business. Just like we did when we had a sitting in Eldoret, I hope we will have something to speak about during informal sessions that concern the people and resources in the region, so that we make our debates and discussions relevant to the people of Kitui.

Madam Temporary Speaker, we are going through a critical moment as a country. Sometimes when people keep quiet, you cannot know what is happening. There is a time I read an article in a magazine about pain. Pain is painful but it is important according to Biology. For example, if somebody puts a hot iron box on your body, you should feel pain. We have the capacity to feel pain so that we deal with maladies that affect our bodies. As a result of politics in the country, we do not address what affects the people. Out there, people feel that many things that are not right are happening and we must speak about them. Many people complain about the cost of living.

I used to go to Nyamakima a lot but I have not gone there for a long time. The other day I tried to pass through Nyamakima, a friend of mine who does business there told me that what we speak from the ivory tower is different from their needs and concerns. Those are the people we represent and some of them are the lowest of the low.

Yesterday I had a discussion with Sen. (Eng.) Maina and what came out is that when the rich people begin to feel pain, you are in more problems than when the ordinary people feel pain. This is because when the rich are on a trajectory of becoming poor, they either commit suicide or kill somebody because they cannot bear being in a situation where the ordinary demands of life cannot be met.

I want to say without fear of contradiction that we must rise up to the satisfaction of the politics of the moment and begin to talk about what affects the people of this country. The functions of the Legislature, which the Senate is part of, has gone into slumber. I take responsibility because we should be speaking more about what affects the people instead of talking about politics of 2022 or who is better. We should talk about issues that affect the lives and spaces of our people at the moment.

We are not the people who fought so hard to make this country what it is. There are those who started fighting for this country since the 'Whiteman' came to this part of Africa. When people like Harry Thuku had problems with the colonial Government, the 'Whiteman' had not been here for more than 50 years. They insisted that Africans deserved dignity.

There is a road near Norfolk Hotel which is near the University Way that should have been named Harry Thuku. It is because at that moment, people were in deep slumber but he woke them up. Now, because of the gains we have made, we are likely to take it for granted.

In countries that are doing well like the United States of America (USA), the United Kingdom (UK) and France, politics of the day is fought with much fury. We have songs that praise our leaders and mention how great they are. That is something that should be espoused in modern democracies. That could be part of the problem. We have to ensure that the Constitution guides the Government of the day. Since we believe in the rule of law, we should believe in the Government of law rather than the Government of men or women. That is what will make us succeed.

As we approach 2022, because we cannot completely close our eyes about it, I hope we will make patriotic decisions. We should no longer have politics of exclusion. For both sides of the political divide, we must be careful about the experiences of the past and how we fight our political battles.

There was a time people thought that a country like Ivory Coast or countries in West Africa would never have any problems. It was not long before Ivory Coast had multiparty elections. There was a time when that country was divided into two. As Kenyans, we count ourselves lucky in the region. We cannot progress if we compare ourselves with the worst in the region. For example, we cannot compare ourselves with Somalia, Tanzania or Uganda. We should compare ourselves with the best because that is the only way we can move Kenya forward.

As we plan to go to Kitui County, I hope that when we come back after recess, we will have a robust engagement to address the problems that face our people without any fear or favour, knowing that the Constitution is the law of the land for everybody including the high and the low of society.

I thank you.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I will now propose the question.

(Question proposed)

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, looking at the time and the Motion that we must dispense with before the end of day, knowing that the Motion is fairly straight forward and the fact that there is a lot of interest in it, kindly take the shortest time possible.

You can take one or two minutes in order for us to give an opportunity to other Members to talk on the same. It is good to get different views. I want to give the first opportunity to Sen. Kibiru.

Sen. Kibiru: Thank you, Madam Temporary Speaker. I stand to support the Motion. I will be seeking for hardship allowance for staying here for so long waiting for my Motion.

Sen. Wambua is my good friend. After elections, I was one of the first Senators to visit him and we had a goat auction in Kitui. It is good for the Senate to go to Kitui

County. When we went to Uasin Gishu County, certain issues came up and the Senate was to act on them. However, those issues have not been addressed. A case in point is that of the special economic zone that we visited with you and the Speaker but no solution has been provided to the issues that were raised there.

We will also be promoting local tourism when we go to Kitui. I am sure that the economy of Kitui will benefit during that week. I want to urge Sen. Wambua to prepare many goats for us. He can probably organise the goat auction on Saturday. The Senators can buy the goats.

The Temporary Speaker (Sen. Nyamunga): Thank you, for saving us time.

