

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 10<sup>th</sup> September, 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

#### WELCOME TO HON. SENATORS FROM RECESS

**The Speaker** (Hon. Lusaka): Hon. Senators, it is my pleasure and privilege to welcome you back from the recess. I believe that you have had opportunity to spend quality time with your families and constituents over the period and that you are re-energized for the upcoming business.

In accordance to the Calendar of the Senate, this last cycle of the session will see the Senate transact its business until 5<sup>th</sup> December, 2019, with a one-week break from 25<sup>th</sup> October to 4<sup>th</sup> November, 2019. We have a full plate ahead of us; seven Bills are lined up for First Reading, nine Bills for consideration at the Committee of the Whole stage; 11 Bills at the Second Reading stage for debate and division, as well as Motions on various subjects, Petitions and Statements pending before Standing Committees. It is my hope that respective Committees have had opportunity to consider and conclude business before them and that they will report at the appropriate time.

Hon. Senators, let me take this opportunity to remind the House that the Division of Revenue Bill and the County Allocation of Revenue Bill which are crucial legislations that divide nationally raised revenue between the two levels of government and among county governments respectively, have not yet been finalized. As you are well aware, this has had adverse effects on the operations of the county governments. I direct that these two Bills be prioritized accordingly and dispensed with expeditiously.

Hon. Senators, pursuant to the resolution of the Senate on 13<sup>th</sup> June, 2019, the Senate is scheduled to hold its second sitting outside Nairobi, in Kitui County, from 16<sup>th</sup> to 20<sup>th</sup> September, 2019. You will recall that in 2018, the inaugural Sitting of the Senate in the Counties was held in Uasin Gishu County. Preparations are at an advanced stage to ensure that the second sitting outside Nairobi is a success. A detailed programme of events in Kitui County and a logistics note detailing the arrangements for travel and

accommodation have been circulated to all Senators. Further information on the event will be availed through the Office of the Clerk.

Hon. Senators, I welcome you once again from the recess and look forward to a productive last part of the Third Session.

I thank you.

Next Order.

### MESSAGE FROM THE NATIONAL ASSEMBLY

#### DECISION OF THE NATIONAL ASSEMBLY ON SENATE AMENDMENTS TO THE DIVISION OF REVENUE BILL (No.2) BILL (NATIONAL ASSEMBLY BILLS NO. 59 OF 2019)

Hon. Senators, I wish to bring to the attention of the Senate that on Tuesday, 13<sup>th</sup> August, 2019, pursuant to Standing Order No.41 (3), the Clerk delivered to me a Message from the National Assembly regarding the decision of the National Assembly on the Senate amendments to the Division of Revenue (No. 2) Bill (National Assembly Bills No. 59 of 2019). The Message which is dated 9<sup>th</sup> August, 2019, was received while the Senate was on recess and was transmitted to all Senators on 14<sup>th</sup> August, 2019 pursuant to Standing Order No.41 (5). Further, pursuant to the said Standing Order, I now report the Message -

“PURSUANT to the provisions of Standing Orders 41 and 149 of the National Assembly Standing Orders, I hereby convey the following Messages from the National Assembly-

WHEREAS, the Senate’s amendments to the Division of Revenue (No. 2) Bill (National Assembly Bill No. 59 of 2019) were forwarded to the National Assembly for consideration on 8<sup>th</sup> August, 2019;

AND WHEREAS, by a resolution made on 8<sup>th</sup> August, 2019, the National Assembly negative the Motion on the consideration of the said amendments from the Senate;

NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Order 149 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of nine (9) Senators to the Mediation Committee in respect of the said Bill.”

Hon. Senators, subsequently, the Speaker of the National Assembly and I, appointed the following Members to the Mediation Committee on the Bill pursuant to Article 113 of the Constitution -

1. The Hon. Aden Duale, EGH, MP;
2. The Hon. John Mbadi, EGH, MP;
3. The Hon. Kimani Ichung’wah, CBS, MP;
4. The Hon. Junet Nuh Mohammed, MP;
5. The Hon. Cecily Mbarire, MGH, MP;
6. The Hon. Amos Kimunya, EGH, MP;
7. The Hon. (Dr.) Makali Mulu, MP;

8. The Hon. David Ole Sankok, MP;
9. The Hon. Mishi Mboko, MP;
10. Sen. (Eng.) Mohamed M. Mahamud, CBS, MP;
11. Sen. Johnson Sakaja, MP;
12. Sen. Charles Kibiru, MP;
13. Sen. (Prof.) Margaret Kamar, MP;
14. Sen. Mithika Linturi, MP;
15. Sen. Mutula Kilonzo Jnr., MP;
16. Sen. Ledama Olekina, MP;
17. Sen. Okong'o Mogeni, MP; and
18. Sen. Rose Nyamunga, MP.

Hon. Senators, as you may be aware, the Mediation Committee is still holding deliberations on the matter.

I thank you!

Next Order.

Chairman, Committee on Agriculture, Livestock and Fisheries or a Member? Seemingly, they are not in the House yet.

Next Order.

### PAPERS LAID

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Tuesday, 10<sup>th</sup> September, 2019.

#### REPORT OF THE 2<sup>ND</sup> ORDINARY SESSION OF THE 5<sup>TH</sup> PARLIAMENT OF THE PAP

Report of the Parliament of Kenya Delegation to the Second Ordinary Session of the Fifth Parliament of the Pan-African Parliament held in Midrand, South Africa, from 6<sup>th</sup> to 18<sup>th</sup> May, 2019.

*(Sen. (Dr.) Ali laid the documents on the Table)*

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, good afternoon. I join you in welcoming everybody back to this Session.

I beg to lay the following Papers on the Table of the Senate today, Tuesday, 10<sup>th</sup> September, 2019.

#### REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVES

Report of the Auditor-General on County Governments for the year 2017/2018 Volume I – County Executives.

