

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 24th July, 2019

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM BUNGOMA DEB
PRIMARY SCHOOL, BUNGOMA COUNTY

The Speaker (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Bungoma DEB Primary School in Bungoma County.

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

I thank you.

(Applause)

Sen. (Dr.) Zani: Mr. Speaker, Sir, I join you in welcoming the young boys and girls to the Senate today. I would like to inform them at this point in their lives, they need to be focused on their studies. More importantly, they need to think about the role that they want to play as patriots of this country, what they want to do in the future and how they plan to get there.

I am happy that the students are here in the Senate to see us perform our role of defending counties vigorously from aspects so that we ensure that the counties grow. The young people must always have a vision and always keep it in mind and strive to achieve it.

I thank you, Mr. Speaker, Sir.

Sen. Ochillo-Ayacko: Mr. Speaker, Sir, I thank you for giving me this opportunity. I join you and fellow Senators in welcoming into the Senate students from Bungoma County. Bungoma is a lovely county and they are represented in this august

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House by a very able and a senior Member of the Senate, hon. Wetangula. I was with him this afternoon at meetings of the Committee on Energy, Roads and Transportation and the Committee on Agriculture, Livestock and Fisheries.

Sen. Wetangula is happy that the Bungoma DEB Primary School is here. On his behalf, I would like to encourage the students to enjoy their visit to the Senate and learn how debate is carried out. What is important is negotiation, compromise, agreeing to dialogue and not fighting. I hope that the students will carry home the spirit of negotiation, compromise and dialogue as a hallmark of reaching consensus on issues that might affect them.

I welcome the students to the Senate.

Sen. Wambua: Mr. Speaker, Sir, I thank you for this opportunity to join you in welcoming the students from Bungoma County. I would like to remind the visiting students that Bungoma is ably represented here by the Speaker of the Senate and Sen. Wetangula, who is a senior Member here. I challenge the students that going into the future, the good things and tidings that are coming from Bungoma County should not break. The students should produce leaders in this country.

The students have visited the Senate at a very good time when both sides of the House are united in defending devolution. This is the House that debates the issue that touch on the welfare of counties. I encourage the students to be guided by the proceedings of the Senate and be inspired to one day join the Senate or the other legislative arms of this Government to push forward the agenda of devolution in this country.

I thank you, Mr. Speaker, Sir.

Sen. (Dr.) Langat: Mr. Speaker, Sir, I thank you for this opportunity to join you in welcoming the teachers and students from Bungoma County. As my colleagues have said, allow me to remind the students that the Speaker of this House is the former Governor of Bungoma County. That is a county that produces great people. I therefore encourage the students that they should keep up the same so that when our term comes to an end, they will take over from us.

I would like to encourage the students that it is possible to become whatever they can imagine if they only work hard in school, maintain their discipline and be focused. I encourage the students to learn more from the Senate and know our functions which include; legislation, because this is the House that makes laws to govern this country. This is also the House that takes care of the counties and their interests. We oversight and protect counties.

I am the Chairperson of the Committee on Education. I promise to continue standing with our children in schools. We shall support and protect them according to the laws of this country. I wish the students a good stay in the Senate and a happy time during their visit.

I thank you, Mr. Speaker, Sir.

Sen. (Eng.) Maina: Mr. Speaker, Sir, I welcome the students from Bungoma County. I have an attachment to Bungoma County because I worked there while building the sewerage system for Bungoma Town. I know that the people of Bungoma are very hard working. I believe that these children are likewise very hard working. The children

should be encouraged that the Speaker of the Senate comes from Bungoma County. The same Bungoma produced a former Vice President, the late hon. Wamalwa. For that reason, these children should be aiming high.

I would like to remind the students that when one is young, they make their decisions. The former President of the United States of America (USA), Bill Clinton, made a decision to go to White House when he visited when President Kennedy was the president. In his biography, former President Bill Clinton says that he made a decision to work towards becoming the President of USA. I, therefore, encourage these students that as long as they work hard and keep God as their guide and listen to people whom they have been entrusted to like their parents and teachers, they will go far. I urge the student to remain focused.

I thank you, Mr. Speaker, Sir.

Sen. Sakaja: Mr. Speaker, Sir, as the Senator for Nairobi City County, allow me to welcome the students from Bungoma DEB Primary School to Nairobi City County. These students are very fortunate because Bungoma is over represented in this House by Senator number one who is hon. Lusaka and by one of the longest serving Members of this House who came to Parliament in 1992, my distinguished uncle, Sen. Wetangula.

I encourage the students that the future is ahead of them. They can be whatever they put their mind to because yourself, Sen. Wetangula, and many others including me serve as an example that in the Kenya of today, your destiny does not depend on where you are from, surname or tribe. It will depend on the content of your character and what effort you put in school. That is the Kenya we want to build where a fair shot at life is the prerogative of all.

Mr. Speaker, Sir, because of the heavy representation of Bungoma County and friends of Bungoma in the Senate, I am sure that the teachers and students will receive a heavy lunch before they leave.

(Laughter)

I thank you, Mr. Speaker, Sir.

Sen. Boy: Asante sana, Bw. Spika, kwa kunipa fursa hii kuwakaribisha wanafunzi kutoka Kaunti ya Bungoma. Ninawahimiza wanafunzi kwamba elimu ni msingi kwa maisha. Elimu ndio ufunguo wa maisha. Nawatakia kila la heri na kuwahimiza kutia bidii katika masomo yao.

Kama wanafunzi hawa wanavyojua, Bungoma kumetoka watu mashuhuri sana. Spika wa sasa wa Seneti alikuwa gavana wa kwanza wa Kaunti ya Bungoma. Seneta Wetangula anayewakilisha Kaunti ya Bungoma pia ni Mbunge wa miaka mingi sana. Nawasihani wanafunzi watie bidii katika masomo na watii walimu wao kwani wao ndio viongozi wa kesho.

Asante sana, Bw. Spika.

The Speaker (Hon. Lusaka): Next order.

PETITIONREPORT ON PETITION: HEALTH SERVICES CONDITIONAL
GRANT TO UASIN GISHU COUNTY GOVERNMENT

Sen. (Dr.) Mbiti: Mr. Speaker, Sir, I beg to lay the following report on the Table of the Senate today, Wednesday, 24th July, 2019-

Report of the Standing Committee on Health on the Petition to the Senate on Health Services Conditional Grant to the County Government of Uasin Gishu.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Next Order.

PAPERS LAIDREPORT ON UNITED NATIONS CONFERENCE
ON CLIMATE CHANGE (COP24)

The Speaker (Hon. Lusaka): Could we hear from Sen. (Dr.) Ali? He is not in the House, so it is deferred.

(Laying of the Paper deferred)

REPORT ON THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL
(NATIONAL ASSEMBLY BILL NO. 10 OF 2018)

The Speaker (Hon. Lusaka): Could we hear from Sen. Sakaja?

Sen. Sakaja: Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate, today, Wednesday, 24th July, 2019: -

Report on the County Governments Retirement Scheme Bill (National Assembly Bills No. 10 of 2018)

(Sen. Sakaja laid the document on the Table)

REPORTS ON FINANCIAL STATEMENTS OF VARIOUS
COUNTY AGENCIES/FUNDS

Sen. Dullo: Thank you, Mr. Speaker, Sir. I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 24th July, 2019 -

Report of the Auditor-General on the financial statements of the County Executive of Migori Loans and Mortgage Fund for the year ended 30th June 2018;

Report of the Auditor-General on the financial statements of Migori County Ward Development Fund for the Year ended 30th June 2018;

Report of the Auditor-General on the financial statements of Rukanga Water and Sanitation Company Limited, Kirinyaga County, for the year ended 30th June 2018;

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Report of the Auditor-General on the financial statements of Rukanga Water and Sanitation Company Limited, Kirinyaga County, for the year ended 30th June 2017;

Report of the Auditor-General on the financial statements of Rukanga Water and Sanitation Company Limited, Kirinyaga County, for the year ended 30th June 2016;

Report of the Auditor-General on the financial statements of Rukanga Water and Sanitation Company Limited, Kirinyaga County, for the year ended 30th June 2015;

Report of the Auditor-General on the financial statements of Rukanga Water and Sanitation Company Limited, Kirinyaga County, for the year ended 30th June 2014;

Report of the Auditor-General on the Financial Statements of Rukanga Water and Sanitation Company Limited, Kirinyaga County, for the year ended 30th June 2013;

Report of the Auditor-General on the Financial Statements of Rukanga Water and Sanitation Company Limited, Kirinyaga County, for the year ended 30th June 2012.

(Sen. Dullo laid the documents on the Table)

The Speaker (Hon. Lusaka): Next Order.

NOTICE OF MOTION

NOTING OF REPORT OF THE UNITED NATIONS CONFERENCE ON CLIMATE CHANGE (COP 24)

The Speaker (Hon. Lusaka): Could we hear from Sen. (Dr.) Ali? He is not in the House so it is deferred.

(Notice of Motion deferred)

The Speaker (Hon. Lusaka): Next Order.

STATEMENT

MEASURES TO SAVE LIONS FROM EXTINCTION

Sen. (Dr.) Milgo: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.48(1), to seek a Statement from the Standing Committee on Tourism, Trade and Industry on the measures taken to protect lions which are vulnerable to extinction.

In the Statement, the Committee should-

1. Outline the efforts that have been put in place by the Government and Kenya Wildlife Service (KWS) to address the management of the dwindling lion population and the measures taken to develop a policy that would ensure enforcement of these efforts;

2. State the measures that KWS has put in place to address the unsustainable hunting practices in some wildlife management areas; and,

3. State the measures put in place to address the negative perception of lions among local communities and ensuring their inclusion in wildlife conservation efforts.

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Sen. Ochillo-Ayacko: Thank you, Mr. Speaker, Sir. I want to congratulate my sister, Sen. (Dr.) Milgo, for raising this pertinent issue. Lions and wildlife are held dearly by civilised people. They killed their wildlife and they now have to visit our nations to see our wildlife. If we do not learn from history, then we will be forced to google how a lion looked like in the future.

I ask the Committee, before which this matter will be referred, to look for ways and means of sustaining the economic activities of the communities that host the wildlife. The conflict between their socio-economic activities and the wildlife is the reason for the extinction of the wild animals. In looking for a solution, we should identify an economic activity that these communities can participate in as a way of compensating them for the loss of land that is now being used to keep the wildlife.

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, this is a very important Statement. The population of lions, especially the African lion, is dwindling in Africa. In West and North Africa, where lions used to roam, you can hardly find the African lion. Conservationists have said that the African lion can only be found in Eastern African and some parts of South and Central Africa. If we do not take measures, in another 50 years, we may only see lions in European zoos because they know how to keep them there. Many animals that are becoming extinct in the third world can be found in the European zoos. The lion is a very iconic figure for Kenya. During the colonial days, it was part of the Coat of Arms and it has remained in the Coat of Arms even in the independent Kenya.

The population of lions in Africa is at 34,000 only. In another 10 or 15 years, we might have a population of 2,000 lions or so in Kenya and that would be a very undesirable situation. The habitat for the lions is being encroached in parts of Narok and Kajiado where they used to roam. At the moment, there is human and wildlife conflict that needs to be resolved. The amount of hunting that is going on worldwide in regard to the lion is a bit controlled as compared to that of the rhino and the elephants but the lion is undoubtedly under threat. The conservationists have identified it as an animal that needs protection but the experts have said that when the lion will be categorised as an endangered species that will be on the border line of extinction by the year 2050.

Therefore, I welcome the request for this Statement. Thank you, Sen. (Dr.) Milgo, for bringing this at an appropriate time because we take wildlife for granted. Communities who knew how to live with the wildlife are not being given the means and tools to continue taking care of wildlife and ensuring that wildlife enhance human life. The lion is now a central figure in the movies being produced in Hollywood yet we do not think of wildlife when we wake up. The Maasai Community knows how to live with wildlife and they know the importance of wildlife. They only attack them when they are a threat to life but they work hard to preserve them.

This calls for immediate action and the Ministry concerned should take care. In the meantime, the Committee should come up with a report for consideration. As far as I am concerned, this is a very important Statement.

Sen. Dullo: Mr. Speaker, Sir, I thank Sen. (Dr.) Milgo for bringing this Statement. It is important for us to save our wildlife especially the Big Five though it looks like we are going to lose all of them hence we need to do something.

However, we should not just focus on protection of wildlife and forget about the people who are supposed to protect the wildlife. People have lost their lives in this country and their families have not been compensated. In the last seven years, the Government has not compensated the families of those who lost their lives and those who have been affected by the wild animals. For the members of public to appreciate and benefit from the revenue generated from the wild animals, we have to bring the communities together with the KWS. In my county, we have about three to four parks and we have communities neighbouring those parks. Unfortunately, there is no interaction between KWS and the community which makes it difficult for the people to appreciate and protect the animals within their environment.

Many years ago, communities used to benefit from projects that were run by the Kenya Wildlife Service. Unfortunately, all those projects were run-down because of the revenue challenges that they are facing but it was an initiative that encouraged people to nurture wildlife. The Government and KWS should revisit those projects for the members of public to benefit. The committees, at the county level, that are supposed to compensate the families of those who lost their lives have not sat for many years and something needs to be done about that.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support this timely Statement by Sen. (Dr.) Milgo.

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

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

Sen. Seneta: Mr. Speaker, Sir, it is not a point of order. I have been on the queue and I have just seen Sen. Olekina walking in and---

The Speaker (Hon. Lusaka): Order! Order! Senator. I consider a number of things before I give you the opportunity to speak.

Sen. Olekina, continue.

Sen. Olekina: Thank you, Mr. Speaker, Sir, for your protection. My sister and I were in another Committee where we were dealing with electricity issues. I am happy that we are discussing wildlife conservation.

I am a little bit apprehensive even as I support this Statement. Some of our actions, including hunting, are the ones that are leading to the decline of lions in this country. In the Maasai Community, we are killing ourselves by selling all our land. Our land used to be open and everyone would graze on them.

The moment we sell our land, particularly in the Masaai Mara region and buyers erect electric fence, we expose our wildlife to danger. It is a pity that when a lion roams around hunting for food, it is killed and we keep on complaining. How can we continue complaining and yet are not protecting our wildlife? It is time we pointed the finger to the real culprits who are killing our wildlife because KWS is doing its job. Why should we make it difficult for them to do their job?

In Narok County, for example, the government has allocated of 19 per cent of revenue to support the local community to deal with wildlife. After selling our land and erecting electric fences, we deprived wildlife of food and water. Therefore, when a lion is hunting, it sees cows and attacks them for food. It is killed by the local community.