Sen. Wambua: Thank you, Madam Temporary Speaker. I unreservedly support the Motion. I am glad to host the second Senate *Mashinani* in Kitui County.

On behalf of the people of Kitui County, the people of the Lower Eastern Region and the Greater Eastern Region, I want to thank the Senate Business Committee for nominating my County to host the second Senate *Mashinani*. I also want to thank God for this golden opportunity. I will be brief so as to give the opportunity to other Senators to comment on this Motion.

I thank the Senate Majority Leader and the Senate Minority Leader for the wonderful words that they have said about my County, our people and what they have said about me. It is by God's grace that I am able to work with national leaders and that includes the Senate Majority Leader and all the national leaders who are here.

If the House approves this Motion, there will be a lot of activities for all the Committees to engage in. We will begin with the biggest project that is taking place in Kitui County and that is the Kibwezi-Mutomo-Kitui-Kabati-Migwani Road. It is a road project that will cost the Government Kshs18 billion. There are issues on compensation for land that has been acquired for construction of the road and I believe that the Committee on Roads and Transportation would be seized of that matter.

There are issues of insecurity in Kitui County, especially the area that borders Tana River County. It will be remembered that my first Petition in this House was on the matter of insecurity in that region and, therefore, the relevant Committee will have an opportunity to deal with that matter on the ground.

One of the biggest dams being constructed in this country is at the border of Kitui County and Makueni County; the Thwake Dam. That dam will cost Kshs84 billion. The works have started. There are issues around it and the relevant Committee will also get the opportunity to address itself on that matter.

I want to conclude by saying that it is true that Kitui County has produced a lot of firsts in this country. That includes the first black Chief Justice after Independence; Hon. Kitili Maluki Mwendwa, the first female Minister; Hon. Nyiva Mwendwa, the first Chief Justice in the new constitutional dispensation; Hon. Chief Justice, Dr. Willy M. Mutunga and the first female presidential candidate; Hon. Charity Ngilu, who is the current Governor for Kitui County. Therefore, we will mobilise ourselves and put our best foot forward to receive the Senate.

On the last Saturday, we will have the first ever Kitui half marathon. We will be asking Senators to participate in the race so that we also celebrate the athletic prowess of the people of Kitui County.

Madam Temporary Speaker, to give my colleagues a chance to contribute to this matter, I thank you, the SBC and God for the opportunity.

The Temporary Speaker (Sen. Nyamunga): Proceed, Sen. Ndwigwa Peter Njeru.

(Laughter)

Sen. Ndwiga: Madam Temporary Speaker, I am Sen. Ndwiga not Ndwigwa.

The Temporary Speaker (Sen. Nyamunga): Sen. Ndwiga Peter Njeru, proceed.

Sen. Ndwiga: Thank you, Madam Temporary Speaker for this opportunity. It is thrilling that the Senate has decided to move out of Nairobi and go to the people. For those of us who remember, when we set to create the Constitution 2010, the most exciting Chapter in it was devolution.

Those of us who were privileged to be there at that time fought street battles so as to get to the change of the Constitution. This fight was all because of resource allocation. Today, I am saddened because despite the fact that we got a new Constitution and devolution, which has run on now for almost seven years, we still have leaders in this Republic who do not appreciate what devolution really is and what it does for our people.

Madam Temporary Speaker, I am sad because as the budget was being read today, the negotiations on the division of revenue had collapsed in the morning. In fact, even that reading of the budget was illegal. I have been told that, actually, the CS for the National Treasury and Planning indicated that they are allocating Kshs318 billion to the counties. He goes and allocates, and they know very well that it is illegal to do that before an agreement has been reached by the two Houses.

There is some kind of madness going on around this country. I think we need to get our religious leaders to sit together and pray for this country. This is because you begin to wonder why people who have come from wherever we have come from, are elected by the people. When they get to Nairobi, they now want to start quarrelling about nonsense and play superiority games about who is bigger than who. At the same time, our own people who elected us are suffering on the ground.

Madam Temporary Speaker, I do not want to dwell on that right now. The Motion on the Floor is about the Senate conducting its sittings in Kitui. I am, indeed, very happy that we are doing this at a time when my friend, Sen. Wambua, is the Senator for Kitui. Just like my colleagues have said, he exemplifies what leadership is. It is what, indeed, we want to see in leaders; leaders who mix with everybody and accommodate the views and feelings of other people. That is what leadership is all about.