REPORT OF THE AUDITOR-GENERAL ON  
COUNTY ASSEMBLIES

Report of the Auditor-General on County Governments for the year 2017/2018 Volume II – County Assemblies.

REPORT OF THE AUDITOR-GENERAL ON SUMMARY  
FOR COUNTY FOR FY 2017/2018

Report of the Auditor-General on the summary for the County Governments for the Year 2017/2018.

REPORTS ON THE FINANCIAL STATEMENTS OF  
VARIOUS COUNTY FUNDS/BOARDS

Report of the Auditor-General on the Financial Statement of Kisumu County Women, Youth and People with Disabilities Fund for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor-General on the Financial Statements of Nandi County Executive Education Fund for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor-General on the Financial Statement of Homa Bay County Executive Car and Mortgage Fund for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor-General on the Financial Statement of Kisii County Executive Loans and Mortgage Fund for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor-General on the Financial Statement of Kisii County Assembly Car Loan and Mortgage Fund for the year ended 30<sup>th</sup> June 2016.

Report of the Auditor-General on the Financial Statement of Kisumu County Trade Fund for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor-General on the Financial Statement of Lodwar Water and Sanitation Company Ltd for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor-General on the Financial Statement of Nyandarua County Assembly Staff Car Loan and Mortgage for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor-General on the Financial Statement of Nyandarua County Assembly Members (MCAs) Car Loan and Mortgage for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor General on the Financial Statement of Nyandarua County Government Emergency Fund for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor General on the Financial Statement of County

Assembly of Tana River Car Loan and Mortgage Loan Fund for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor General on the Financial Statement of Bomet County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor General on the Financial Statement Samburu County Assembly Car Loan and Mortgage Revolving Fund for the year ended 30<sup>th</sup> June 2018.

Report of the Auditor General on the Financial Statement of Migori County Assembly Car Loan and Mortgage Fund for the year ended 30<sup>th</sup> June 2018.

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

## POINT OF ORDER

### TABLING OF REPORTS OF THE AUDITOR-GENERAL IN THE SENATE AND COUNTY ASSEMBLIES

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

**The Speaker** (Hon. Lusaka): Sen. M. Kajwang', what is your intervention?

**Sen. M. Kajwang'**: Thank you, Mr. Speaker, Sir, I also join you in welcoming Members back from the relatively short recess.

In response to the reports that have been tabled by the Senate Majority Leader, Article 229(7) of the Constitution requires the Auditor-General to table them before Parliament, or the relevant county assembly. The key words are to 'the relevant county assembly.' I wish to beg your decision and direction on which reports from the Auditor-General ought to be tabled before this House and those that should be tabled before the county assemblies.

The fund reports that he has tabled, from our experience from the County Public Accounts and Investments Committee (CPAIC), each county has an average of 10 funds. These are mortgage, car loans, bursary, youth and women funds. That brings it to a total of 470 reports per year. The question is: Should all these 470 reports come to the Senate? If they came to the Senate, what action or decision is expected of the Senate? Does the Senate have the capacity to treat and consider these reports?

As you make your determination, you might want to refer to the Public Finance Management (PFM) Act, Section 116(7) that talks about administration of county funds. In that particular section, we passed the law and gave powers to the administrator of county funds to prepare statements for those funds, to submit statements of those funds to the Auditor-General and to submit statements of those funds to county assemblies. The assumption was that county assemblies would deal with county funds while the Senate would deal with the other very excellent report that he has tabled before us.

Mr. Speaker, Sir, I take note that for the very first time, the Auditor-General has presented a summarized report for the year. He has been presenting disintegrated reports

for the 47 county executives and 47 county assemblies. Today, we have a report, one single report for county assemblies and county executives.

I beg that even if it requires through your leadership to sit with the CPAIC, the Senate Business Committee (SBC) and the Auditor-General so that we determine this matter, once and for all. We, as a Committee, have many reports before us. They are clogging our work and sometimes we are not very clear the expectation the House has on the relevant Committee when it comes to this Car Loan and Mortgage Fund accounts.

**The Speaker** (Hon. Lusaka): Thank you, Sen. M. Kajwang'. You have raised weighty matters, I will give my direction in a week's time.

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

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

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I thank Sen. M. Kajwang'. I can see where he is coming from. There is a possibility of this House having so many documents or reports that, perhaps may be tabled here and may not have been tabled in county assemblies---

*(Mr. Madzayo crossed the Floor without bowing to the Chair)*

**Sen. Ochillo-Ayacko**: On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Ochillo-Ayacko, what is your intervention?

**Sen. Ochillo-Ayacko**: Mr. Speaker, Sir, did you notice the distinguished Sen. Madzayo just crossed over to the other side without bowing to the Chair when he should have bowed to the Chair? Would you advise him accordingly?

**The Speaker** (Hon. Lusaka): Sen. Madzayo, you are completely out of order. Did you hear what was raised?

*(Laughter)*

**Sen. Madzayo**: Mr. Speaker, Sir, I did not hear. I was not paying attention, but I am sorry about it.

**The Speaker** (Hon. Lusaka): Sen. Madzayo, you have to go back and respect the Speaker. You just crossed the Floor like it is your own House.

**Sen. Madzayo**: Mr. Speaker, Sir, I thought there was a handshake!

**The Speaker** (Hon. Lusaka): Order! Sen. Madzayo, do the needful. You are a seasoned legislator.

**Sen. Madzayo**: Mr. Speaker, Sir, I thought there was handshake so I could sit on either side.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order, Sen. Madzayo. Do the needful so that the House can progress.

**Sen. Madzayo**: I am obliged.

*(Mr. Madzayo bowed to the Chair)*

**The Speaker** (Hon. Lusaka): The Senate Majority Leader, you may now proceed.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, as you retire to make this very important decision, we must be very careful of the possibility that that the Auditor-General will have the discretion to table certain reports in future. If you look at Article 229(4), you will find serious Auditor-General's reports there, which includes the accounts of the national and county governments.