I think the Ministry ought to put huge corridor, say, of four or five kilometres long for wildlife conservation. If we do not do so, hunting will continue and our wildlife will diminish. I am concerned about this wildlife/human conflict. That is why I seeking clarification. In my Statement, I wanted the Chairperson to state the measures KWS has put in place to address the unsustainable hunting practices in wildlife management areas. Hunting in Kenya is illegal; it is not allowed.

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

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

Sen. Poghio: Thank you, Mr. Speaker, Sir, I do not know whether the Chair has noticed that my good friend from Narok has proceeded to deal with the Statement as though it was directed to him because he is now giving solutions.

The purpose of a Statement is---

(Sen. Olekina stood up in his place)

The Speaker (Hon. Lusaka): Order! Sen. Poghio is on the Floor. Please, resume your seat.

Sen. Poghio: Mr. Deputy Speaker, Sir, the whole idea of seeking for a Statement is for the relevant Committee to interrogate it. Therefore, the Senator should let the Committee do its work instead of him giving answers to issues raised here. Otherwise, it will not best serve the purpose for which it was sought. I am raising the issue of relevance of statements in this House.

The Speaker (Hon. Lusaka): Sen. Olekina, remain on course.

Sen. Olekina: Mr. Speaker, Sir, when we rise to support a Statement, I do not think there is any standing order that bars us from seeking clarifications.

As I said, we do not allow hunting in this country and that is why we want to know the measures KWS has put in place to mitigate against this unsustainable hunting practices. It will even be difficult for the Committee to interrogate this matter conclusively if we do not seek our clarifications.

I do not know if hunting of wildlife is allowed in this country. As far as I am concerned, hunting is illegal. There is no single legislation in this country that has legalized hunting. So, when I seek clarification, I do not think I am giving solution, but I want us to be clear.

One of the biggest problems` with the Statement in this House is that we do not get feedback. For example, this matter will be directed to the Ministry of Tourism, which I believe KWS is domiciled, but we might not get feedback. I had a Motion here on how we can increase tourism revenue in terms of cultural value in this country, but we did not get feedback on its implementation. It is imperative we get feedback to our Statements.

Mr. Speaker, Sir, as I support this Statement, I also want us to take our own responsibility on this issue. I hope when the Committee will be looking into this Statement, it will go a little bit further and come up with measures that will help us have a solution to this problem.

Thank you, Mr. Speaker, Sir.

Sen. Seneta: Thank you, Mr. Speaker, Sir, for giving me a chance also to add my voice to this important Statement. In the history of the Maasai Community, lions are very important animals and they are valued. It is a high time we came up with strategy of conserving wildlife in this country. We should not only conserve lions, but all the big five.

We all know that population of this country is growing. We have more people now living around our parks than before. However, our parks are not protected. With the prolonged droughts we face in this country from time to time---

(Sen. Kihika consulted Sen. Seneta)

Mr. Speaker, Sir, protect me from my sister, Sen. Kihika.

The Speaker (Hon. Lusaka): Order, Senator!

Sen. Seneta: Thank you, Mr. Speaker, Sir. I was saying that the population of this country is growing so is the population of the communities hosting wildlife. The long-prolonged droughts are also more frequent. Therefore, we need to look for a more sustainable way of conserving wildlife. How can we feed them? Nowadays wildlife is found everywhere. For example, we have some in individual ranches in Kajiado County.

I feel so reluctant to support the Statement by my sister. This is because last week, there was a Statement by Sen. Pareno in this House in which she was seeking from the same Committee to address issues to do with wildlife/human conflict in Kajiado County. It is sad that we buried two people last week as a result of wildlife/human conflict. This week, we are yet to bury another who was killed by a wildlife. The Committee has never given us answers to the Statement. I feel that the Committee is not doing its work. The issues of wildlife are very important, especially in terms of tourism in this country.

I support and urge the Committee to do its work.

Sen. Madzayo: Shukrani sana, Bw. Spika, kwa nafasi hii. Mimi ningependa kuunga mkono taarifa hii inayohusika na mbuga za wanyama wa porini. Mimi natoka katika maeneo ya wakulima. Wakulima wa Mkongani, Magharini na Ganze wanaathirika wakati ndovu, twiga na wanyama wengine wanapovamia mashamba na kuharibu mimea yao.

Bw. Spika, hii ni taarifa muhimu sana kwa watu wanaoishi karibu na mbuga za wanyama. Hivi sasa kuna hatari ya wawindaji haramu kumaliza wanyama wetu. Idadi ya ndovu na twiga imepungua sana. Haya yote yanaletwa na tamaa ya wawindaji haramu ambao wanawaua wanyama wetu.

Naunga mkono taarifa hii ili shirika la KWS lipewe nguvu zaidi ya kuhakikisha wawindaji haramu hawapati nafasi ya kuwaua wanyama katika mbuga zetu hapa nchini.

Ninaunga mkono Taarifa hii na kusisitiza ya kwamba ni lazima shirika linalohusika na mambo ya kulinda wanyama wetu lifanye bidii ili wawindaji bandia wasipewe nafasi ya kumaliza wanyama ambao wako na faida tofauti tofauti, kama vile utalii. Watu wanatoka sehemu mbalimbali kutalii. Hivi sasa, itakuwaje tunaweza kuwahesabu simba, ambao ni wanyama wanaosifika sana ndani ya msitu? Sijui kama waliobaki ni kumi au ishirini.

Leo nilienda Lewa Marathon wanapofanyia itikadi ya kukimbia. Tulimpata simba mmoja ambaye hana mke. Hiyo yote imeletwa na uwindaji bandia. Tuliuliza na tukaambiwa ya kwamba simba huyo ni wakiume na anahangaika kutafuta mwenzake watakiyeishi naye pamoja.

(Laughter)

Bw. Spika, hili ni jambo la kusikitisha sana. Tunaangamiza sehemu moja ya tatu katika wanyama wetu. Kwa hivyo, ninasisitiza ya kwamba Shirika la KWS lichukue msimamo hususan wakumaliza wawindaji bandia. Ikiwa mtu hafanyi kazi kwa msitu au mbuga za wanyama, hana haki ya kwenda kule. Anaweza kwenda kama mtalii au apewa kibali cha kuingia kuangalia wanyama wetu na kufurahi kama wataliii halafu aondoke atuachie wanyama wetu vile walivyo. Lazima Serikali itilie mkazo jambo hili na kuwasaidia watu wanaofanya kazi katika Shirika la KWS.

Sen. Halake: Thank you, Mr. Speaker, Sir, for giving this opportunity. I stand to support this timely Statement by Sen. (Dr.) Milgo. I am saddened as I listen to the contributions of my fellow colleagues. We are looking at wildlife as though they belong to the Government or KWS. The wildlife of this country belong to all of us. Therefore, we all have a responsibility. In fact, the number one threat to wildlife is not poaching; it is habitat loss and population growth that is blocking the migratory routes.

Mr. Speaker, Sir, a few years ago when I worked for a conservation agency, KWS had only 2100 lions. We go about our business and think that they are too many. However, 2000 lions is nothing. I have been saddened by our discussion and debate around human-wildlife conflict because we speak as though the wildlife belongs to a cage or in a Government which has a key that it can open to protect them.

(Loud consultations)

The Speaker (Hon. Lusaka): Hon. Members, let us consult in low tones.

Sen. Halake: Thank you, Mr. Speaker, Sir. 67 to 70 per cent of Kenya's wildlife lives outside of Government protected areas. As much as we have KWS and other Government protected areas including the national parks and reserves in our country, most of the animals live outside with the communities. The first threat to wildlife is population and agricultural growth.

As we talk about KWS compensating families of those who have lost their loved ones and also protecting wildlife, let us also look at wildlife as our responsibility as leaders. This is because these animals do not have anybody else. These are the last species on earth. They are not just of significance to Kenya only; they are of national and global significance.

Mr. Speaker, Sir, they say that in about 20 years, lions will disappear. It will be such a shame for them to disappear under our watch as leaders because of our narrow definition of conservation. We think that it is about Government's protection. This is why we have been asking, as conservationists, the Government to look at community

conservation and empower communities to conserve and integrate their livelihoods with conservation.

In half a century, West Africa lost all their lions. In North Africa, in around 100 years, they have also lost all their lions. East Africa is on the blink. These are the last species on earth. I have been thinking so much about some of the things that we say and the ways in which we debate about human-wildlife conflict. We bear no responsibility to these species. We look at it at an angle of what we have lost. However, we are the ones blocking their routes and in the way of their habitant. Therefore, it is time, as leaders, we started to look at conservation a bit more broadly and look at it beyond the protected areas and poaching. This is because poaching has been contained in many ways. We still work on rhino poaching. We have just about 700 rhinos in this country.

We need to start looking at this issue. As leaders, under our watch, the last species on earth will be extinct. We are defining it from the point of view of compensation. We are not saying that human life is not important. It is important and sacred. However, let us take responsibility for the wildlife as well.

I urge this House and all our leaders to stop making certain remarks that will make the communities to arm themselves and kill animals.

I support this Bill and appeal to our leadership----

The Speaker (Hon. Lusaka): Order. It is not a Bill.

Sen. Sakaja: Thank you, Mr. Speaker, Sir. In my county, I have lions in the park and on the roundabouts. So, this is a key issue to us.

I pick up from where Sen. Halake has left. If we are not careful, soon, the only lions that will remain are the ones on the roundabouts. In 2013, lions were put on the list of endangered species under the Wildlife Conservation Management Act. Conservationists are saying that in 15 to 20 years, lions will be extinct in Kenya if we do not take action. We lose 100 lions every year. It is that serious. In 1900, there were one million lions in Africa. In 50 years, the number went down to 500,000. In 1975, they were 200,000. In 1990, they were 100,000 and now they are around only 35,000 remaining in the African Continent.

Mr. Speaker, Sir, in the last 100 years, the population has declined by 96.5 per cent. I am underscoring how important this Statement is. I urge the Committee as they look at this matter, to invite not just the KWS and the Ministry but the International Union for Conservation of Nature (IUCN), the African Protected Areas Congress (APAC) and other stakeholders so that we can do something for the generations that will come. Twenty years is a short time. We should not be telling our children and grandchildren that there used to exist an animal called a lion.

I concur with my colleagues that we need to conserve human lives and protect the people. However, let us not militarize our thinking such that people in areas that have lions around them start to defend themselves and kill these animals. Let KWS do their work. So, when they come to the Committee, they should outline the strategies they have put in place to protect lions. I wish Sen. Mutula Kilonzo Jnr. was here because he loves lions. In fact, they have some at home that they conserve. It is a serious issue.

I thank Sen. (Dr.) Milgo for bringing this matter. Let us not be known as a generation that watched lions get extinct in the country.

Sen. (Dr.) Langat: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this important Statement. We can all see that Sen. Sakaja did research about the rate at which the lions are decreasing in number. That is worrying. It is important that the Committee that will address this particular issue will have to deal with the current statistics first, so that we know how many lions exist. It is also important to know the real threat to these animals beyond the imagined. We should know the real threat to these animals, so that the problem is addressed scientifically. It will also be important to establish their current relationship with human beings.

I was lucky to visit Taita-Taveta County, and we discovered that the greatest threat to the lions by then were human beings because human conflict is not addressed effectively. It is always to the disadvantage of the human beings and their properties.

In Samburu, there is a healthy relationship between wildlife and human beings. Therefore comparatively, the Committee that will address this one should travel widely, so that they establish various strategies used by various communities closer to the animals to conserve them.

Mr. Speaker, Sir, this is an important Statement, knowing very well that conserving those particular animals will earn our country a lot of income in terms of foreign exchange. Therefore, it is important that we address this matter urgently.

I thank you.

Sen. Poghiso: Mr. Speaker, Sir, I thank Sen. (Dr.) Milgo for the Statement she sought. I am sure that before she brought this Statement, she did enough research. That is why when I rose, there was no need to be defensive about hunting that is going on in this country. You may own a private conservancy but you do not know what to do. There are issues that have been raised this Statement that are relevant at this point in time.

All tourists who come to Nairobi would like to go back at least with a photograph of a lion. In fact, if they go to a park and find no lions, that would be a dry drive. Therefore, it is important to Kenyans. That is why when it comes to conservation, the matter should be pursued to its logical conclusion.

The Committee that will be charged with this responsibility should look deeper into the issues that are threat to the lion population. I do not need to be told that lions are facing extinction. When I was growing up, there were lions all over us in Kacheliba in West Pokot. Today, there is none. It is not rocket science. All we need to know is what will happen. I hope the Committee will get to the bottom of the matter, so that we save lions from extinction.

Sen. (Eng.) Maina: Mr. Speaker, Sir, I rise to congratulate Sen. (Dr.) Milgo for seeking this Statement. I would like to say that this is a House of reason and we must see the grandeur of this country that God left for us. The wild animals are important to this country and there is no doubt about that. In fact, apart from lions---

Sen. Ochillo-Ayacko: On a point of order, Mr. Speaker, Sir. I have to interrupt my Chairperson, who is my good friend. Would I be in order to ask him to inform the House positively because he should declare his interest? He is a conservator of lions because he keeps a few. It would be positive for him to encourage us to be conservationists.

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

Sen. (Eng.) Maina: Mr. Speaker, Sir, we are all supposed to be conservationists.

The Speaker (Hon. Lusaka): Take your seat, Senator, because there is another intervention by Sen. (Dr.) Kabaka, then you will respond to both.

(Sen. (Eng.) Maina took his seat)

Sen. (Dr.) Kabaka: Thank you, Mr. Speaker, Sir, for giving me this opportunity. You have reminded me the rules of ethics because this Senate is like a High Court. Anytime a senior counsel like Sen. Orenge talks, another counsel is not supposed to be on his feet and the same should apply here.

My curiosity has been aroused by the opening statement by the distinguished Senator of Nyeri County when he said God left us with lions. Could he tell us when God visited and left us the lions?

(Laughter)

Sen. (Eng.) Maina: Mr. Speaker, Sir, in the history of our Parliament, there is a ruling that was made by none other than---

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

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

Sen. (Eng.) Maina: Mr. Speaker, Sir---

The Speaker (Hon. Lusaka): Order, Sen. (Eng.) Maina. There is an intervention by Sen. Cherargei, and I have given him an opportunity.

Sen. Cherargei: Mr. Speaker, Sir, would I be in order to request that we go to Division and then come back to the Statements later?

The Speaker (Hon. Lusaka): Let the Whips confirm the numbers as Sen. (Eng.) Maina concludes his contribution.

Sen. (Eng.) Maina: Mr. Speaker, Sir, I hope I will have ample time to make my contribution.