Madam Temporary Speaker, I am hopeful that when we go to Kitui, our colleagues will learn many things about us. I am talking about “us” because Kitui County happens to be my southern neighbour. We have a lot of issues in common with the people of Kitui. In fact, the people of Kitui are our biggest trading partners. I will, therefore, be the very first one to vote that we go to Kitui and have sittings there.

With those few remarks, I beg to support.

Sen. (Rev.) Waqo: Thank you, Madam Temporary Speaker, for allowing me to add my voice to this Motion, which from the beginning, I want to declare support for, fully. I also want to recognize the effort of the able Senator from Kitui who, since we

came to this House, has always been proud of his county. I have been to that county. I have some friends there but, of course, the invitations I have received from him have been quite encouraging. Just seeing the effort that he has in transforming the lives of his people and their lifestyle is a good thing.

Madam Temporary Speaker, I support this Motion putting into consideration what the Senators achieved when we went to Uasin Gishu County. When we were there, we were able to meet with people, we debated and were able to interact with the different representatives in committees. We managed to understand the dilemma, the challenges and some of the things that our people go through at the county level. We left behind a good example because as we all know, Senators are people who are quite honourable, committed to what they are doing and ready to mentor others.

Madam Temporary Speaker, as we go to Kitui, I know that we will be able to leave behind some best practices. As we all know, we have people who are gifted in this House. We have professionals who are committed to what they are doing. A good example is what happened this morning with the Mediation Committee. They stood firm, remained principled and focused in defending what we need to defend; the rights of our people and the rights of the counties.

I support this Motion. I know Kitui very well. The great people of Kitui are, of course, very welcoming. The Governor there is a good friend of mine and I will be happy to visit her and have a chat with her, because it is a while since I last visited her. She is also a good example to many of us and many other ladies, because she has fought the good fight and she will continue doing that. Who knows, maybe one time she will be our President.

Madam Temporary Speaker, Kitui County is one of the counties that we share a lot in common. It is vast, with a lot of challenges. I know that they have been having a lot of challenges with water, which we also face. On insecurity, I sit with Sen. Wambua in the Committee on National Cohesion, Equal Opportunity and Regional Integration and every time we have met, we have discussed about insecurity in that area and the number of people who have lost their lives. I know that our Committee will give a lot of attention to that, because he has been pleading with the Committee to visit that particular county. I am sure that our visit will be of great benefit to the people of Kitui.

Madam Temporary Speaker, before I sit down, I know that the last time when we went for the same sittings outside Parliament, many people criticised us because they felt that we were misusing resources and that we were out there to enjoy ourselves. Therefore, it is good for us to tell Kenyans that Senators are there on behalf of the citizens and devolution. It is only when we go out that people will know and understand our responsibility. We will also be able to support you and understand the dilemma that you are in and bring your problems to the highest level.

With those few remarks, I support and look forward to going to Kitui County. Next time you can visit Marsabit County, so that you can see that part of the world.

Sen. Olekina: Thank you, Madam Temporary Speaker. Sir Winston Churchill once said that a pessimist sees difficulties in every opportunity while an optimist sees opportunities in every difficulty. This Senate has seen opportunities in what many consider as difficulties and, therefore, I would rate us optimists.

I rise to support the Motion of taking the Senate to Kitui County in order to interact with the people of Kitui. A lot has happened today and this has put this House on the map and history of this nation as people who care about devolution.

Kitui County is a great county. Whenever I hear of Kitui, I think of great legal minds like the former Chief Justice, Kitili Mwendwa; Willy Mutunga; Makau Mutua; and even the former head of the Law Society of Kenya (LSK) Eric Mutua. They all come from there. When I hear of Kitui, I think of industries like the cotton industry. I am so proud of the Governor of Kitui County for having started a textile industry to create employment. These are things that we need to see, learn and share with our counties.

Madam Temporary Speaker, what is happening in Makeni County should worry everyone in Kenya. These counties are close by and share a border. The oil spillage in Kiboko River will affect many lives. Taking the Senate to Kitui County will give us an opportunity to interact with the people of that area and ensure that they are accorded what is rightfully theirs. It is sad when people suffer and can never reach Nairobi City County to get their services.

I support this Motion because it will not only show the people the importance of this House, but will also bring us closer to the people. The only way that we can know what ails this country or the challenges of devolution is by going closer to the people. What we learned in Uasin Gishu County last year had to do a lot with the issue of the struggle in the maize industry. You can tell that, that has changed this year and that Government policies are designed in a way that whatever is generated generally, can be mopped out first before we allow imports into this country to kill our industries.