As the Chairperson of the CPAIC has alluded, your Communication might have to be considered, not just as a Communication, but the Committee will have to come back with proper amendments to the Public Finance Management (PFM) Act. This will ensure that reports related to county governments are definitely tabled in this House. However, there is a problem there. I have consulted the Clerk and he has advised me accordingly that the challenge with Subsection 7 is the use of the words "or the relevant county assembly."

The Constitution presupposes that we will have purposive interpretation. If we allow a situation where the Auditor-General will now cherry-pick. For example, he will say that he has submitted the accounts of Elgeyo-Marakwet County to the County Assembly of Elgeyo-Marakwet and, therefore, he does not have to submit them to the Senate. We will have a problem with Article 96 of the Constitution, which says that the Senate oversees accounts of counties. It can only do so, if we have properly tabled accounts in this House.

Mr. Speaker, Sir, as you consider this, holistically look at Article 96 and the provision of Article 229, without being constricted in the narrow definition of "or" and "and" in Subsection 7. We will have a situation like in Murang'a, for example, where the county government and national Government fighting over a water fund. In that situation, it might be necessary that the Senate oversight Committee intervenes. However, it cannot do so if the accounts of that fund are not brought to this House. Even if the Senate or the National Assembly may not act on the reports, it is important that those reports are tabled in this House. This is because Parliament has the power and duty to look at all reports that come from across the county under Article 125 of the Constitution. It can summon anybody to come and clarify anything under Article 125.

Let us not create an interpretation that will lock us to "and" and "or" of Article 129 (7) at the expense of us being able to intervene in cases where county assemblies may not successfully do anything about the funds in a county.

Thank you, Mr. Speaker, Sir.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir. I want to add my voice to this issue. I share the concerns of our CPAIC Chairman, Sen. M. Kajwang', as far as the need to have the input of county assemblies into the accounts of a particular county.

Mr. Speaker, Sir, the rebuttal by the Senate Majority Leader is with merit as well as far as Article 96 of the Constitution is concerned. We, as the Senate, have the final word on any particular issue that touches on the success or failure of devolution. However, I want to imagine a situation where, for example, a Senator of a particular county is not in the room when CPAIC is considering accounts that have been brought before them. I have had opportunity to read through the Auditor-General's Report on my county. Some of the issues that are raised would only take a resident of that particular county to understand.

If you find yourself in such a situation where CPAIC is considering the accounts without any formalized way of the assembly having their input on this particular issue, then chances are that so many issues may easily be explained away by the executive, with failure of either the resident Senator or the county assembly actually point out the Committee to the right direction that when the executive is answering is misleading to a particular extent. We have found instances where a particular road, for example, is named Road “A” to “B” using the local name. When the county executive committee member appears before CPAIC, they use the same road as Road “B” to “A”. Such things cannot be picked easily out by CPAIC.

Mr. Speaker, Sir, as you retire to make your consideration and guide this House on what we need to do, we may need to establish if we can find a legislative process of guiding how these matters are considered. Perhaps, start at the county assembly then bring it to the Senate formerly and say: This is what we are able to establish as an assembly and this is our verdict. The Senate Committee will then consider the matter in totality.

Sen. M. Kajwang’, unless there is something that I am not aware of, there is nothing that will block you from inviting the particular county assembly public accounts committee on the day that you are listening to the accounts of that specific county. That may help to guide the process as we think about how to fill this legislative gap that exists.

**Sen. M. Kajwang’:** On a point of information to my friend, the distinguished Senator for Kericho. I wish to inform him that Nakuru County and Meru County Public Accounts Committees joined us here in Nairobi when their governors appeared. In the last one week, we have been to Kwale and Mombasa counties. In all the sessions that we held, were in the presence of Members of the Public Accounts Committee from those counties.

Mr. Speaker, Sir, I want to inform my friend that we are developing a model; a prototype which we think will work. We believe that this Committee is more effective when it goes to the counties rather than when it sits here in Nairobi.

**Sen. Cheruiyot:** Mr. Speaker, Sir, I am informed and appreciate that information. I want to request that when Kericho County comes, please, invite the county assembly as well.

**Sen. Farhiya:** Mr. Speaker, Sir, I agree with the Senate Majority Leader. If we do not table those reports, we will miss an opportunity, in cases where the county governments are in sync with the Members of the County Assembly (MCAs) and citizens of the county are really aggrieved about certain issues. If those issues are not adequately addressed, then we will have missed. Alternatively, we could deal with this issue by making a law, but create a caveat, where we can still handle certain issues that the citizens are aggrieved about.

Let us not use our sweeping statement where we say this is exclusively for county assemblies and this one is exclusively for Senate. I think the citizens must have another option because there are cases where county assemblies cannot deal with certain issues.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Thank you, hon. Senators. I will look at all that and give a comprehensive report in one week’s time.

Next Order.

**NOTICE OF MOTION**NOTING OF REPORT OF THE 2<sup>ND</sup> ORDINARY SESSION  
OF THE 5<sup>TH</sup> PARLIAMENT OF THE PAP

**Sen. (Dr.) Ali:** Thank you, Mr. Speaker, Sir, I wish to give notice of the following Motion:

THAT, this House notes the Report of the Parliament of Kenya Delegation to the Second Ordinary Session of the Fifth Parliament of the Pan-African Parliament, held in Midrand, South Africa, from 6<sup>th</sup> to 18<sup>th</sup> May, 2019 laid on the Table of the Senate on Tuesday, 10<sup>th</sup> September, 2019.

Thank you, Mr. Speaker, Sir.

**STATEMENT**SAFETY OF PEDESTRIANS AND PERSONS  
LIVING WITH DISABILITY (PWDs)

**Sen. Shiyonga:** Thank you, Mr. Speaker, Sir. Pursuant to Standing Order 48, I rise to seek a Statement from the Standing Committee on Roads and Transportation concerning safety of road users, specifically pedestrians and Persons Living with Disability (PWDs).