I was saying that this House should protect natural things that God left to us. Wild animals are part of them. Apart from the lions, most of the wild animals are under threat. As the hon. Senator has requested in the Statement, we would like to know the measures which have been put in place to protect our wildlife.

Wildlife is a source of income. Maasai Mara Game Reserve is a big source of income. However, is the income injected back to assist in the conservation of the animals in terms of creating a good environment and natural factors---

(Loud consultations)

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

Sen. (Eng.) Maina: I thank you, Mr. Speaker, Sir, for protecting me.

As I support this Statement, the Committee must come up with clear indicators of what they expect the Kenya Wildlife Service (KWS) and other bodies to do.

I was in a meeting with Maasais who are great conservationists. We had gone there to launch a water project, which was aimed to pump water from Amboseli National Park to ranches where the Maasais live to prevent them from going to the park. When the Maasais rose to speak, they told the late Hon. Oloiptip that they are not the threat to the animals. They said that the threat to the animals are the “big people” who drive big cars in Nairobi---

Sen. Sakaja: On a point of order, Mr. Speaker, Sir. In parliamentary rules, we refrain from referring to communities by name. You cannot say you called the Maasais and they came. Instead, you should say “the local community.”

For the record of the House, he should refer to them generally, which is appropriate. You cannot say the Somalis did this and the Kikuyus did that because that is completely unparliamentary. However, the contributions by Sen. (Eng.) Maina are nice.

The Speaker (Hon. Lusaka): Sen. (Eng.) Maina, you need to conclude so that we make progress. As you do that, you should observe the rules of the House.

Sen. (Eng.) Maina: Mr. Speaker, Sir, much as I appreciate the remarks by Sen. Sakaja, I must say that it is known that the Maasais are conservationists and most of the animals are found in Maasailand.

Mr. Speaker, Sir, I think you need to protect me from some of these points of order because sometimes they become unnecessary interruptions. Having said that---

The Speaker (Hon. Lusaka): Conclude, Senator, because you are taking too long on one subject.

Sen. (Eng.) Maina: Mr. Speaker, Sir, I also do not know what the reason for this is; whether it is inquisitiveness or smallness of the mind that makes these contributions become so excessive. However, they are appreciated.

I will conclude by saying that this country should and must protect the wildlife that nature left for us.

(Loud Consultations)

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

The turtles are dying in Malindi because of pollution. This is a House of reason, therefore, it must rise to the occasion. Unless something is done today, we may have no wildlife tomorrow.

The Speaker (Hon. Lusaka): Finally, we have Sen. Moi.

Sen. Moi: Mr. Speaker, Sir, I will be very brief. I rise to support this Statement by Sen. (Dr.) Milgo. I would like to put two issues across. There are conservancies which exist right now; these are Lewa Conservancy, Borana Conservancy and Solio Conservancy. They are doing a splendid job of conserving the wildlife which is a heritage to us and for the future generations.

However, as the Senator seeks this Statement, as a House, we need to find out what we can do so that the people who are neighboring those animals feel they are benefitting from looking after them. There must be a correlation to that. Apart from that, I thank Sen. (Dr.) Milgo for bringing this Statement.

Thank you, Mr. Speaker, Sir.

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

The Speaker (Hon. Lusaka): What is it, Sen. Dullo?

Sen. Dullo: Mr. Speaker, Sir, there is a lot that is out of order in this House which is believe I should bring to your attention and to the House. We are having challenges as leadership especially in terms of ensuring that the Order Paper is followed. Members are struggling to make sure that their businesses appear on the Order Paper. However, whenever we come to the House, we struggle looking for Members to move their agenda. It has become so difficult for us. We need your direction.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Yes, it is true that there are Senators who put a lot of pressure that their matters be listed but when it comes to moving, they disappear or do not come to the House. I think we are going to come up with measures which we shall take to ensure that if you are not there and you have been pushing for your matter, then we will defer it for a very long time so that we give an opportunity to those who are around to be able to do that.

(Loud consultations)

Order, Members. I would like to make a communication.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM JORAM GM
ACADEMY, KAJIADO COUNTY

The Speaker (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Joram G M Academy School, Kajiado County.

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

Next Order.

BILLS

Second Reading

THE COMMISSION ON ADMINISTRATIVE JUSTICE
(AMENDMENT) BILL (SENATE BILLS NO. 6 OF 2019)

(Sen. Were on 16.7.2019)

(Resumption of debate interrupted on 17.7.2019)

The Speaker (Hon. Lusaka): I order that the Division Bell be rung for two minutes.

(The Division Bell was rung)

Order, Members! I direct that the Doors be locked and the Bars drawn.

(The Doors were closed and the Bars drawn)

DIVISION

ELECTRONIC VOTING

(Question, that the Commission on Administrative Justice (Amendment) Bill (Senate Bill No.6 of 2019) be now read a Second Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Dr.) Kabaka, Machakos County; Sen. M. Kajwang', Homa Bay County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. (Dr.) Langat, Bomet County; Sen. Madzayo, Kilifi County; Sen. Mbiti, Trans Nzoia; Sen. (Eng.) Maina, Nyeri County; Sen. Moi, Baringo County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orengo, Siaya County; Sen. Poghisi, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. (Rev.) Waqo, Marsabit County; and, Sen. Wario, Tana River County.

NOES: Nil.

The Speaker (Hon. Lusaka): Hon. Senators, the results of the voting are as follows:-

AYES: 25

NOES: Nil.

ABSTENTIONS: Nil

The "Ayes" have it.

(Question carried by 25 votes to Nil)

(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)

*Second Reading*THE NATIONAL MUSEUM AND HERITAGE (AMENDMENT)
BILL (SENATE BILLS NO. 7 OF 2019)*(Sen. (Dr.) Milgo on 17.07.2019)**(Resumption of Debate interrupted on 23.07.2019)***DIVISION****ELECTRONIC VOTING**

(Question, that the National Museum and Heritage (Amendment) Bill (Senate Bills No. 7 of 2019) be now read a Second Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Dr.) Kabaka, Machakos County; Sen. M. Kajwang', Homa Bay County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. (Dr.) Langat, Bomet County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Moi, Baringo County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orengo, Siaya County; Sen. Poghisiyo, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. (Rev.) Waqo, Marsabit County, and Sen. Wario, Tana River County;

NOES: Nil.

The Speaker (Hon. Lusaka): The results of the voting are as follows:-

AYES: 25

NOES: Nil.

ABSTENTIONS: Nil.

The "Ayes" have it.

(Question carried by 25 votes to Nil)

(The Bill was read a Second Time and Committed to a Committee of the Whole tomorrow)

The Speaker (Hon. Lusaka): I direct that the Doors be opened and Bars withdrawn.

(The Doors were opened and the Bars withdrawn)

Hon. Senators, let us move to the next Order. I now direct that we consider Order Nos.10 and 11 together. That means we proceed to the Committee of the Whole.

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE LOCAL CONTENT BILL (SENATE BILLS NO. 10 OF 2018)

(Resumption of Debate interrupted on 17.7.2019)

The Temporary Chairperson (Sen. Pareno): Hon. Senators, we are now in the Committee of the Whole to consider The Local Content Bill (Senate Bills No. 10 of 2018). Because we had gone through all the Clauses, we are going to proceed to Division. I now order the Bell be rung for one minute.

(The Division Bell was rung)

I now order the Bars to be drawn and the doors closed.

(The Bars were drawn and doors closed)

Hon. Senators, we are now proceeding to the first the Division on clauses with amendments. I will proceed to put the question.

DIVISION

ELECTRONIC VOTING

(Question, that Clauses 3, 4, 7, 8, 10, 11, 12, 19, 22, 26, 27, 38, 42, 49, 50, 54, 57, Clause 2 and the Long Title be amended as proposed, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Dr.) Kabaka, Machakos County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. Linturi, Meru County; Sen. (Eng.)

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Maina, Nyeri County; Sen. M. Kajwang', Homa Bay County; Sen. Madzayo, Kilifi County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Moi, Baringo County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orengo, Siaya County; Sen. Poghismo, West Pokot County; Sen. Sakaja, Nairobi County; Sen. Seneta, Kajiado County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County and Sen. (Rev.) Waqo, Marsabit County.

NOES: Nil.

The Temporary Speaker (Sen. Pareno): Hon. Senators, the results of the voting are as follows:

YES: 27.

NOES: Nil.

ABSTENTIONS: Nil.

(Question carried by 27 votes to Nil)

DIVISION

ELECTRONIC VOTING

(Question, that Clauses 3(as amended), 4(as amended), Clauses 5 and 6, Clause 7(as amended), Clause 8(as amended), Clause 9, Clause 10(as amended), Clause 11(as amended), Clause 12(as amended), Clauses 13-18, Clause 19 (as amended), Clause 20 and 21, Clause 22 (as amended), Clauses 23-25, Clause 26 (as amended), Clause 27 (as amended), Clauses 28-37, Clause 38 (as amended), Clauses 39-41, Clause 42 (as amended), Clauses 43-48, Clause 49(as amended), Clause 50(as amended), Clauses 51-53, Clause 54(as amended), Clauses 55 and 56, Clause 57(as amended), Clause 58, the Schedule, Clause 2(as amended), the Long Title(as amended) and Clause 1 be part of the Bill, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. kabaka, Machakos County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County ; Sen. Linturi, Meru County; Sen. (Eng.) Maina, Nyeri County; Sen. M. Kajwang', Homa Bay County; Sen. Madzayo, Kilifi County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Moi, Baringo County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orengo, Siaya County; Sen. Poghismo, West Pokot County; Sen. Sakaja, Nairobi County; Sen. Seneta, Kajiado County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. (Rev.) Waqo, Marsabit County and Sen. Wario, Tana River County.

NOES: Nil

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The Temporary Speaker (Sen. Pareno): Hon. Senators, the results of the voting are as follows:

YES: 29.

NOES: Nil.

ABSTENTIONS: Nil.

(Question carried by 29 votes to Nil)

The Temporary Chairperson (Sen. Pareno): Hon. Senators, we will move to the second Division.

THE MENTAL HEALTH (AMENDMENT) BILL
(SENATE BILLS NO. 32 OF 2018)

(Sen. Kasanga on 29.5.2019)

(Resumption of Debate interrupted on 17.7.2019)

DIVISION

ELECTRONIC VOTING

(Question, that Clauses 2, 3, 5, 6, 7, 8, 9, 10, 13, 14, 15, 17, 22, 25, 26, 28, 30, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 44, 45, 46, 47, 48 and 51 be amended as proposed put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Dr.) Kabaka, Machakos County; Sen. M. Kajwang', Homa Bay County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. Linturi, Meru County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Moi, Baringo County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orenge, Siaya County; Sen. Poghisiio, West Pokot County; Sen. Seneta, Kajiado County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. (Rev.) Waqo, Marsabit County and Sen. Wario, Tana River County.

NOES: Nil

ABSTENTIONS: Nil

The Temporary Chairperson (Sen. Pareno): Hon. Senators, the results of the voting are as follows:

AYES: 28

NOES: Nil

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ABSTENTIONS: Nil

The “Ayes” have it.

(Question carried by 28 votes to Nil)

DIVISION

ELECTRONIC VOTING

(Question, that Clauses 2 (as amended), 3 (as amended), 4, 5 (as amended), 6 (as amended), 7 (as amended), 8 (as amended), 9 (as amended), 10 (as amended), 11, 12, 13 (as amended), 14 (as amended), 15 (as amended), 16, 17 (as amended), 18, 19, 20, 21, Clause 22 (as amended), 23, 24, Clause 25 (as amended), 26 (as amended), 27, 28 (as amended), 29, 30 (as amended), 31, 32 (as amended), 33 (as amended), 34 (as amended), 35 (as amended), 36 (as amended), 37 (as amended), 38 (as amended), 39 (as amended), 40, 41, 42 (as amended), 43 (as amended), 44 (as amended), 45 (as amended), 46 (as amended), 47 (as amended), 48 (as amended), 49, 50, 51 (as amended), 52, the Schedule, the Title and Clause 1 be part of the Bill put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Dr.) Kabaka, Machakos County; Sen. M. Kajwang’, Homa Bay County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. Linturi, Meru County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Moi, Baringo County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orengo, Siaya County; Sen. Poghisio, West Pokot County; Sen. Seneta, Kajiado County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. (Rev.) Waqo, Marsabit County and Sen. Wario, Tana River County.

NOES: Nil

ABSTENSIONS: Nil

The Temporary Chairperson (Sen. Pareno): Hon. Senators, the results of the voting are as follows:

AYES: 28

NOES: Nil

ABSTENTIONS: Nil

The “Ayes” have it.

(Question carried by 28 votes to Nil)

THE LOCAL CONTENT BILL
(SENATE BILLS NO. 10 OF 2018)

The Temporary Chairperson (Sen. Parena): Hon. Senators, we are going to report progress of the Local Content Bill (Senate Bills No. 10 of 2018)

Could we hear from the Mover?

Sen. Moi: Madam Temporary Chairperson, I beg to move that the Committee do report to the Senate its consideration of the Local Content Bill (Senate Bills No. 10 of 2018) and its approval thereof with amendments.

Sen. Linturi seconded

(Question proposed)

(Question put and agreed to)

THE MENTAL HEALTH (AMENDMENT) BILL
(SENATE BILLS NO. 32 OF 2018)

The Temporary Chairperson (Sen. Parena): Hon. Senators, we are going to report progress on the Mental Health (Amendment) Bill (Senate Bills No. 32 of 2018).

Could we hear from the Mover?

Sen. Kasanga: Madam Temporary Chairperson, I beg to move that the Committee do report to the Senate its consideration of the Mental Health (Amendment) Bill (Senate Bills No. 32 of 2018) and its approval thereof with amendments.

Sen. Linturi seconded

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Deputy Speaker (Sen. (Prof.) Kindiki) in the Chair]

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators. I direct the Bars to be undrawn and the doors opened.

(The Bars were undrawn and the doors opened)

Order Senators. We are going to have reporting by the Committee regarding the Local Content Bill (Senate Bills No. 10 of 2018).

REPORTS AND CONSIDERATION OF REPORTS

THE LOCAL CONTENT BILL
(SENATE BILLS NO. 10 OF 2018)

Sen. Moi: Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee on the said---

(Sen. Pareno stood in her place)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order Senators. Resume your seat Chairperson.

Could we hear from the Chairperson? Sen. Moi, you are now what the lawyers call *functus officio*.

Sen. Pareno: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered the Local Content Bill (Senate Bills No. 10 of 2018) and its approval thereof with amendments.

The Deputy Speaker (Sen. (Prof.) Kindiki): Mover, it is now your turn. You were trying to jump legislative protocol.