Kitui is a very large county. In fact, I did not even know how big it was. I always thought that Narok County is so big; but Kitui County is almost twice the size of Narok County. As the Senator for Narok County, I would want to know what it is that we, the people of Narok County, can trade with the people of Kitui County. From the onset, I can see there is the cotton industry, something that we can benefit from.

I support this Motion and because of time, I will limit my submission to that. I hope all Committees, at least those that I sit in - The Committee on Energy, Committee on County Public Accounts and Investments and the Senate Business Committee will have their sittings there so that we interact with the people. I congratulate my dear brother, Sen. Wambua for getting an opportunity to host us there. I hope he will show us the good, the bad and the ugly of Kitui County.

Thank you.

Sen. Ochillo-Ayacko: Thank you, Madam Temporary Speaker, for giving me this opportunity to add my voice in support of this Motion. I congratulate Sen. Wambua for being very---

The Temporary Speaker (Sen. Nyamunga): Hon. Senator, if possible, please stop by 6.25 p.m. for us to allow the reply.

Sen. Ochillo-Ayacko: Madam Temporary Speaker, I stand guided. I congratulate Sen. Wambua for clinching this opportunity. I also pray that one day you will remember and visit my county of Migori. We may not be as welcoming as Kitui County, but we are in Kenya.

As a House, we are under a duty to ensure that Kenyans embrace devolution, the role of the Senate and the Constitution, 2010. The reasons that are being advanced for approving Kitui County are that it is a wonderful place. I do not doubt that for a moment, but we should also visit other places that are not wonderful so that we take the wonder in us to those places. One such place is Migori County. We are known for very bad behaviour and keeping public money, about Kshs2.5 billion out of the nation, which is still a rumour. We are also suspected to be killing our girlfriends, which is also a very bad reputation.

The Senate, as a national institution whose duty is to ingrain and espouse good governance to assist devolved units inculcate good practice among themselves, would be highly welcome to come to a place like Migori County.

I know Migori County does not stand alone; there are other counties that share the same kind of fame that Migori County is known for and would be very happy to have the Senate, to try and dialogue with the leadership there so that we improve on governance and such related matters. The principle idea of taking the Senate to counties is so that we deepen democracy and so that our people see us at work and appreciate that our institutions are important. This is a good idea.

Madam Temporary Speaker, I hope that when we get to Kitui County - Kitui being as wonderful as has been described - we will find that there are also other wonders in Kitui County. I understand that the folklore is that there is witchcraft and black magic in Kitui County. We also want to go and experience that. We hear that Kitui County is famous for something called *kamuti*. I would want to appreciate and understand what it is all about.

Kitui County is also said to be the cradle of the Kamba nation; people who are resilient and *Kambasome*. They operate without water, walk long distances and are good traders. We want to appreciate that culture and resilience so that the Senate also takes away that as knowledge to the places where we come from.

With those few remarks, I beg to support.

The Temporary Speaker (Sen. Nyamunga): I now call upon the Mover to reply.

Proceed, Sen. (Eng.) Hargura.

Sen. (Eng.) Hargura: Thank you, Madam Temporary Speaker. I would like to reply to this Motion. I thank the Members for supporting this Motion.

As a Senate, we have already decided that we will operate differently from the other legislative institutions by going round the country so that first, we get to interact with the people of the counties whom we represent.

So, we have to get a feeling of what Kenyans at that level are going through. Maybe county assemblies themselves are not even going around the counties. As the Senate, we have to go around all the county headquarters so that we can get a feel of what Kenyans are going through and give Kenyans an opportunity to interact with us.

We have been receiving Petitions from different parts of this country. Therefore, this gives an opportunity for people from that part of the country to interact with us directly. I urge all Senators to avail themselves. As the Mover has said, the Senate has to

go out of its way to make sure that there will be no trips so that Members do not have reasons not to attend.

Also, as Committees, we need to prioritize our activities to what business we have concerning that region. As a Member of the Committee on Roads and Transport, I know that we have the issue of roads in Kitui. We have been engaging institutions like the State Department of Roads and Transportation because of what the locals are complaining about. I have also had the opportunity of going to Kitui with Sen. Wambua when our Speaker opened the new County Assembly Chamber in Kitui. I know that we have facilities which will accommodate us. So, we will be in good hands. I urge that we all avail ourselves so that we can present an opportunity to Kenyans to learn what we do and access our services. We can also learn what Kenyans go through.

I beg to reply.

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

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the House. The Senate, therefore, stands adjourned until tomorrow, Tuesday, 18th June, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.