In the Statement, the Committee should state whether the Kenya National Highway Authority (KeNHA) has mapped out the danger spots along the major highways and roads for the construction of footbridges for use by pedestrians whose lives are endangered while crossing roads at the said spots.

Secondly, state when KeNHA will construct footbridges on the road stretch along Mombasa Road near Parkside Towers or any other suitable area not far off from the Parkside Towers and along the Kakamega-Webuye Highway in order to minimize accident cases arising from pedestrians.

Thirdly, explain progress made by the Ministry towards ensuring that all future road designs at the national and county levels are user-friendly to pedestrians and Persons Living with Disabilities (PWDs).

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir. I want to congratulate my colleague Sen. Shiyonga for raising this important topic. If you travel to Europe, the USA and other developed nations; you will find they have foot paths, crossings and other signs important for pedestrian use and PWDs. We are in the 21<sup>st</sup> Century and we continue seeing modernization of roads. However, we are yet to see parts of roads that are designated for cyclists, pedestrians and PWDs.

It would be in good order for the relevant Committee to seek answers regarding what plans are there to modernize our roads so that they are in tandem with global best practices whereby there are paths for cyclists and footpaths and crossings for PWDs to ensure that we move at the same pace with the global world.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. From the onset, I want to support the Statement from my colleague Sen. Shiyonga. I think the Senator forgot that we did pass a

Bill in this House which I sponsored, dealing specifically with these issues of road safety and how county governments should be able to plan for the pavements and walkways.

I hope that the National Assembly which now has the Bill after it was passed by this House, will speed it up so that we ensure that our people are safe. I am quite happy that currently the Nairobi City County is implementing some of our proposals in that Bill with regards to the new roads which are being constructed now.

Mr. Speaker, Sir, one of the things which is important for this Committee to look into is what other incidents are being recorded on a daily basis so that this information can assist in expediting the passage of that Bill. Once it is passed and becomes a law, they make sure it is implemented. There is a problem with implementation of Bills passed by this House.

I am sure a lot of people who walk from Kangemi to Westlands are hit on a daily basis. Some are dying along Mombasa Road. It would be important for this Committee, as they seek answers to the questions raised by Sen. Shiyonga, to also get statistics on the number of people killed on our roads. This will help us to come up with temporary measures that we can put in place to ensure our citizens are safe.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to add my voice to this Statement. I would like to commend Sen. Shiyonga for coming up with this Statement. PWDs are actually high-risk and vulnerable pedestrians. Blind people are vulnerable because they are not able to see when a vehicle is coming. Even when a motorist hoots, they may not be able to see which direction the vehicle is coming from, so that they know which way to go. Deaf people may also be unable to hear when a motorist hoots. People who are physically-challenged have mobility problems which hinders them from walking very fast. That is why they are highly vulnerable.

This Statement has come at the right time because it will ensure that PWDs do not get double disability.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. I want to support the Statement that has been requested by Sen. Shiyonga. Article 54(1)(c) of the Constitution of Kenya on Persons with Disabilities states as follows:

“A person with any disability is entitled, (c) to reasonable access to all places, public transport and information.”

That statement means that the relevant agencies in the Government must ensure that PWDs can access transportation or any buildings. I agree that in as much as there is progressive implementation to this aspect in the Bill of Rights, we want to request the relevant agencies to facilitate PWDs because their rights are very critical.

I know there are many challenges in the Disabilities Act that was passed before and in Article 54 of the Constitution. All agencies must be made to facilitate PWDs access buildings and have an easy way of crossing our roads.

Earlier today we attended a session where the country is supposed to ratify treaties that have been passed. One of the treaties is the Treaty on Basic Human Rights, including PWDs. I think that is very critical for this country. We must agree that the rights of PWDs should be respected just like any other human rights that we have in this country.

**Sen. (Dr.) Ali:** Thank you, Mr. Speaker, Sir. I want to thank Sen. Shiyonga for bringing this Statement. Pedestrians, even those who have no disability, have a lot of

problems using our roads. In areas where we have bridges, they are forced to climb over them. Some of these pedestrians are old and others are young and alone. What happens to those disabled people?

In the areas where there are footbridges we should have people to assist the PWDs to cross the roads and support them to move from one end to the other because the policemen or the county council *askaris* do not do that job.

Action should be taken against motorists who do not observe traffic rules on pedestrian crossing areas, or where there are bumps adjacent to schools. You will find that sometimes the police look there other side.

I support this Statement.

**Sen. (Prof.) Ekal:** Thank you, Mr. Speaker, Sir, for giving me the chance to support this important Statement. It is important that we realise PWDs are human beings and should be respected in all ways. If they have to travel, go to a house or cross a road, there should be amenities that enable them to do such crossings or enter a particular building without any hindrance. Crossing streets is very hazardous for everybody, including ordinarily young people. It is even harder for PWDs and senior citizens who do not move as fast and should be considered as being disabled.

Our motorists need to be trained to respect human beings. They need to be re-trained to respect people. When people cross the road, they should slow down and let people pass. They include PWDs and the elderly ones.

There is technology that can be used at zebra crossings. Such technologies can “talk” to alert the disabled persons when it is safe to cross. Otherwise, like Sen. (Dr.) Musuruve said, we have those who are blind who cannot know when it is time to cross. So, they need something that “talks” to inform them when it is safe to cross. This way, we would help our PWDs to live normal lives.

**Sen. (Eng.) Hargura:** Mr. Speaker, Sir, I am the Vice Chairperson of the Committee and I thank Sen. Shiyonga for the Statement she sought. We may have constructed our roads without taking all that into account. However, as we develop, we have to see how the relevant authorities need to incorporate safety factors into the designs in terms of cycle lanes, pedestrian walkways and crossings and also how footbridges can be friendly to PWDs. They should be provided not only with the stairs, but also ramps as it has been done on most roads and buildings.