Sen. Moi: Nimepata kazi sasa.

Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee on the said report.

The Deputy Speaker (Sen. (Prof.) Kindiki): Who is seconding?

(Sen. Moi spoke off record)

Order Sen. Moi, you need to be on record.

Sen. Moi: Mr. Deputy Speaker, Sir, Sen. Omanga will second.

Sen. Omanga: Mr. Deputy Speaker, Sir, I second.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Omanga, you have to be given the chance. Do not be too eager.

(Laughter)

I assume that your only business is to second.

Sen. Omanga: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

The Deputy Speaker (Sen. (Prof.) Kindiki): Mover.

Sen. Moi: Mr. Deputy Speaker, Sir, I beg to move that the Local Content Bill (Senate Bills No. 10 of 2018) be now read a Third Time.

(Question proposed)

The Deputy Speaker (Sen. Kindiki): Very well. We will leave that matter there. We shall be doing Division on that item together with the next item.

We need secondment.

Sen. Omanga: Mr. Deputy Speaker, Sir, I eagerly second.

The Deputy Speaker (Sen. Kindiki): Very well. Let us have reporting on the Mental Health (Amendment) Bill (Senate Bills No. 32 of 2018).

THE MENTAL HEALTH (AMENDMENT) BILL
(SENATE BILLS NO. 32 OF 2018)

Sen. Pareno: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered the Mental Health (Amendment) Bill (Senate Bills No. 32 of 2018) and its approval thereof with amendments.

The Deputy Speaker (Sen. (Prof.) Kindiki): Mover.

Sen. Kasanga: Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee on the said report.

The Deputy Speaker (Sen. (Prof.) Kindiki): Who is seconding?

Sen. Kasanga: Mr. Deputy Speaker, Sir, I request Sen. (Dr.) Mbito to second.

Sen. (Dr.) Mbito: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

The Deputy Speaker (Sen. (Prof.) Kindiki): Mover.

Sen. Kasanga: I beg to move that the Mental Health (Amendment) Bill (Senate Bills No. 32 of 2019) be now read the Third Time.

I request Sen. (Dr.) Mbito to second.

Sen. (Dr.) Mbito seconded.

The Deputy Speaker (Prof.) Kindiki): Very well. We will now move to Division on both items starting with the Local Content Bill (Senate Bills No. 10 of 2018).

I direct that the Division Bell be rung for one minute.

(The Division Bell was rung)

I now direct that the Doors be locked and the Bars be drawn.

(The Doors were locked and the bars drawn)

(Voting in Progress)

(Sen. Omanga moved from her place)

The Deputy Speaker (Prof.) Kindiki: Order! Sen. Omanga. You are not allowed to move during Division. You are supposed to remain in your seat and that is not your seat. You vote from your seat.

End of voting. Any assisted voters?

(Sen. Linturi walked into the Chamber)

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

The Deputy Speaker (Prof.) Kindiki: Order! Sen. Madzayo, what is it?

Sen. Madzayo: Bw. Spika wa Muda, umetoa uamuzi hapa ukasema ya kwamba sheria iko wazi kabisa kwamba ikiwa wakati wa kupiga kura, kila mtu aketi pale alipo; asitembee. Lakini sijui kama macho yangu yameona makengeza kwa sababu Sen. Linturi wa Meru alikua anatembeatembea hapa ndani. Sasa sijui kama umeona ama hukuona. Hiyo ni sawa?

The Deputy Speaker (Prof.) Kindiki: Sen. Linturi, it is alleged that you were moving about the Chamber during Division. Is that true?

Sen. Linturi: Mr. Deputy Speaker, Sir, I am really surprised that such an allegation is being made when you are the Speaker in charge and in control of this House. You see everything and---

The Deputy Speaker (Prof.) Kindiki: Order! Order! Sen. Linturi. The answer should be “yes” or “no”. It is alleged that you have been travelling about the Chamber during Division, is that true?

Sen. Linturi: Mr. Deputy Speaker, Sir, I say no and this can even be confirmed from the HANSARD if you were to refer to it.

(Laughter)

The Deputy Speaker (Prof.) Kindiki: Well, I will let the matter rest there with a general caution under Article 117. Please note what the Standing Orders say about the conduct of Senators during Division. I give that general caution to all the Senators, including Sen. Linturi.

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

The Deputy Speaker (Prof.) Kindiki: What is it, Sen. (Eng.) Maina?

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, Sen. Linturi was not just moving aimlessly the way it is being put. He had gone to answer a call of nature.

(Laughter)

The Deputy Speaker (Prof.) Kindiki: Order, Sen. (Eng.) Maina, how did you know? How did you know the nature of the call that Sen. Linturi had gone to make?

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, you know some conclusions are easily derived from the way the action takes place. He took such a short time. He then came back and sat down to vote.

The Deputy Speaker (Prof.) Kindiki): Order, Sen. (Eng.) Maina. There are two issues here. You have no capacity to know what Sen. Linturi was doing in the closet, if at all he was in the closet.

Secondly, you are aggravating Sen. Linturi's situation because he said he did not leave his seat. So, I do not know whether you are for him or against him.

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, I really respect your judgement but truly a call of nature cannot be delayed or suspended.

The Deputy Speaker (Prof.) Kindiki): Order! Sen. Linturi said he never left his seat.

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, by that he meant he left only when nature ordered him to leave.

(Laughter)

The Deputy Speaker (Prof.) Kindiki): Order! I am sure Sen. Linturi, you do not want to say anything.

Very well, let us move to the next item.

THIRD READINGS

THE LOCAL CONTENT BILL
(SENATE BILLS NO. 10 OF 2018)

DIVISION

ELECTRONIC VOTING

(Question, that the Local Content Bill (Senate Bills No.10 of 2018) be now read a Third Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Faki, Mombasa County; Sen. Halake, Isiolo County; Sen. (Dr.) Kabaka, Machakos County; Sen. M. Kajwang', Homa Bay County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. Madzayo, Kilifi County; Sen. Maina, Nyeri County; Sen. (Dr.) Mbiti, Trans Nzoia County; Sen. Moi, Baringo County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. (Prof.) Onger, Kisii County; Sen. Orenge, Siaya County; Sen. Poghio, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Seneta, Kajiado County; Sen. Wamatangi, Kiambu County; Sen.

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Wambua, Kitui County; Sen. (Rev.) Waqo, Marsabit County and, Sen. Wario, Tana River County.

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, the results of the Division are as follows:

AYES: 28

NOES: Nil

ABSTENTIONS: Nil

‘Ayes’ have it.

(Question carried by 28 votes to Nil)

(The Bill was accordingly read the Third Time and passed)

THE MENTAL HEALTH (AMENDMENT) BILL
(SENATE BILLS NO. 32 OF 2018)

DIVISION

ELECTRONIC VOTING

(Question, that the Mental Health Bill (Senate Bills No.32 of 2018) be now read a Third Time, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Faki, Mombasa County; Sen. Halake, Isiolo County; Sen. (Dr.) Kabaka, Machakos County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. Linturi, Meru County; Sen. Madzayo, Kilifi County; Sen. Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Moi, Baringo County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. (Prof.) Ongeru, Kisii County; Sen. Orenge, Siaya County; Sen. Poghisi, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Seneta, Kajiado County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. (Rev.) Waqo, Marsabit County and, Sen. Wario, Tana River County.

NOES: Nil.

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, the results of the Division are as follows:

AYES: 28

NOES: Nil

ABSTENTIONS: Sen. M. Kajwang.

‘Ayes’ have it.

(Question carried by 28 votes to Nil)

(The Bill was accordingly read the Third Time and passed)

I now Direct that the Doors be opened and the Bars drawn.

(The Bars were opened and the Doors drawn)

(Loud consultations)

Order Sen. Moi, I know you are happy that finally the Local Content Bill has been transacted.

Order, Senators! Those who are retreating should do so quietly. We will reorganize today's business as follows: I direct that the following items in the Order Paper be deferred. Order Nos.12,13,14,15. They are all deferred on request by the sponsors for various reasons.

COMMITTEE OF THE WHOLE

THE COUNTY GOVERNMENT RETIREMENT SCHEME BILL
(NATIONAL ASSEMBLY BILLS NO. 10 OF 2018)

(Committee of the Whole deferred)

THE NATURAL RESOURCES (BENEFIT SHARING) BILL
(SENATE BILLS NO. 31 OF 2018)

(Committee of the Whole deferred)

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

(Committee of the Whole deferred)

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

(Committee of the Whole deferred)

I now direct that the next order be called out.

BILLS

Second Reading

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

Where is the Senate Majority Leader? He is a no show.

(Bill stood down)

Next Order.

Second Reading

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

Where is Sen. Cheruiyot and Sen. Mwaura?

(Bill stood down)

Next Order.

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(SENATE BILLS NO. 2 OF 2019)

This Bill is supposed to be moved by the Senate Majority Leader. Yesterday, I gave some directive about sponsors of business in this House. I direct the Serjeant-at-Arms to look for the Senate Majority Leader or his representative, to show cause why action should not be taken.

In the meantime, I will stand down Order No. 16. I will not defer it until I hear from the Senate Majority Leader or his representative.

(Bill stood down)

The same applies for Order No.17. I direct the Serjeant-at-Arms to look for Sen. Cheruiyot and Sen. Mwaura.

This Order Paper is not just a paper. I will stand down Order Nos. 16, 17, 18 until I hear from the sponsors of those businesses.

I will defer Order No. 19 on the request of the Mover.

BILLS

Second Reading

THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL
(SENATE BILLS NO. 9 OF 2019)

(Bill deferred)

I will also defer Order No.20.

Second Reading

THE COUNTY TOURISM BILL (SENATE
BILLS NO. 5 OF 2019)

(Bill deferred)

Next Order.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Sakaja?

Sen. Sakaja: Mr. Deputy Speaker, Sir, for purposes of the record of the House, the issue of Order No.17 had been communicated. It came for public participation to my Committee and we agreed with Sen. Cheruiyot and Sen. Mwaura that it be dropped. Therefore, they are not absent without cause. That communication was made to the Speaker. The Bill is being republished under their names.

The Deputy Speaker (Sen. (Prof.) Kindiki): Which Bill?

Sen. Sakaja: Mr. Deputy Speaker, Sir, the Persons with Disabilities (Amendment) Bill (Senate Bills No.1 of 2019.).

The Deputy Speaker (Sen. (Prof.) Kindiki): Was there some communication on that Bill?

Sen. Sakaja: Yes, Mr. Deputy Speaker, Sir. They are not absent without cause.

The Deputy Speaker (Sen. (Prof.) Kindiki): Is it deferred?

Sen. Sakaja: It is actually dropped, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Was it dropped earlier by order of the Speaker or are you dropping it from there?

(Sen. Sakaja spoke off record)

The Deputy Speaker (Sen. (Prof. Kindiki): Give Sen. Sakaja the microphone.

Sen. Sakaja: We had agreed that the Bill be withdrawn. So, it is appearing on the Order Paper erroneously.

The Deputy Speaker (Sen. (Prof. Kindiki): Who agreed with whom?

Sen. Sakaja: Mr. Deputy Speaker, Sir, as I said earlier, it is the sponsors and the Committee, and the communication was made to the Speaker. Therefore, it appears erroneously on the Order Paper. The sponsors agreed to withdraw it and we communicated as much. I am saying that for the record, so that it does not seem they are truant.

The Deputy Speaker (Sen. (Prof. Kindiki): Very well. It has been noted. Meanwhile, Order No.17 and Order No.19. The other Orders remain as I had directed.

Let us go on to Order No.21.

Proceed, Sen. M. Kajwang'.

MOTION**ADOPTION OF THE CPAIC FIDUCIARY RISK REPORT ON
AUDIT ISSUES FOR FYS 2012/13 TO 2015/16**

Sen. M. Kajwang’: Mr. Deputy Speaker, Sir, I beg to move the following Motion-

THAT, the Senate adopts the Report of the Senate Sessional Committee on Public Accounts and Investments on the Fiduciary Risk Report on audit issues by County Governments for the Financial Years 2012/13 to 2015/16.

Mr. Deputy Speaker, Sir, I also wish to inform the House that this Report can be found on the online portal. It is called e-Parliament. It is a 78-page Report. Previously, we were used to getting hard copies of the report on the clerks’ Table. However, I wish to inform Members that they can peruse that Report on the iPads before them.

I want to guide Members that they might want to look at the introduction and the observations and recommendations that are found on pages 55 to 66, at the end of the Report.

These are fiduciary risks that have been identified for all the---

The Deputy Speaker (Sen. (Prof. Kindiki): Order, Sen. M. Kajwang’. Did you move the Motion? You have not and yet this is your second term. Have you moved the Motion?

Sen. M. Kajwang’: Mr. Deputy Speaker, Sir, it is listed as Motion.

The Deputy Speaker (Sen. (Prof. Kindiki): Order! You have to move.

Sen. M. Kajwang’: Mr. Deputy Speaker, Sir, I beg to move.

The Deputy Speaker (Sen. (Prof. Kindiki): Order, Sen. M. Kajwang’! Read the Motion and move on.

(Sen. Wetangula spoke off record.)

The Deputy Speaker (Sen. (Prof. Kindiki): Order, Sen. Wetangula. You cannot conduct tutelage from the backbench.

Sen. M. Kajwang’: Mr. Deputy Speaker, Sir, I actually did it, but not with all the words that are there. Allow me to do it properly.

The Deputy Speaker (Sen. (Prof. Kindiki): Order, Sen. M. Kajwang’. Repeat the whole process. You have to move the Motion.

Sen. M. Kajwang’: Mr. Deputy Speaker, Sir, I beg to move the following Motion-

THAT, the Senate adopts the Report of the Senate Sessional Committee on Public Accounts and Investments on the Fiduciary Risk Report on audit issues by County Governments for the Financial Years 2012/13 to 2015/16 laid on the Table of the Senate on Wednesday, 10th July, 2019.

Mr. Deputy Speaker, Sir, I have indicated that this Report is available on the online platform. Since Members are competent to read the Report, I will only cover about five issues. The other Members of the Committee will support me on the other issues.

In the past five years, the Office of the Auditor-General has submitted to Parliament about 235 reports for county executives, 141 reports for county assemblies and more than 1,000 county funds and corporation reports. In total, the Auditor-General has submitted more than 1,300 reports to this House.

The Controller of Budget has also submitted 20 quarterly reports and five annual reports. I would like to take this opportunity to wish the Auditor-General and Controller of Budget - who are in their sunset periods - well as they close their business.

I also wish to urge this House to seize the moment and call for fast-tracking of the process of replacing the Auditor-General and Controller of Budget, whose terms come to a close later in the month of August.