This is an important Statement and we will take it up so that we get the necessary information from the relevant department of the Government. We will also ensure that they take this into account in their future designs because that is the way to go. You do not just construct roads without taking into account the fact that in urban centres, majority of road users are pedestrians and not those with vehicles.

I thank you.

**Sen. Sakaja:** Mr. Speaker, Sir, Sen. Shiyonga has brought a timely Statement. She has talked about specific areas, one of which is on Mombasa Road as well as other areas in Nairobi City County that I represent and also on Kakamega-Webuye Road. I hope the Committee will look at them.

Beyond that, what the Committee should seek to find out from the Cabinet Secretary (CS) is that in this country, there already exists a Kenya Bureau of Standards (KEBS) building standards that is International Organization for Standardization (ISO)

certified. These building standards provides for many of these additions that will cater for all categories of persons.

Mr. Speaker, Sir, you have traveled around the world and I am grateful that I have also traveled with you in many places. You will find that when you get to a crossing at the end of a pavement, there is a slope or gradient. It does not just end abruptly. The slope or gradient is almost like a ramp and it is meant for those on wheelchairs to use the pavements.

Secondly, they have some dots such that when somebody is walking with a cane, they can feel that they have come to the end of a road where there is a crossing and their lights have a sound. I have seen some of the projects that the Kenya Urban Roads Authority (KURA) where you hear the beep of the traffic lights to help those who have physical impairments such as the deaf and blind.

This standard exists, but our problem is that many of these things are just on paper. They have even specified the size. The Ministry and the KeNHA must tell us – because they are trying to implement a bus rapid transit in this country – if we will have buses that have a specific width of doors and height such that those who are disabled can get onto them. There are specified widths that are world standards that we have on our shelves that need to be implemented.

When projects are done, roads are not built for vehicles. They are built for people to commute using vehicles, walking or cycling. We want to see more cycling paths and provision for pedestrians who are the majority of those who use roads this city.

I would like Members of the Committee to go beyond the three questions in this Statement and interrogate the standards. Indeed, it is difficult to change, especially private buildings that have already been built. Nairobi City County Government should listen to this and I am sure the Committee will engage with them. Any new approvals should not be allowed unless they have taken into consideration all persons who are supposed to access buildings.

Finally, in the previous Parliament, I was a Member of the House Business Committee. When Hon. Denita Ghati got an accident and got physically impaired, it is when we realised that somebody who is physically cannot reach the first floor. She stopped attending meetings. That is when lifts were installed.

Let us think beyond just those who are able, but all the people who use these facilities. The environment should give everybody space and dignity to transact their business.

Thank you, Sen. Shiyonga, for bringing this statement.

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

**Sen. Madzayo:** Asante, Bw. Spika. Kwanza ninamshukuru Sen. Shiyonga kwa kuleta *Statement* hii kwa sababu kila uchao kuna ajali barabarani. Saa zingine ajali hizo hazisababishwi na madereva bali zinatokana na ukosefu wa nidhamu wa kuwekewa alama za hatari barabarani.

Kwa hivyo, hii isitumike tu kule Wabuye na kwingineko bali Kenya nzima. Palipo na milima, mabonde, miteremko na mito pawekwe alama za hatari. Alama hizo zinafaa kuonyesha watu kama kuna daraja, mteremko au hatari nyingine ya aina yoyote. Kwa sasa, kama ugonjwa mkubwa hapa Kenya si saratani, basi ni ajali za barabarani ambazo zinatumaliza.

Ningependa KeNHA ambayo ina mamlaka ya kutengeneza barabara humu nchini izingatie mambo haya. Hususan ningependa kuzungumzia barabara ya kutoka Mombasa kuelekea Kilifi. Ukishapita Mtwapa hadi Malindi, hakuna alama ya hatari hata moja ilhali barabara hiyo inapanuliwa. Watu wengi wamepoteza maisha katika mlima wa Mbogolo. Tunafaa kutahadharishwa na hatari kama hizo.

Ninamuunga mkono Sen. Shiyonga kwa kuleta *Statement* hii. Hata hivyo, ningependa barabara hiyo ipanuliwe ili kuwe na maendeleo katika taifa nzima la Kenya.

**The Speaker** (Hon. Lusaka): Since Sen. Mwaura is not in the House, we will go to the next Order.

## BILLS

### *First Reading*

THE CARE AND PROTECTION OF CHILD PARENTS BILL  
(SENATE BILLS NO.11 OF 2019)

*(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Senate Committee)*

Order No.9 is deferred.

### *Second Reading*

THE STATUTE LAW MISCELLANEOUS (AMENDMENT) (NO. 2) BILL  
(NATIONAL ASSEMBLY BILLS NO. 13 OF 2018)

*(Bill differed)*

Next Order.

### *Second Reading*

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

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I beg to move that The Constitution of Kenya (Amendment) Bill (Senate Bills No.2 of 2019) be now read a Second Time.

This is a very important and straight forward Bill. I am not going to spend a lot of time on it.

The Constitution of Kenya 2010 is a very progressive Constitution which provides for a people's driven Constitution. It provides for various institutions that deal with governance in this country, including matters related to delimitation of boundaries.

I am a proud supporter and believer in the Constitution of Kenya 2010. I had the privilege to be there when it was being initially drafted. When Prof. Yash Pal Gai was the Chairperson of the Constitution of Kenya Review Commission, I worked as a Programme Officer under the Commission at that time and travelled to places in Kenya, including somewhere in Mwakinyungu and Mwatate in Taita-Taveta and many parts of the then Coast Province to listen to the views of Kenyans which were valid.

One of the reasons why Kenyans went for the current Constitution is they wanted a working Bill of Rights. It is important to have a system that protects rights of the people of Kenya; a system that recognizes that rights are not donated by any individual, but given by God and protected by the State.

It was also important under our new Constitution to deal with imperial Presidency. We wanted to ensure that you have a system of governance that works; and ensure that the power to determine what a constituency is and what is a ward is not going to be donated to one individual who wakes up one morning like it used to be in the KANU days and say we want to divide this constituency so that we can donate to a friend. That is exactly what happened in many parts of this country; that there was gerrymandering of constituency boundaries.

A story is given of Mathioya where a particular constituency was created by President Moi to help his Secretary General, so that he could be elected. Unfortunately, after the creation of that particular constituency, somebody else won it. We then created a system of governance which ensures that boundaries of wards and constituencies are going to be delimited in an organized manner using independent institutions.

Mr. Speaker, Sir, the Independent Electoral and Boundaries Commission (IEBC) is provided for in Article 88 whose responsibility includes delimitation of boundaries of wards and constituencies.

In Article 89, there is an elaborate mechanism within which these boundaries are delimited and it makes it mandatory that we are going to have 290 constituencies. That is cast in stone in so far as this Constitution is concerned.

The Constitution also provides that the boundaries of these constituencies can be reviewed in intervals of between 8 and 12 years. A review of constituencies must be done 12 months before elections. Even where review is done, if it is done within the 12 months before elections. However, that review will not be applicable to the subsequent elections. Which means that if a review of boundaries is to happen within 8 or 12 years, that review must have enough time for citizens to familiarize themselves with their constituencies in preparation for the election of their leaders.

A review of the boundaries has so many issues that have been provided for there. However, there is one missing link when it comes to the question of boundaries. What is missing is the participation of the elected leaders and the representatives of the people. Delimitation of wards and constituencies is such an emotive issue and a sensitive matter. It involves moving a constituency from, say, Kakamega County to Elgeyo-Marakwet County or from Siaya County to Lamu County depending on the question of population, movement of persons from one part of the country to the other and also on birthrate. You may find that Turkana County has more population or has stagnated for reasons such as underdevelopment, drought, violence or people might move from one county to another.

The report of the census like the one which was done this year, ultimately informs how many constituencies you are going to have in Narok or Nairobi, then you are told three people from IEBC will sit down, just like we go back to the time when we had an imperial president where three to five people who were not elected will say this constituency can be moved from this place to another without a politically negotiated process that involves elected people from their constituencies and counties.

The reason I am saying this is because, today, Murkomen may have a say in IEBC. The commissioners who might be sitting there may have a leaning to a particular political persuasion or may have an ear of politically-correct individuals. That should not affect the leadership of our country without being subjected to checks and balances and oversight of the legislature. I am saying so because I would like to persuade Members of this House that Parliament, as a people's representative, has a responsibility to ensure that delimitation of constituencies and boundaries is a people-oriented exercise; that people ought to participate not just directly, but also through their people's representative.

Secondly, Parliament which has the responsibility of overseeing all institutions, must ensure that they have overseen such reports of constituencies and wards.

I have made my presentation on this issue, because I have caucused with a number of our Members in this House. My submission on this issue is not in my capacity as the Senate Majority Leader. This is almost like a Private Members Bill.

The idea behind it is to ensure that we follow the globally established practice on delimitation of wards and constituencies. I am saying so, because if you go to Germany, the German Constitution provides that in the delimitation of constituencies by Independent Electoral District Commission, it is mandatory that votes of Parliament---that the commission's report is tabled in Parliament for approval.

In the United States of America (USA), the question of determination of representation is dependent on legislation of Congress to determine the number of constituencies and how they will function. The word gerrymandering comes from the American vocabulary on delimitation of boundaries. It was about how political competition between the Democrats and Republicans plays itself in the Congress when they determine the number of constituencies that will be available for the Congress or the House of Representatives because the Senators and the Senate are established in the Constitution.

In the Constitution of Zimbabwe, the report of delimitation of wards and constituencies must be submitted to the President who causes the report to be laid in Parliament within seven days for it to be debated and approved.

Mr. Speaker, Sir, in Canada, the Commission prepares a report which is sent to the Speaker of the House of Commons through the chief electoral officer of Canada. The Speaker must ensure that it is tabled and referred to a Committee designated for electoral matters.

Mr. Speaker, Sir, in the United Kingdom (UK), the Commission submits its report on delimitation of constituencies to the Secretary of State who tables it for approval in the UK Parliament. This is an established practice all over the world.

Delimitation of boundaries is an emotive and sensitive matter because it has something to do with representation of the people. Therefore, in my proposal for amendment, we are proposing that once the Independent Electoral and Boundaries

Commission (IEBC) has gone through the scientific process that is provided for in Article 89 of the Constitution, they submit the report to Parliament which will give its recommendation. The recommendation will be resubmitted to the IEBC which will bring a final report that will be considered by Parliament. This is extremely important.

Mr. Speaker, Sir, I persuade my colleagues in the Senate that we may have full trust to say that we leave it as it is in the Constitution and allow IEBC to do what they want. It would be extremely irresponsible for us. The day IEBC will pronounce itself on the boundaries of wards and constituencies, we shall remain helpless representatives of the people. For example, Sen. Madzayo will tell the people of Kilifi County that there is nothing he could have done, they do not have someone to represent them in IEBC and he did not have a say in it.

The seriousness of delimitation of boundaries in this country should make each one of us to have this opportunity that I have presented to this House and debate this Bill for the merits that it has. Hopefully, we will pass it and find ourselves in a situation where we will have a say in so far as how wards and constituencies are delimited in our country.

Mr. Speaker, Sir, the reason we have the type of constituencies that we have at the moment is because political leadership directly participated in the Ligale Commission that ensured that we have the wards and boundaries that we have at the moment.

With those many remarks and with the presentation that I have made, I beg to move the Motion. Considering that the Senate Minority Leader is not ready, I ask Sen. Linturi, the Vice Chairperson of the Committee on Justice, Legal Affairs and Human Rights to second the Motion in the absence of Sen. Kihika who was to Second it.

**Sen. Linturi:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to second this Bill. I may be ambushed but I will say one or two things on the aspect of delimitation of electoral units in this country.