Mr. Deputy Speaker, Sir, of the 1300 reports that have come to this House, very few have received adoption or full acceptance by the House. This is because various committees have been looking at them. Committees look at these reports individually and as a result, they fail to see the forest for the trees. The Fiduciary Risk Report that we have laid on the Table of the House puts into context all the risks that have been identified in counties, relating to management of public funds.

The Fiduciary Risk Report will not just pick Nairobi City County or Tharaka-Nithi County. It will look at all the issues that have been raised by the Auditor-General. We realized that some of the issues are cross-cutting.

In our Report, fiduciary risk has been defined as the probability that public funds are misapplied or the extent to which public funds have been misapplied. We, as a Committee, have taken the position that a global view of county risks will help the Senate to formulate national legislation and come up with policies and regulations that can cut across all counties.

Mr. Deputy Speaker, Sir, the Parliamentary Budget Office and our Committee clerks analyzed the Auditor-General reports for the financial years 2013 to 2016 to establish cross-cutting issues. The risks that were identified were assessed. Their impacts were analyzed and recommendations have been made for their management. If you look at our Report, from page 55, there is a table that identifies the risk and comes up with a recommendation. The Committee retreated to write and adopt the Report, which I will now take you through.

Mr. Deputy Speaker, Sir, I also wish to thank the officers in the Parliamentary Budget office. In the United States of America, every legislative assembly has an office of legislative audit. This is a team of technicians that support the Public Accounts Committee. In the United Kingdom, from whom we borrow quite a number of our practice, there is the Financial Scrutiny Unit. That is also a team of analysts and professionals who do the hard work; the number crunching on behalf of the Public Accounts Committee. It then gives them a position they can now share and canvass with the witnesses that appear before them.

It is our view - we have expressed it in the past - that we either expand the mandate of the Parliamentary Budget Office to cover parliamentary audit and scrutiny, or establish another body that could be referred to as a parliamentary audit office to do the same. It will consist of a team of technicians and analysts that will support the work of the oversight Committees of this House.

Mr. Deputy Speaker, Sir, allow me to highlight some of the risks that have been identified in that Report. In the first three years of devolution, counties were generally not complying with the laws. The laws that were breached included-

- (i) The Public Financial Management (PFM) Act and Regulations;
- (ii) The County Governments Act;
- (iii) Tax laws;
- (iv) The Public procurement Act;
- (v) The Public Audit Act; and,
- (vi) The Constitution of Kenya.

I wish to bring to the attention to the House a situation that we will need to pronounce ourselves on and find a way of managing. The National Treasury has been in the habit of issuing circulars, some of which have the effect of reversing legislation. For example, there is a circular in use by counties that allows them to put county funds in primary and secondary schools infrastructure development. We all know that primary and secondary schools infrastructure is a preserve of the national Government. That money trickles to the grassroots through the National Government Constituencies Development Fund (NG-CDF). Still, counties are putting hundreds of millions of shillings in primary and secondary schools infrastructure on the strength of a treasury that originated from the national Treasury.

It would be important, as a House, to put down all the circulars that have been issued by relevant bodies, be it Treasury, the Commission on Revenue allocation or the Salaries and Remuneration Commission. We can then confirm that these circulars are not reversing statutes and regulations.

We have also recommended that all county executives need to undertake some mandatory refresher training. This is because every other day this House is churning out legislation. Our experience as the County Public Accounts and Investments Committee is that, sometimes county executives are unaware of the laws that have been passed by Parliament, particularly the Senate.

We also need to review existing laws to assess their impact and relevance and undertake criminal proceedings for law breakers.

Mr. Deputy Speaker, Sir, another example of a case that we have looked at where there is inconsistency with the law, is a circular by the Salaries and Remuneration Commission (SRC) that limits the capacity of vehicles that county governors and their executives are allowed to purchase. Governors are defying that circular with serious impunity.

There are counties where governors have made orders that they need a 5600 centimetres cubed vehicle whereas the guidelines put it at a cap of 3000 centimetres cubed. Is that guideline practical? If it is practical, then no governor should appear before

Senate to make an exception that because roads are bad in their county, then they are justified to buy a high capacity vehicle.

If you extend or stretch that argument, then we will be implying that we should be buying helicopters for governors for counties where roads are not proper.

The next risk I would like to talk about is non-compliance with financial reporting standards. Counties report on the basis of the International Public Sector Accounting Standards (IPSAS) and we have seen a lot of confusion on this.

During the Financial Year 2016/2017, to be certain, the national Treasury released funds to counties five days after the close of the financial year. Some counties accounted for that money as having come at the close of the financial year. However, the true position from a cash basis perspective is that you recognize revenue when it comes. If it comes on 1st July, you must account for it that financial year and not with the past financial year.

We have seen a lot of weaknesses in human resource, accounts and financial management and also law enforcement by professional bodies when their members violate the code of profession. In our recommendation, we have said that the Public Sector Accounting Standard Board (PSASB) needs to ensure that the standards are understood and relevant. There is an ongoing conversation on whether the country should go into accrual basis from cash basis accounting. As it is now, we are doing cash basis accounting and we must look at the merits and demerits of both options.

The third one is on pending bills. I wish to report to the House that the CPAIC has invited the Auditor-General and the Controller of Budget (CoB) to shed light on the special audit that the Auditor-General undertook. The special audit has caused more confusion than before because we now have three sets of numbers. We have the numbers that counties are carrying their financial statements, we have a number that the CoB is carrying and we now have a fresh number that is being carried by the Auditor-General in the special audit.

Mr. Deputy Speaker, Sir, the President made a directive that pending bills should be settled forthwith. Unfortunately, with the special report from the Auditor-General, if we decide to settle pending bills, we will be financing and fueling corruption at the highest order.

Allow me to give an example: Yesterday we met the Governor of Garissa County. Their financial statements indicate that their pending bills is Kshs900 million. When the Auditor-General went to audit, he was presented with pending bills worth Kshs2.5 billion. At the end of the exercise, the Auditor-General approved Kshs1.5 billion as eligible pending bills, yet the financial statements indicate Kshs900 million. You would wonder where the Kshs600 million came from. If not looked at, that could be an avenue for corruption.

The fourth one is on the transfer of assets and liabilities from defunct local authorities. No county has concluded this. The Senate is part of this. When the term of the Transition Authority (TA) came to an end, we were consulted on whether it should be extended and we made an emphatic “No”.

Counties have established assets and liabilities verification committees. Their reports have been submitted to the Intergovernmental Relations Technical Committee

(IGRTC). Unfortunately, it is not clear whether the Inter-governmental Budget and Economic Council (IBEC) considered the report of the IGRTC.

The path on closure of the issue of transfer of assets and liabilities needs to be clarified. Perhaps, it is not just the County Public Accounts and Investments Committee (CPAIC) to do it. Maybe it should be the Committee on Devolution and Intergovernmental Relations or the Committee on Finance and Budget. Generally, it should be done by the House as a whole.

In my view, after the counties do their verification, the IGRTC should receive the report and the IBEC should consider it before it goes to the Summit. From there, it must come back to Parliament for implementation. Until the County Assets and Liabilities Report comes to Parliament, we should make sure that there are no payouts or transfers because through that process, a lot of public funds and resources could be lost.

Another risk that we have identified is weaknesses in own source revenue management. Currently, own source revenue contributes less than 10 per cent of county budgets. There is the notion that there is money that comes from Nairobi. People forget that that money comes from the grassroots. We also have people who think that that money comes from the National Assembly. Without money from the Consolidated Fund, many counties will not be able to function.

This morning we met Wajir County Executive. They collect Kshs56 million in a year yet their annual budget is Kshs9 billion. If the taps from the Consolidated Fund were to be closed, Wajir County would cease to be a going concern. The Public Finance Management (PFM) Regulations are very clear on what counties should do to optimize own source revenue.

We have also talked about automation and I am glad that Sen. (Dr.) Zani has sponsored an amendment to the PFM Act. That will make it mandatory for counties to automate revenue collection systems.

We have also witnessed a lot of inefficiencies in technologies being used in the counties. Systems used in the counties include the Integrated Financial Management Information System (IFMIS) which has serious problems. It was interesting when the architect of the IFMIS, who now heads a county government, called for the resignation of the IFMIS Director. There is also the Integrated Payroll and Personnel Database (IPPD) that is used for personnel management, Local Authority Integrated Financial Operation Management System (LAIFOMS) that is used to recognise own source revenue, G-Pay and other revenue collection systems. The problem is that all these systems are not integrated. Officers who operate them do not talk to each, they are extremely highly priced and the commission models favor vendors.

There is a county where for every Kshs10 that was collected, the vendor was taking 70 cents. That is a 7 per cent commission model just for provision of a software platform. The national Treasury and the ICT Authority have the mandate of guiding counties to implement technology on the basis of agreed enterprise architecture. We have made certain recommendations which will be buttressed by Sen. (Dr.) Zani's amendments to the PFM Act that seeks to make it mandatory for counties to automate.

Another risk that we have identified arises from county funds. There is pilferage of funds in the counties. If I can remember, there is a county that wanted to set up a fund

for managing monkeys that had become a menace on farms. Fortunately, the PFM Regulations have clarified the process of establishment of funds.

Counties do not send financial statements to the Auditor-General. Unfortunately, sometimes when the Senate Majority Leader lays on the Table of this House the Auditor-General's reports on county funds, the CPAIC does not have the capacity to interrogate those statements. It is our considered view that we must develop the capacity of the counties to deal with Fund Account statements, so that the Senate deals with them by exception and not as an ordinary matter of course. I talked about 1,300 reports. Out of that, 1,000 relate to county funds and cooperatives.

We have also realised that the CoB has no visibility on funds or moneys that are deposited in funds, besides the County Revenue Fund (CRF). If, for example, Nairobi City County has a fund for liquor licensing fees, chances are that the CoB will not approve or manage withdrawals from that Fund. That is what some counties are using to run away from scrutiny.

Another risk that has been highlighted in the Report is the late disbursements by the national Treasury, which has an effect on pending bills and escalates the problem we have around stalled projects. The Treasury sends funds to the counties irregularly yet this House has passed a cash disbursement schedule. If the Treasury cannot respect our cash disbursement schedule, should we then rework it to fit with theirs or should they use the schedule that has been agreed on by this House?

Mr. Deputy Speaker, Sir, there are massive irregularities, particularly small suppliers in the counties are affected by the directive to use e-procurement.

We visited Samburu County. We went to a very remote corner and we were told that this e-procurement requires internet connectivity, a computer and some savviness. It means that the suppliers who are based in Nairobi who were savvy, are the ones who are now able to even supply to the furthest corner in this country. Therefore, we continue to marginalize the small people out there in the counties.

Mr. Deputy Speaker, Sir, risk number 10 is weaknesses in budgeting. Generally, counties over budget. Assemblies are unable to make meaningful changes to budgets because the Act restricts them to 1 per cent of the numbers that come before them. If we will give assemblies power to manage the budget or to be involved in the budgeting process, we need to change that 1 per cent threshold. This is because it does not make a lot of sense.

I would understand 1 per cent from the perspective of revenue. However, when it comes to allocation of expenditure items, we must allow the Assembly some leeway to do it. However, we also need to caution them not to use that process to put money in projects where there are already lining up to be contractors and service providers.

Mr. Deputy Speaker, Sir, we have proposed that assemblies should be strengthened to be more proactive in budget oversight. However, the Controller of Budget should develop clear automated procedures for budget control in counties. A lot of things are happening and sometimes we wonder how they have happened.

Today in Wajir County, we have been told by the Auditor-General that they exceeded their budget on compensation of employees by Kshs235 million. The question is: How did the Controller of Budget (CoB) allow them to go Kshs235 million above

budget? The Controller of Budget has done an excellent job in the 7 or 8 years she has been in office. However, there is one thing she was unable to do, that is to automate the process of approvals. This a task that whoever will be succeeding her should undertake with urgency.

Mr. Deputy Speaker, Sir, we have seen very weak internal controls and governance systems in counties. For example, county budget and economic forum, when we were with Garissa County yesterday, it emerged that even governors do not know who should sit on county budget forums. Many counties may have them on paper, but they are not functional. A county budget and economic forum, is chaired by the governor. It has all its Chief Executive Committee (CEC) members. It should have an equal number of persons representing diverse interests from the county.

You find some counties saying that they advertised for members of the budget forum and no one applied. Yet half of the composition of that forum are people who are already in office. We need to make it mandatory that counties without budget and economic fora suffer certain consequences. Audit Committees are also not in place. It is sad even internal audit functions are not functional in most counties.

Information Communication Technology (ICT) control and governance is weak. Disaster and Contingence Planning is virtually non-existent. Treasury has the responsibility of developing comprehensive guidelines on governance and internal controls. These are more of managerial tools, they are not things that are effected through regulation or through statute. We have recommended here that Treasury should take the lead.

When it comes to Human Resource Management, county wage bills are at an average of 40 per cent across counties. This is against the 35 per cent threshold in the Public Finance Management (PFM) Act. County Public Service Boards (CPSBs) and County Assembly Service Boards (CASBs) are notorious for breaches of the County Government Act.

The Integrated Personnel and Payroll Database (IPPD) system is not used for salaries in all cases. Six years down the line, some counties are still paying manually using excel worksheets. Temporary workers are employed unprocedurally. I believe that Senate should come up with legislation that will help counties manage some of these weaknesses in human resource.

Some Members in this House have previously proposed that we probably need to come up with a county service commission that then manages all these HR issues at counties and allows workers to move from Siaya to Narok or Kajiado counties, unlike the case now where workers operate in silence. Once you are employed to work in Tharaka-Nithi County, then you live and die in Tharaka-Nithi unless you quit your job and apply for another one.

With regard to the weak oversight by county assemblies, we need to develop the capacity of county assemblies. This is because they have not established functional oversight Committees.

There is also the question of allocation to county assemblies. The regulations require that we allocate 7 per cent or county assemblies be given not more than 7 per cent of the county revenue. Through the County Allocation of Revenue Act (CARA), we have

blown open that 7 per cent. On average, county assemblies are getting 12 per cent of revenue. At the end of the year, they remain with so much money. No wonder in certain cases, you will find that county assemblies are struggling to find trips so that they can exhaust the money allocated to them.

I believe that we need to give them ceilings. However, the ceilings and the 7 per cent threshold in the PFMA regulations should not be that distant. If you take 12.5 per cent which is the current average, give it to county assemblies, then as a Governor, you are denied funds that you will have deployed for development. County assemblies still have to go through the county treasury for expenditure approval.