If my memory serves me right, the business of delimitation of boundaries is a function of IEBC which is an independent institution according to the Constitution. Some of the objects of independent institutions is to protect the sovereignty of the people of Kenya and to ensure equity and fairness. These institutions are not expected to be under the control of anyone.

Mr. Speaker, Sir, I remember when we started the debate on *Katiba* in the year 2010, I was one of the Members of Parliament (MPs) that was opposed to the current Constitution. One of the issues that I used to raise whenever we went for our 'no' campaigns was that if people did not properly read and understand the provisions of Article 88(9), in the next cycle of delimitation of boundaries, the probability of loss of constituencies of electoral units was quite high. Right now, we are aware of the views we got but people did not take us seriously.

Mr. Speaker, Sir, if I have to live by the oath of office of protecting the Constitution of Kenya and ensuring fairness and equity, I am of the view that this Bill is good. There is need for us to participate and ensure that whatever proposals that come from IEBC have some bit of input from the political players. What I do not know is how we will cushion the report from IEBC from being interfered with in terms of flimsy or failure for us to agree.

In most cases, you will find that where a proposal is made and it goes against the wish or will of many politicians and the same is subjected to the politicians, they will not agree. This is the reason we thought that it was necessary for independent institutions to use criteria that is properly specified in the Constitution to come up with proposals that are acceptable to us.

Mr. Speaker, Sir, I believe that before IEBC comes up with such recommendations, there has to be some aspect of public participation. This is because consultation is key in our Constitution architecture and in view of what Article 10 of the Constitution provides for. With that, we will have an opportunity to engage, discuss and agree. I will support this Bill but will be clear from the beginning that the IEBC should go round and make recommendations. Let these recommendations come to Parliament for the purpose of Members to look and comment on them. However, it is not proper for us to have power to amend the report from IEBC. If we were to do that, we will have so many amendments to the extent that we will not agree.

The last time the Naivasha Draft was brought to Parliament, courtesy of the people of Igembe South, I used to be a Member of Parliament. The report came here and we tried to make amendments to it, but it was very difficult because we required very big numbers. What was here is something that I would not like to see again.

Mr. Speaker Sir, I have not clearly read this, and as I said, I felt ambushed. Even so, I would say that I support this proposal that for purposes of information we should---

**The Speaker** (Hon. Lusaka): Sen. Murkomen, what is your point of information?

**Sen. Murkomen:** Mr. Speaker, Sir, I would like to inform the seconder of the Motion that, indeed, he is right to the extent that when the report comes to Parliament, we either approve it or fail to approve. It is not the duty of Parliament to carry out the division of moving a constituency here, there or so forth. It is to approve or not approve the decision after the process has been done.

Secondly, this is a constitutional amendment. The process of how to reach the final detail is legislative. Consequentially, it will require an approval in Parliament which the Committee will deal with and all the processes as usual in detail. The idea here is to bring a report to the House, so that the final report has the approval of Parliament. Parliament either approves or fails to approve, but it is not its work to do the delimitation, because the Constitution already provides for how the Independent Electoral and Boundaries Commission (IEBC) does the delimitation process.

**Sen. Linturi:** Mr. Speaker Sir, with that information, I support the Bill. I wish that this is done within the shortest time possible, before we get to a point where we may get polarized as a nation because of different political interests, to the extent that we would lose sight of the good that this Bill would bring to this country.

I beg to second.

*(Question proposed)*

**Sen. Orengo:** On a point of order, Mr. Speaker, Sir. I want to beg the Senate Majority Leader - although he spoke to me on this matter sometime yesterday, and I think he has spoken to quite a number of Members of the House - that under Standing Order No.5 I propose that the debate on this Bill be now adjourned. I do it deliberately at this stage because the Bill is now the property of the House. If I had risen during the Mover's

speech or the seconding of the Bill by Sen. Linturi I would have literally called for the killing of the Bill.

They have very important recommendations that are being made on this Bill. However, I want to point out why I think we need a little discussion on this. One is the point that was mentioned by Sen. Linturi. If you listened to Sen. Linturi carefully, his arguments were actually not in support of the Bill. He was at pains because the IEBC is an independent Commission. It is one of the Chapter 15 institutions. Once it makes a decision, it should be final and can only be challenged in court. That is why there is this provision under Article 89 (10). Sub-article 10 follows Article 8 which is being amended. Then there is Article 9 which says that a person may apply to the High Court for review of a decision of the Commission made under this Article.

This Sub-article, read together with the proposal in Clause 8 (d) of the Bill; that the Commission shall publish in the gazette the final report as approved by Parliament within 7 days of approval. What is challengeable in court is the decision of the IEBC. However, in a situation where what has been gazetted is not the actual decision of the IEBC, but of an approval of the National Assembly, it says that the Commission shall publish in the gazette the final report as approved by Parliament. What is available to any member of the public to challenge any of the decisions which are made under Article 89 will now not be available.

I think we need to have a little conversation over this because this Bill cannot be amended. I say this with all the goodwill. In fact, if I had read this Bill before in my discussion with the Senate Majority Leader, I would have tried to persuade him otherwise. However, now that we find ourselves in this situation, I would rather that we suspend the debate and have more consultation. This is because the consequences of passing this Bill go beyond what it looks like; that any decision of the IEBC should come to Parliament.

On the face of it, there is nothing wrong with it. Many other reports come to Parliament for approval, but in Article 89, the finality of the IEBC decision is what is available for challenge in court. This involves all the decisions they make under Article 89.

Sub-article 10 says that a decision made by the IEBC under Article 89 can be challenged in court. Therefore, I really pray to the Senate Majority Leader, so that we are seen to be consistent with the Constitution. We should have a bi-partisan discussion and debate on this before we come back to Plenary to debate on this Bill.

I so move.

**The Speaker** (Hon. Lusaka): I need a seconder.

**Sen. Olekina:** Mr. Speaker, Sir, I second.

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

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I am not averse to the postponement, but it yields to nothing. If it was an Act of Parliament, you would say---

Mr. Speaker Sir, I will need the attention of the Speaker on this.