Mr. Deputy Speaker, Sir, it was the case for Machakos County where the Governor made it clear that he was not going to approve a requisition of the County Assembly for funds. There is form 1 a, b and c. There is a certain form that must be initialized by the Head of Treasury before the Controller of Budget releases funds. Theoretically, we have said that county assemblies are independent as far as financial management is concerned. However, they are still controlled by the county treasuries. It is a difficult thing to deal with, if there was full autonomy.

This is because, even if there was full autonomy, at the end of the day, the money that goes to the county goes into one pot called the County Revenue Fund. There could only be one person as the gatekeeper responsible for that County Revenue Fund. Part of it goes to county assemblies. Unless we now create a county assembly revenue fund with a different accounting officer, we will still have the so-called interference. You will still find the case where a governor instructs his CEC not to approve requisitions from a county assembly.

There are several other risks that I know, my colleagues and those who have read the report, will talk about. Allow me to highlight one which is payment to the Council of Governors (CoG). This offends the Inter-Governmental Relations Act. Sometimes it is unfortunate, we have asked ourselves what happened to good men when they become governors. Some of our colleagues who have been in this House, who have made a very clear interpretation of the Inter-Governmental Relations Act, who have been convinced that the CoG should be funded from the consolidated fund, are at the frontline in making contributions to the CoG.

It is not that we do not want the CoG or we want to paralyze it. If the CoG is to be funded under the Inter-Governmental Relations Act by the Consolidated Fund, it is the same thing as political parties, they are supposed to be funded under the Political Parties Fund from the Consolidated Fund.

A governor would not say that because the Government has refused to release money to the Orange Democratic Movement (ODM) party, therefore, it will take county money to pay ODM party. This argument governors are using that because the Government has refused to fund the CoG, now they are using county money to fund CoG. It was interesting when we met the Governor of Meru where we agreed to disagree, or we disagreed to agree. He maintained that as far as he is concerned, there is a lot of value in counties making remittances to the CoG.

We have recommended in our Fiduciary Risk Report that all governors who have made these nugatory payments to the COG be surcharged and the money recovered from

them. Today if the House adopts the report, the next step is to inform the Ethics and Anti-Corruption Commission (EACC) and relevant bodies to pursue a refund and prosecute those who refuse to refund the money paid to the CoG.

I am sure that Sen. Olekina and others will talk about other issues around legal fees, imprest management and the issue of statutory deductions.

As I conclude, the Parliamentary Budget Office (PBO) also did something interesting called an impact assessment of fiduciary risks. What emerged is that in the FY 2012/2013, the Auditor-General had queries on Kshs2.4 billion. In the FY 2013/2014, the Auditor-General had queries on Kshs83.2 billion and in 2014/2015, the Auditor-General had queries on Kshs298 billion. That is very alarming. This is because in the FY 2014/2015, a sum of Kshs298 billion could have been the entire amount transferred to counties.

The PBO went ahead and tried to simulate what Kshs298 billion means. We have reported that the amount of money that is being questioned by the Auditor-General is enough to build nine Thika Superhighways. It is enough to build a new Standard Gauge Railway (SGR). It is enough to support the economy of southern Sudan for a year. The Kshs298 billion is enough to build five dams in Aror and Kimwarer.

Mr. Deputy Speaker, Sir, that is the extent of the problems we have in counties. When we say that Kshs298 billion has been lost, we are not saying that that money has gone into someone's pocket. We are just saying that there are queries surrounding it, where Parliament and the Auditor-General have not been satisfied. The loss of Kshs298 billion – assuming it was a loss because there are queries around it – from the economy may have cost the country approximately 5.4 per cent in terms of economic growth.

Simulations indicate that if Kshs298 billion is injected into the economy in the current financial year and utilised efficiently in the productive sectors of the economy with no single wastage, it could help the economy achieve a double digit growth of 10.9 per cent. That is the analysis of the impact of fiduciary risks, as shared with us by the Parliamentary Budget Office (PBO). It is not an idle discussion.

Mr. Deputy Speaker, Sir, we are talking of the potential of creating jobs for thousands of Kenyan youth, and lifting this economy. We are talking of the size of the economy of Southern Sudan having queries over the last five years.

In conclusion, Mr. Deputy Speaker, Sir, after six years of devolution, it is important that stakeholders undertake an audit of legislation and financing arrangements for counties. This is so as to address the gaps that lead to risks that have been identified. The Senate should either strengthen the PBO, or establish a Parliamentary Audit Office that will advise it on the fiduciary risks from the counties and recommend appropriate action on a day-to-day basis.

This being the first report, we have no illusions that it is perfect. In fact, I would ask Members to look at it. We will also share it with stakeholders. We have been invited by the Institute of Economic Affairs (IEA) for a one-and-a-half day workshop to discuss a report similar to what we have put before the House. The Auditor-General is also working on a similar report. The convergence of all these different stakeholders will help us to refine and define our role when it comes to oversight, and make it distinct from the role of the county assembly.

Mr. Deputy Speaker, Sir, this Report presents the overall picture for all the counties. It presents the ‘forest.’ The Public Accounts and Investments Committee (CPAIC) shall continue to look at the individual county reports, which are the ‘trees’ in this case. I, therefore, urge every hon. Member to read the report.

Mr. Deputy Speaker, Sir, allow me to request Sen. Olekina to second the Motion.

The Deputy Speaker (Sen. (Prof.) Kindiki): You have not moved.

Sen. M Kajwang’: Mr. Deputy Speaker, Sir, I beg to move and request Sen. Olekina to second.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Nevertheless, well done, Sen. M. Kajwang’.

(Sen. Olekina stood up in his place)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Olekina.

(Sen. Olekina resumed his seat)

(Interruption of debate on Motion)

COMMUNICATION FROM THE CHAIR

DIRECTIONS ON WITHDRAWAL OF BILL

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators! Concerning the directive I had given a little earlier, I am still waiting for the Deputy Senate Majority Leader. I am told that she is making her way to the Chamber. However, the House has received information from Sen. Sakaja about the withdrawal of the item appearing at Order No.17. I direct further that this item be deferred for now, but put in the Order Paper tomorrow. This will allow the sponsors of that Business to confirm to the House the withdrawal of this matter in accordance with the terms of Standing Order 154. It is not just enough to say that they have informed the Speaker. I direct that this Business be listed in the Order Paper tomorrow.

Secondly, I direct that the sponsors of that Business confirm if they have already done so. If they have not, they should withdraw this matter in accordance with the very specific terms of withdrawal of Bills under Standing Order 154. It is so ordered.

BILL

Second Reading

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

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(Bill deferred)

(Resumption of debate on Motion)

MOTION

ADOPTION OF THE CPAIC FIDUCIARY RISK REPORT ON AUDIT ISSUES FOR FYS 2012/13 TO 2015/16

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed, Sen. Olekina.

Sen. Olekina: Mr. Deputy Speaker, Sir, I rise to Second that this House adopts the Motion. This is why we are here to defend the interests of our counties, and to ensure that they have enough resources to deliver services to the people of Kenya.

Mr. Deputy Speaker, Sir, the Fiduciary Risk Report, which we are seeking to have adopted by this House, took us on long a journey to examine how counties have been spending their money, and how the Auditor-General reported after looking at the expenditure. The Auditor-General identified serious risks. Notably, that most counties flouted various pieces of legislation, which include those that deal with finance management. One of the legislations which was flouted by almost all counties was the Public Audit Act during the audit process.

Mr. Deputy Speaker, Sir, the Auditor General noted clearly that out of all the 47 counties, 39 counties received a disclaimer of opinion because of the limitation of scope. For Financial Year 2013/14, most of these counties – 39 counties – did not co-operate with the auditors during the audit process. They did not provide the auditors with the relevant information required to be able to examine the risks.

Mr. Deputy Speaker, Sir, the county executive officers are the ones tasked with the responsibility to ensure fiduciary responsibility. They are meant to ensure that the money that is put under their care is utilised properly. The Auditor-General noted that a lot of these Governors, their staff and entire cabinets did not understand the process on how to manage these funds effectively. Most of these counties had various accounts into which they deposited their own-source revenue. This completely violated the Public Finance Management (PFM) Act, which is very clear in terms of where all own-source revenue should be deposited.

Mr. Deputy Speaker, Sir, it is very sad to note that most of the county governments, particularly in the first year of Financial Year 2013/2014, literally just operated these counties as if they were running their own kiosks. You will find county governments depositing money and withdrawing it. At the end of the day, the money just disappeared, and they do not report on how they expended it. We have serious risks. You will find that a lot of the pending Bills which have been accumulating for all these years were as a result of counties coming up with huge budgets which they are unable to fund.

When you look at the financial statements of most of these counties during the three financial years that we looked at, most of them were setting unrealistic budgets. You will see a county government that is only collecting Ksh80 million and receiving about Ksh5 billion coming up with a budget of about Ksh10 billion. A very good example is the county that we visited, Samburu, where the Governor clearly stated that

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the Controller of Budget was withholding about Ksh6 billion of their money in the account.

This led us to understand that these county governments did not have a clue on the entire budgeting process. There was a very serious risk in terms of counties involving staff in the counties on the issue of financial management. Most staff who were managing these county funds had no clue of what they were supposed to do. They neither understood how they were supposed to carry out the monthly reconciliations, which the Public Finance Management Act (PFM) calls for, nor the audit process.

When these counties appeared before our Committee, the governors would try to say that they provided this information to the auditors, who refused to consider their reasons as to why the money was spent in a certain way. The problem we had with these counties is that none of the staff tasked with the accounting duty had any clue on what the law stipulated.

Mr. Speaker, Sir, Section 35 of the Public Audit Act – which was mostly abused by these counties – is very clear on the audit process. Most of the governors would appear and say that they participated in the audit process. However, they did not understand why they received a disclaimer of opinion, which was issued because of the limitation of scope. That means that no documentation was provided for audit. Some of the governors came up with the excuse of fire incidents, which destroyed all the accounting documents. These are very serious risks which led our Committee to come up with various recommendations on how we can ensure that funds forwarded to the county governments are properly utilized.

Mr. Deputy Speaker, Sir, I am quite happy that we are thinking ahead, even as we consider this Fiduciary Risk Report. Sen. (Dr.) Zani has come up with an amendment to the PFM Act so that all counties can have a proper system where they can record their own-source revenue. It is very serious that when you look at all these counties, they relied heavily on the shareable revenue.

[The Deputy Speaker (Sen. (Prof.) Kindiki) left the Chair]

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

Madam Temporary Speaker, this puts us in a very difficult situation. When the Judiciary says that the Senate has no business to look at issues of own-source revenue, it opens up a window where governors will continue spending own-source revenue, and they are not answerable to the Senate or the county assemblies. These are serious issues that this House must take into consideration. I hope that all Senators – the specially-elected and the individual head of delegations – will take their time and ask themselves where their county stands.

Madam Temporary Speaker, in the Financial Year 2014/2015, 25 counties received a disclaimer of opinion. In the Financial Year 2015/2016, that number only went down by three counties, and 22 counties received the same disclaimer of opinion. That means that many counties lost money and accumulated a lot of debt, which the Auditor-General is questioning. Additionally, most of the counties deducted the statutory

deductions from their employees. However, they never remitted the same to the Kenya Revenue Authority (KRA), thus violating the Kenya Revenue Authority Act.

Madam Temporary Speaker, my Chairman delved into the various recommendations and observations we made when looking at these reports. I want to limit my submissions to the way forward only. As we look at this, we cannot only condemn the county governments for having flouted these pieces of legislation. It is high time that this House now comes up with a programme that tries to build the capacity of the staff in these counties.

We have seen the Auditor-General changing and working with these counties. This year, many counties have received qualified opinions, while some have received unqualified opinions. This does not eliminate the risk involved in funds management in the counties. It is, therefore, important that the Auditor-General himself comes up with the different types of audit. This is so that when the county governments spend these funds, they not only have to perfect the act of putting together the documentation or ensure that they go through the audit process properly, but also ensure that the little resources they are receiving can continue to improve service delivery.

One of the biggest problems that we noted is that many counties were carrying out functions that are designated to the national Government. This makes the services that they are supposed to deliver to the people, like healthcare, lose out a lot. When you see counties building high schools and spending their money on projects that are supposed to be carried out by the national Government, then the health sector and Early Childhood Development Education (ECDE) loses.

In conclusion, Madam Temporary Speaker, I would like to encourage all Members of the Senate to take time and go through all these risks. They should take the Auditor-General's report for the three years, compare them and see where the counties are losing out. If this House approves the Commission on Revenue Allocation (CRA) proposal on the third generation formula, many counties will lose out. If counties are not able to increase their own-source revenue and set up the internal audit committees or even the budget implementations forums, most of them will lose out. I plead with my colleagues to look at this Report as well as address the assemblies on the issues and risks that will continue facing them, abetting corruption and how we need to resolve them.

Finally, as I second the Motion, I want to state that unless we expedite the process of considering these reports, we will not be doing our counties any service. I hope that next time when we have such a serious Report, the House will be full so that Senators can poke holes on the work that the CPAIC is doing. They should also contribute for us to better our people.

Madam Temporary Speaker, we do not summon governors so that we can have a show of supremacy. We engage them in conversations to show them how they can improve on service delivery to the people they represent. This will also ensure that we build devolution in this country.

Madam Temporary Speaker, with those few remarks, I beg to second.

(Question proposed)

Sen. Kasanga: Thank you, Madam Temporary Speaker, for giving me this opportunity to add my voice to the Fiduciary Risk Report. I want to thank the Committee, headed by Sen. M. Kajwang', for the comprehensive summary they have done. I have perused the Report and, indeed, it is very technical. I hope that I can speak on it with its technicality. I will only approach three areas that I would say I can speak to with some semblance of authority. First is the misrepresentation of the county revenues.

Madam Temporary Speaker, it has been said here that the own-source revenue that is currently being collected is 10 per cent and below. We cannot understate the fact that counties have a lot of potential to collect a lot of revenue if they are a little bit more organised. In fact, looking at Part II of the Constitution on the Functions and Powers of Counties, you can see the areas listed there. I am particularly drawn to the cultural activities, public entertainment and public amenities. You can see the potential that these county governments could have, if they put their house in order. I see areas where many young people can get opportunities to express themselves and, in the process, they also generate more revenue.

Besides that, I can see the recommendation given by the Committee, that there is need for proper collection and reporting and using digital platforms. We cannot understate that digital platforms today are the best ways of mapping out, recording, and storing. We need to insist upon counties do adopt these platforms.

One day here, we were speaking on some areas where we felt that county governments need to improve. For example, we know that many county governments are now collecting a lot of revenue from liquor licensing. However, how are these funds accounted for? We can see areas where they can be used to enhance the livelihoods of Kenyans in the counties. For instance, they could be used to help in the sensitization on the use and abuse of drugs, or to come up with rehabilitation centres for affected Kenyans. They could also be used to run sensitization programmes within schools. There are many areas where these funds could be directed to. It is, therefore, unfortunate that we are seeing underutilization and under reporting of these funds.

Madam Temporary Speaker, I could also speak to the failure to establish Internal Audit Committees, in line with the PFMA Regulation No.167. This is obviously clear negligence on the county officers who are mandated to put this into operation. They should be charged for it, because we can see why they are not getting it done. This is where funds get stolen; where loopholes then come in and we can see how our monies get lost. This failure is deliberate and it must be dealt with the full force of the law. We need all our monies properly accounted for.

Madam Temporary Speaker, Internal Audit Committees are necessary. Any successful business we know has to have some internal mechanism of self-auditing. This is to check on financial operations and map out risk areas. Without this, you even wonder then how they are running the operations down at the counties. We should call a few County Executive Committee Members (CECM) here to come and answer, in a court of law or similar avenues, on why they have not operationalised these committees.

Lastly, Madam Temporary Speaker, is on the incomplete and non-utilised projects. We know failure to plan is planning to fail. I have had experience with this in counties, where you find that poor conceptualization of projects as well as poor

implementation of well-intended projects cause a lot of money to be lost. From a construction point of view, the process of conceptualizing and implementing a project is very obvious and clear. There is nothing more to it. However, you will find that many counties do not want to engage in professionalism because they deem professionals to be expensive. I can tell you, without a doubt, that this is not true.

I have had engagements where I tell members in counties that an architect is not expensive. In fact, you stand to lose more when you do not involve one in your planning process. You need these professionals to help you with the planning, budgeting, running and oversight of the projects. You also need them when it comes to certification, checking on variations and all those things. I know many counties are having a challenge having these professionals in place. We have to find way of encouraging them to invest in professionalism.

Madam Temporary Speaker, this House once passed a Motion that the National Construction Authority (NCA) needed to weed out many of the rogue or blacklisted contractors. We know that this is a problem in the counties, where contractors who have not even finished their projects are still awarded more projects though cronyism, or whatever else you can call it. We all know it is wrong that somebody be given a new project when he has not finished a previous one. To this day, that Motion has never been responded to, which is very unfortunate. We should have a full re-registration of contractors so that we can weed out anybody who has not performed their duty.

It is not difficult to do analyses and audits on projects. It is easy to go to a project and find out why it is not complete; why the certificate was not raised, or why it was raised with so many variations. Those are easy things to do. I would, therefore, call for a relook at how the registration of contractors is being done. We know very well that in this country, anybody can become a contractor, and therein lies the problem. You just go and get a fellow contractor or somebody, register a company quickly, then run and get a tender. These are the practices that need to stop. This is happening so much in the counties, leading to incomplete and un-utilised projects. These risks need to be mitigated at a very early on stage.

I congratulate the Committee.

Madam Temporary Speaker, I beg to support.

The Senate Minority Leader (Sen. Orengo): Thank you, Madam Temporary Speaker. I rise to support the Fiduciary Risk Report. I commend the Committee for coming up with this Report, and generally for the hard work being done by them. In terms of performance, no one can doubt the good work that this Committee is doing constantly. It is the Committee that has the most regular meetings.

(Loud consultations)

(Sen. Ochillo-Ayacko stood up in his place)

Sen. Ochillo-Ayacko: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): What is your point of order, Sen. Ochillo-Ayacko?

Sen. Ochillo-Ayacko: Madam Temporary Speaker, I do not mean to interrupt my leader. However, I just wanted to draw your attention to the fact that there were loud consultations next to me, and I was missing on the invaluable input from my leader. Could you save us from the loud consultations?

The Temporary Speaker (Sen. Pareno): Order, Members! That is noted.

The Senate Minority Leader (Sen. Orengo): Thank you, Madam Temporary Speaker and Sen. Ochillo-Ayacko for protecting me.

Madam Temporary Speaker, I was commending this Committee for the work it is doing. In the history of the Senate, this is one of the best Committees we have had over time. I hope they will continue to render this kind of work to the Senate.

Secondly, before I comment on the Report, I also thank the Auditor-General for the work that he has done over the years. As the Senate or Parliament, we depend on the report of the Auditor-General in doing oversight work, particularly in considering reports that are annually or regularly given to the House. The current Auditor-General, in terms of comparisons with other Auditor-Generals we have had over the years, has done a magnificent job. The only other Auditor-General who can compare with him, but whom I think he surpasses, was the first Auditor and Controller-General; a Mr. Njoroge. He was the first indigenous Kenyan to occupy that office.

Madam Temporary Speaker, I dare say that had we listened to the Auditor-General right from the time he began his work, the current war against corruption would have been more successfully fought, because year after year, reports came from his office. However, the reaction then was an attempt to curtail his powers. Consequently, amendments were brought to Parliament to try and interfere with the independence of that office, but he was up to the job. There were times when both the Executive and elements in Parliament were not quite happy with him. Some people thought he was embarrassing the Government of the day.

However I can tell you that it is the job of the Auditor-General not to carry a story that can excite any government in power.

Madam Temporary Speaker, Mr. Edward Ouko has a good track record. When he was in Abidjan, working for the African Development Bank (ADB), he left a very good track record. He has now also done some stunning work here.

The Auditor-General is normally an agent of Parliament, and we should see him or her in that light. That, in carrying out the oversight work and the work of the Parliament under the principle of no taxation without representation, the work of that Office is crucial to Parliament. Other than legislation, the most important pillar of Parliament, rather than the overall oversight, is the work we do in managing the finances of Kenya in terms of revenue and expenditure.

Madam Temporary Speaker, the CPAIC has come up with a Fiduciary Risk Report. We are used to looking at the reports with regard to individual counties. We intend to have an overall look at the performance of all the counties from the point of risks, which if you read the Public Finance Management Act together with the regulations, is an important component of managing the financial sector.

Madam Temporary Speaker, as I support this Report, the most important thing that must be done by entities which manage or control public finance is to obey the law,

as established, beginning with the Constitution. Looking at the executive summary, the Committee has set out the most important pieces of legislation with regard to management of public finances. This begins with the Constitution, the Public Finance Management Act and the Public Procurement and Asset Disposal Act. They have referred to the regulations made under the Public Finance Management Act, the County Government Act, the Public Audit Act, and for purposes which are understandable, the Income Tax Act.

The statutes mentioned, excluding the Income Tax Act, are the basic law as far as the management of public finance is concerned. Public procurement and management of public finance revenue and the expenditure is underpinned in the Constitution. That cannot be taken lightly. It is important that the Constitution, learning from the past, had to underpin certain aspects of Public Finance Management, to be guided by it and also the issues of Public Procurement and Asset Disposal.

The other important issue that was constitutionalized more prominently compared to the last Constitution is the issue of public debt. If you look at the whole process of raising revenue, as set out in this statute that the Committee has set out and the whole process of planning, because every county is required to have a five year plan on which all development is based on and revenue directed in accordance with those county plans.

Madam Temporary Speaker, there is the issue of budget-making and appropriation. This is because appropriation is not just done at the national level through Parliament, but also at the county assemblies. There is also the question of incurring expenditure; that before a county can incur expenditure, there must have been a plan or a program based on a five-year plan. Before you can spend, there must have been budgeting and, therefore, it means there is revenue available which can be located in the budget under particular categories or Vote Heads.

Before expenditure, there must be authority, and before that authority is given, there must be supporting documents which will ensure that all these processes have been undertaken. If only this can be done and the law followed--- A lot of times when you look at what the counties are doing, they turn the law upside down; and Sen. M. Kajwang' referred to it.

Madam Temporary Speaker, the issue of public participation is also turned upside down. We have professional persons who participate in meetings, which are christened 'public participation.' However, they are actually mercenaries that the county government relies on to override that hurdle in order to make sure that the issue of public participation is attained.

You will find that even the budget-making process emanates from the Executive. We like saying that in this Constitution, budget-making and the purse are now in the hands of the legislature, both at the National and county levels. This has to be looked at again, because the Constitution and the Public Finance Management Act require the origination of budget-making to come from the Executive, the national level and the Treasury. At the county level, the budget-making process originates from the county treasury.

Therefore, whenever this process begins, Parliament is given something that has already been done, and you are just supposed to endorse it with minor amendments. That

being the case, it is then very difficult to manage a person who has prepared the budget himself and, at the same, has ensured that that budget is passed as it is. Eventually at the end of the day, you are required to do oversight at the level at which you pretend to be controlling the purse.

Therefore, Madam Temporary Speaker, we need to come out with new tools to manage this process. One of the tools that is not used effectively is the internal audit. There is risk management under the office of an internal auditor in every county. Consequently, before any expenditure is made, it is supposed to be subjected to that internal audit, which is an independent office that is quite apart from the Treasury. That internal audit is required; both before, during and after, such that risk management is placed at the fore. Sometimes you wonder how a county can end up spending colossal sums of money, yet the legal mechanism and the law put in place is so tight and there is accountability at every stage.

Madam Temporary Speaker this is, one of the things that if we can manage very well, then the current levels of corruption we are witnessing in the country will cease. I believe that this war against corruption will never be won if all that we hope for is that we catch and punish the thief. We need to build walls that no thief can go across; and that is why we have these kind of laws. In the country, the emphasis is on catching the thief. However, the thieves that are being caught are one or two per cent of those who are robbing the national Treasury and county treasuries.

Madam Temporary Speaker, the Senate is doing something noble by wanting resources to go to the counties, as it must if devolution has to succeed. However, the way some of the governors are managing counties, despite these laws, is like someone running their homestead. If you want a homestead to be run on a sound basis, you will have some internal rules and regulations.

Madam Temporary Speaker, if you go to the offices of many governors, you will find some of them with 2,000 procurement files. This is because no procurement can be done successfully without a governor putting his or her hand on it. They are not required to take part in procurement; that is the law. Yet you will find that if you want a road built anywhere, the governor should be the one to decide who gets the contract for that road. He can distribute it in any way he or she likes. That is happening everyday in this country. We respect governors, but the law is not supposed to work that way. In democracies that work and economies that succeed, these laws are critical.

Madam Temporary Speaker, I know that we will pass this Motion. This Report should be made available to every county. There should be some engagement with the counties, especially with county treasuries and more particularly with the governors and Council of Governors (CoGs). Sen. M. Kajwang', we should look for a meeting to discuss this report with the governors. It may be one of those reports that we throw into the shelves. It is work already done. We pass it, but it has no legal basis upon which it can be complied with. However, my discourse in this matter is obedience to the laws that are in place.

We have made these laws complicated. In earlier times, Government financial regulations were not as complicated. In the first 10 years of independence, before we knew how steal Government property, including money, people worked with basic

regulations. The kind of loss and embezzlement that is going on now was never there, and the proportions were not as alarming as they are today. I hope that this Report will be discussed with the CoGs to see where they can pull up their socks to make their work more effective and accountable to the people of this country.

Madam Temporary Speaker, we can talk about liabilities, but we will know about it because creditors will not allow counties to be in peace. On the question of assets, the component of assets is found in a lot of counties. It is true, as this report bears out, that there is no asset register. It is not known what belongs to the county beginning from the basics, for example, land. The Constitution has categorized public land in two basic categories. There is public land, which belongs to the national Government and to the county governments; or is managed on behalf of the people by the National Land Commission (NLC), but held in trust by the counties. You will find that most counties do not have a register of the pieces of land that belong to them. That is, therefore, an important question for consideration.

There other things which are important in the regulation and which the Committee has talked about, is the fact that there are no audit committees. The regulations requires that we should have audit committees, which are important. The manner in which they are constituted is as set out in the regulations made under the Public Finance Management Act. The audit committee is important and has a powerful role to play in determining the use of expenditure in the hands of counties. However, these are not in place in most of the counties.

I came across this when I was looking at the regulations some time ago. I asked myself the question whether these audit committees exist. It is in this Report that these audit committees have not been established by most counties. They are supposed to be independent committees which should be presided over by men and women who would know what they are doing. In fact, when there is trouble, we will notice them in advance before the Auditor-General is seized of it.

Madam Temporary Speaker, the adverse opinion that counties have been getting from the Auditor-General is noted in the Financial Years 2014/2015 and 2015/2016. If what is contained in this report is anything to go by, instead of those adverse opinions or reports coming from the Auditor-General going down, it looks like they will increase year by year. This is a confirmation that we are not doing things the right way.

I conclude by saying that unless counties wake up and do their work, fighting for more resources for counties will be difficult. We were seated out there with Sen. Olekina and yourself, when one of the prominent Members of the National Assembly was passing. He reminded us that we should care more about the money that counties have been given and which they have not received instead of talking about increasing revenue allocation to them as a share of revenue raised nationally. He was making a point, but the fundamental point for us is to take more resources to the counties.

That is not going to happen if the counties do not perform in a manner that will not embarrass the county governments and their people. It is the Senate which is fighting for counties day and night that will be embarrassed.

Madam Temporary Speaker, the whole thing is about the issue of leadership. The way counties are run and how governors behave is like they want to be monarchical

institutions. Sometimes when you go to a public meeting, there is a public address system. However, when the governor comes, he has got his own public address system and a podium. This is backwardness and foolishness.

If you share a platform with the President of United States of America (USA), you use the platform that is available. If President Trump meets ordinary people, he does not sit in a seat like a throne. They even share the seats in the room. However, it is as if we are building images of governors and presidents like those of monarchs. They are not governments of the people, for the people and by the people. That habit must change.

One of the most wonderful things I have seen in my life is that one day, when I was a young man, I was travelling from Arusha to Nairobi. I boarded a plane that had no first or business class at the time. I think there has not been a known Prime Minister of Sweden who is responsible for what Sweden is known for, other than Olof Palme. When we sat in that plane, the former Prime Minister of Sweden sat on the front seat with four people. He was escorted to the plane by another simple man, called Julius Nyerere, and I could not believe it. There are things that we do which are an exhibition of the kind of leadership we have, whether it is monarchical or a democratically elected government of the people, for the people and by the people.

Therefore, Madam Temporary Speaker, the way county governments carry themselves willy-nilly pushes them to profligacy, where people do things in a big way. That is why they have to eat into public funds in order to build earthly empires. This kind of behavior is both at the county and national level. It is my hope that one day, Kenya will believe in servant leadership, where leaders are simple men and women who are accessible to the people. That is what President Abraham Lincoln talked about; a government of the people, by the people and for the people, and it should be a reality.

Thank you, Madam Temporary Speaker. Once again, I thank the Committee for the work well done.

The Temporary Speaker (Sen. Pareno): I note that there is so much interest. This is an important matter, but I will reduce the time to 10 minutes for the debate, considering the time that we have.

Sen. Faki, you have the Floor.

Sen. Faki: Asante, Bi. Spika wa Muda, kwa kunipa fursa hii kuchangia Hoja hii ya kupitiswa kwa Ripoti kuhusu FYs 2013/2014, 2014/2015 na 2015/2016. Ripoti hii imekuja wakati ambapo kuna mvutano baina ya Bunge la Seneti na Bunge la Kitaifa kuhusu pesa ngapi zinafaa kupelekwa katika serikali za kaunti. Kwa hivyo, hii ni fursa nzuri kwa Seneti kuangazia hatari za kimaadili katika kaunti zetu, ili kupendekeza njia tutakayotumia ili kuboresha utendakazi wa kaunti, na kuhakikisha kwamba wananchi wanapata faida.

Bi. Spika wa Muda, Kamati ya Seneti kuhusu Uhasibu na Uwekezaji iliangualia ripoti 235 za serikali za kaunti.

(Sen. M. Kajwang' consulted with Sen. Orengo)

Bi. Spika wa Muda, natoa hoja zangu, lakini Mwenyekiti wa Kamati hasikii kile ninachosema.

The Temporary Speaker (Sen. Pareno): Order, Sen. M. Kajwang' and the Senate Minority Leader!

Sen. Faki: Kwa hivyo, Mhe. Spika, Kamati ya Seneti Kuhusu Uhasibu na Uwekezaji imewahi kuchunguza ripoti 235 za serikali za kaunti, ripoti 141 za mabunge ya kaunti---

Sen. Madzayo: On a point of order, Madam Temporary Speaker. I do not know whether you have heard what our colleague, Sen. Faki, has said. He referred to you as "Mr. Speaker" ilhali wewe ni Bi. Spika wa Muda.

The Temporary Speaker (Sen. Pareno): Sorry, I did not hear that.

Sen. Faki, kindly proceed.

Sen. Faki: Bi. Spika wa Muda, nilisema Mhe. Spika. Sikusema Bw. Spika wala *Mr. Speaker*. Samahani Sen. Madzayo.

Kama Kamati ya Uhasibu na Uwekezaji, tumeweza kuchunguza ripoti 235 za serikali za kaunti, ripoti 141 za mabunge ya kaunti, na zaidi ya ripoti 1,000 za hazina tofauti tofauti za serikali za kaunti, pamoja na mashirika ya kaunti kama vile mashirika ya maji. Kamati yetu pia ilichunguza hatari zote za kimaadili ambazo zinazikumba kaunti zetu ili kuangalia njia ya kuboresha utendakazi wa serikali za kaunti na mabunge yake.

Hatari hizi zinaathiri pakubwa serikali za kaunti pamoja na mashirika ambayo yako chini ya kaunti hizo. Kuna hatari za kimaadili zinazohatarisha huduma katika kaunti zetu. Iwapo hazitachunguzwa na kutatuliwa, basi Seneti itapata shida kubwa. Shida hii itakuwa katika kuangalia ripoti za ukaguzi na hesabu za serikali za kaunti ili kuhakikisha kwamba usimamizi wa fedha unazingatia sheria na mwongozo ambao umewekwa.

Bi. Spika wa Muda, Baadhi ya hatari mbali mbali ambazo zilijitokeza, mbali na zile ambazo Mwenyekiti wangu amezungumzia, ni kwamba kuna utaoaji wa zabuni ambao haufuati sheria. Zabuni nyingi zinatolewa kwa marafiki wa magavana, na viongozi wengine wa kaunti. Hiyo imaanisha kwamba kazi haitendwi vile inavyotakikana. Wakati zabuni zinatolewa kinyume na sheria, kuna miradi ghushi ambayo hutengewa pesa bila ya kutekelezwa na wanakandarasi.

Vile vile, Bi. Spika wa Muda, kuna miradi ambayo huchukua miaka na mikaka kumalizwa. Hiyo inamaanisha kwamba wananchi hawapati matunda kutokana na rasilimali zinazotumika. Kwa mfano, katika Kaunti ya Kwale, kuna uwanja wa michezo ambao umekuwa ukijengwa kwa miaka sita sasa, na bado haujamalizika. Hiyo inamaanisha kwamba michezo ya kimataifa haiwezi kufanywa katika kaunti hiyo kwa sababu hakuna uwanja wa michezo hiyo kufanyika.

Jambo linguine, Bi. Spika wa Muda, ni kuwa *public participation* pia imekuwa kizungumkuto katika kaunti hizi. Utapata kwamba marafiki na wapambe wa magavana, wabunge wa kaunti ama mawaziri katika serikali za kaunti ndio wanaitwa katika mikutano ya ushirikishi wa wananchi. Hiyo inamaanisha kwamba wananchi hawawezi kujua miradi ambayo inakusudiwa kufanywa katika maeneo yao. Vile vile hawawezi kukosoa makosa yanayotokea katika mikutano ama miradi ambayo inafanywa na kaunti zile.

Bi. Spika wa Muda, pia kuna upungufu katika udhibiti wa ndani, yaani *internal controls* kwa lugha ya Kiingereza. Tumelezwa kwamba kaunti nyingi hazina kamati za ukaguzi au uhasibu. Tunaambiwa kuwa kaunti nyingi hazina vidhibiti ambavyo vinaweza

kufuatiliwa kulingana na sharia ili kuhakikisha kwamba fedha za umma hazifujwi ovyo ovyo.

Jambo linguine ni kuwa kuna udhaifu katika rasilimali ya binadamu, yaani *human resources* kwa Kiingereza. Kwanza, utapata kwamba katika kaunti nyingi, uajiri wa wafanyikazi unafanywa kwa kikabila. Utapata kwamba asilimia zaidi ya 70 ni wa kutoka kabila moja, na hii inavunja sharia. Inamaanisha kwamba wafanyikazi hawawezi kuajiriwa kulingana na uwezo wa kufanya ile kazi.

Vile vile, kaunti nyingi zina jopo la wafanyikazi lililo vimba, yaani *a bloated workforce* kwa Kingereza. Utapata kwamba wafanyikazi wengi wamekaa maofisini na hawafanyi kazi yoyote. Jana tulikuwa na Gavana wa Garissa, aliyesema kwamba yuko tayari kuchukua makarani waliokuwa wengi katika kaunti ile, ili waende wakafanye kazi kama waalimu wa shule za chekechea. Hicho ni kioja, kwa sababu karani ambaye amekaa ofisini hajui ni mambo gani yanayotakikana kufundishwa katika shule za chekechea. Pale ndipo panatikana msingi wa wanafunzi kufuata masomo kulingana na vile ambavyo anaweza kuelewa.

Bi. Spika wa Muda, tatizo la uvimbe wa jopo la wafanyikazi linaathiri karibu kaunti zote. Vile vile, katika hao wafanyikazi, kuna ukosefu wa usalama wa kazi. Utapata kuwa gavana mpya akiingia ofisini, anataka kuja na wafanyakazi wake wote wapya. Hilo linamaanisha kwamba wale ambao walikuwa wameajiriwa mbeleni watapoteza kazi zao bila ya kuzingatia sheria. Kuwalipa itakuwa gharama kubwa, ambayo mara nyingi hupitishwa katika zile fedha ambazo zinatajikana kwenda katika miradi ya kusaidia kujenga kaunti zile.

Bi. Spika wa Muda, kuna udhaifu katika usimamizi. Kamati za uhasibu zilizoanzishwa katika kaunti nyingi zimewekwa watu ambao hawawezi kuuliza maswali ambayo yanatajikana ili kuhakikisha kwamba kuna usawa na haki katika utendakazi wa kaunti hizi. Ina maana kwamba kamati za uhasibu katika kaunti nyingi zimeundwa kwa minajili tu ya kuonekana kwamba kuna kamati, lakini utendakazi wa kamati hizo haufai kuzungumziwa.

Ripoti ambayo imeletwa katika Seneti hii ni muhimu sana katika kuhakikisha kwamba kaunti zetu zinaendesha kazi zake kulingana na sheria. Itahakikisha pia kuwa wananchi wanapata Huduma, kama ilivyokusudiwa wakati ugatuzi ulipoanzishwa katika nchi yetu. Bila ya kuzingatia Ripoti hii, ina maana kwamba yale mambo yaliyofanyika katika miaka sita ya ugatuzi iliyopita yataendelea kufanyika. Hivyo basi, wananchi hawataweza kupata huduma kulingana na vile ilivyokusudiwa katika Katiba yetu.

Bi. Spika wa Muda, matatizo haya yaliyoko katika kaunti hizi pia yako katika Serikali Kuu. Lakini kwa vile Ripoti inazungumzia serikali za kaunti tu, inamaanisha kwamba hatutapata fursa ya kuyaangazia yale maovu ambayo yako katika Serikali Kuu.

Mwisho, Bi. Spika wa Muda, ni kwamba ofisi ya Mkaguzi Mkuu imeweza kufanya kazi nzuri sana, ijapokuwa kuna upungufu hapa na pale---

The Temporary Speaker (Sen. Pareno): Order, Senator. Your ten minutes are over. Kindly conclude so that we can allow one more person to contribute.

Sen. Faki: Asante, Bi. Spika wa Muda. Mkaguzi Mkuu amefanya kazi kubwa kuhakikisha kwamba anaangazia yale madhambi ambayo yanatendeka katika kaunti hizi.

Nakubali pia kwamba *Controller of Budget* anafanya kazi, lakini madhambi mengi yangeweza kuepukika iwapo angekuwa akifanya kazi sawa sawa.

Asante, Bi. Spika wa Muda kwa kunipa fursa hii.

Sen. (Dr.) Langat: Thank you Madam Temporary Speaker, for allowing me to make comments on this very important Report. It is very important because the work of this Senate is to provide effective oversight. We can do that very well by regular examination of reports by the Auditor-General.

Madam Temporary Speaker, our counties have got a lot of issues that need to be addressed, as they have been highlighted here very effectively. One of the issues is under-expenditure or low utilization of funds allocated for specific purposes. I have discovered that most of the counties do not adhere very correlatively to what is always passed by the county assemblies. You will find the governors doing their own work. Very interestingly in some counties, the Members of the County Assembly (MCAs) have become so much compromised that they cannot do oversight.

The other issue that has been highlighted and which we have witnessed wherever we get out to our counties has to do with the outstanding bills. I have discovered that whenever we go around, some people complain based on the fact that immediately the new governors took over, they started heavily suspecting that some of the pending bills in various counties were not genuine. Consequently, they have subjected them to scrutiny on some issues that are not fair. For example, some of them have reassessed the roads they did two or three years ago. Those roads have become eroded again, such that as of now, they require further repair. Some of these contractors have been subjected to too much scrutiny, and most of them have become suspect and not been paid.

Madam Temporary Speaker, it is high time we get proper legal frameworks from the Senate that will guide counties when addressing such issues. These contractors promote economic growth in our counties. Most of them took loans from banks to purchase equipment and machinery, which have since been seized by the banks. We must do something and take this Report seriously.

Today, a Member of the National Assembly told me that we have failed to hold governors to account properly on what they collect from their counties. In the same Report, most of the governors have been questioned on why they are not remitting revenues to the various accounts. Most of them are spending the money on the spot, which has opened ways for corruption, Madam Governor. You can get some people even duplicating receipts.

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

The Temporary Speaker (Sen. Pareno): Order, Sen. (Dr.) Langat.

What is your point of order, Sen. Omanga?

Sen. Omanga: Madam Temporary Speaker, is it in order for the Senator for Bomet to address his governor in this House?

The Temporary Speaker (Sen. Pareno): Did you say that he is addressing her governor?

Sen. (Dr.) Langat, could you let us know whether you are addressing the Speaker or Madam Governor?

Sen. (Dr.) Langat: Madam Temporary Speaker, may I clarify that I was addressing Madam Temporary Speaker and not Madam Governor. I am sorry for the slip of the tongue.

Sen. Madzayo: On a point of order, Madam. Temporary Speaker. I do not know whether I should be addressing it to my colleague. I want to point out that first, we have been having a very senior Parliamentarian in the House who, when he was passing by, we asked him what was happening. He said that he has been pressing the button on his console. I have been wondering whether it appears on your board, because the tradition of the House is that seniority in the House counts.

I am not giving directions to the Chair, and let is not be mistaken. I am simply trying to put it on record that seniority in the House really matters, particularly on Parliamentarians who have been here long before us, and have made Kenya what it is today. That is why we are enjoying the fruits of Uhuru.

The Temporary Speaker (Sen. Pareno): Sen. Madzayo, do you mean Sen. Wetangula? Do I understand you to refer to that senior Member being Sen. Wetangula?

Sen. Madzayo: Yes, Madam Temporary Speaker. I am referring to the Party Leader of the Forum for the Restoration of Democracy–Kenya (FORD-Kenya) and our former Senate Minority Leader in the Senate, who is a very senior citizen. He is also one of the most distinguished and celebrated lawyers in this country; Sen. Wetangula, the Senator for Bungoma County.

The Temporary Speaker (Sen. Pareno): Sen. Madzayo, your concern is genuine. However, Sen. Wetangula was on the top of the list and then he walked away. By the time he came back, I had already given the chance to another Member. At the time he walked out, I had informed him that he was next, because he was on top of the list. Even though he is still senior, he had pressed the button earlier and was on top of the list. He, therefore, lost his chance when he walked out and came in when Sen. (Dr.) Langat had already been asked to speak. Had he waited, he would have been next to speak. I do not understand what the complaint is all about. At the time the chance came, he had walked out of the Chamber.

Sen. Madzayo: I am obliged, Madam Temporary Speaker.

Sen. (Dr.) Langat: Madam Temporary Speaker, I also want to say that new Senators, who are not very well experienced, should be given a chance to grow and get experience. I wish that the old ones could also give us a chance to do the same. Thank you, for allowing me to continue.

Madam Temporary Speaker, I am also surprised that in the same audit report, most counties have been spending so much money in public participation, which is even more than the money intended for a particular project. It raises many questions when we see such reports from the Auditor-General. My greatest interest is what we are supposed to do. We have seen a trend where whenever governors come before CPAIC, and they turn the session for interrogating them into a battle between them and the Senators.

The Temporary Speaker (Sen. Pareno): Order, Sen. (Dr.) Langat. You will have a balance of seven minutes when we resume.

Sen. (Dr.) Langat: Thank you, Madam Temporary Speaker.

ADJOURNMENT

The Temporary Speaker (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday 25th July, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.