**The Speaker** (Hon. Lusaka): Order, Senate Majority Leader! Just some guidance. Since the Motion has already been seconded, I now want to propose the question. You can speak to it after that.

*(Question, that the debate on the Bill be adjourned, proposed)*

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker Sir, I am not averse to the procedure being proposed by Sen. Orengo. I am also not averse to the fact that a decision can be made to defeat the Bill. I have no problem with that because it will be the decision of this House. It is not like it must pass by all means. I hope Sen. Orengo and Sen. Mutula Kilonzo Jnr. can listen to me on this.

The only reason the proposal for postponement is neither here nor there is because this is a constitutional amendment. We cannot amend anything.

If Members say we postpone, so that they can read it, make up their minds and determine whether they want to make a contribution; it must first go on record that this Bill has been in public domain for eight months. This is because the Constitution says six months but it has gone beyond that. I think it is eight or nine months since we first published this Bill. We should, of course have had enough time to read the Bill. I have no problem if we can postpone it so that people can read it.

Secondly, in my personal submission to the House, I said that it is not a must that it should be passed. It is not a Government or a party Bill; it is Murkomen's initiative to try to foresee a situation where this issue will be coming to us in a year or so and we have absolutely no role to play.

I am saying so with utmost respect to the independence of IEBC which has in the past been challenged by so many people in this House who said that they did not have faith in the IEBC. If this House, in its wisdom, ultimately says it has a 100 percent faith in IEBC to make the determination of constituencies---. It will be a lie to say that IEBC has exclusive responsibility of all boundaries. According to Article 189, it is Parliament, by two-thirds majority who determine boundaries of counties. It is only that in terms of constituencies and wards, it was given to the IEBC without recourse to Parliament.

Mr. Speaker, Sir, if this House says it has the faith, belief and confidence in IEBC, I will gladly live with that decision. This is because I will have made an attempt to provide a solution so that when we sit here again in future and some people here will be complaining and crying and saying, "Oh, IEBC has done injustice in my county or my area and they should have consulted us; they should have done this," I will be the one legislator in his House who will be acquitted by saying at least I tried to provide a solution to it.

While it is a Standing Order procedure that allows this House to make a determination, I just want to leave the House with two things: one, that I have absolutely no problem with a defeat of the Bill. Secondly, that I have absolutely no personal interest in this Bill passing by all means. The issue is that Members must be able to go back to think about which other mechanism we have a role to play in. Just like we have a role in delimitation of boundaries of counties, where shall we have recourse to, if tomorrow there is a report of IEBC that does not have---

**The Senate Minority Leader** (Sen. Orengo): On a point of order, Mr. Speaker, Sir.

**The Senate Majority leader** (Sen. Murkomen): I thought I was on a point of order.

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

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, as I give information, I am still pleading. For counties, numbers and size do not matter. A county can be as small as Lamu or as big as Turkana irrespective of the numbers. However, Article 89 of the Constitution gives the framework for delimitation. The IEBC does not have an open hand there. They say that you have got to look at the population, size and so on and so forth.

I just wanted to give my colleague the information that comparing delimitation of counties is not the right comparison. However, now that he has said that he does not mind whichever way it goes, that has now given us the opportunity and space to discuss this thing a little bit informally. I would like to inform Sen. Murkomen that even when we were passing the electoral Bills I had made the same comments. He provoked me to make some comments which have gone viral. I would also like to remind him that when it comes to this debate also, people may say certain things which may not be very good.

Mr. Speaker, Sir, let us use a bipartisan basis and talk together so that we are informed as to why this Bill is necessary and then we can go into a debate. We cannot even remember when it went through public participation and people have not even seen the report from the Committee.

I beg my colleague to give us just a little space to discuss it informally and we will come back to support him on this particular one.

**The Speaker** (Hon. Lusaka): Senate Majority Leader before you come up, I would just like to guide the House that the debate must be confined on whether to delay or not. Let us not get into the subject matter because a ruling has already been made on that.

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

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

**Sen. Sakaja**: Mr. Speaker, Sir, thank you for your ruling. I want to thank Sen. Orengo for bringing this Motion as we debate this Bill. The clarification I would need from your Chair and possibly from Sen. Orengo is this: what is the possible outcome of the delay? This is because even if we discuss and agree we cannot amend this Bill because it has been published. Sen. Murkomen has also said that he is dispassionate about it; that it is not a mandatory Bill to pass. So, what would be the outcome of that discussion?

I agree there are very deep feelings about this process. Many of us have been involved and we would like to debate. Even if we choose the route Sen. Murkomen is taking with this Bill, what we would do is to withdraw the Bill. That is the same outcome; us defeating it at the vote. Therefore, the Bill will either pass or be defeated by vote or by withdrawing. Apart from saving the time of the Senate, maybe Sen. Orengo can convince us on what he sees as the intended outcome of that discussion having deferred debate on this Bill.

**The Senate Majority Leader** (Sen. Murkomen): I think I understand Sen. Orengo's position so that Members should be given time to read the Bill so that they can be able to interrogate and appreciate its consequences and make a decision. I have no problem with that.

Mr. Speaker, Sir, It is not true that when it comes to population of counties---. If you read Article 188 of the Constitution, it is delimiting even changing boundaries for counties and population is a factor. Other factors are demographic trends and physical and human infrastructure. It is theoretically possible, for example, in future that Elgeyo Marakwet can expand its boundaries to touch into other counties and move one constituency to another county and so forth. It is just that the process of Article 188 is different.

My point is this: as is said, when I spoke to as many people as possible in this House, I wanted it to be very clear that I am not sponsoring this as part of the Government, as a Leader of Majority or as a party Member or anything. I have no problem with a loss. You can even see that I am happy. I just want to go on record that I was part and parcel of the people who tried to find a solution that involved the people's representatives---

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

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

**The Senate Majority Leader** (Sen. Murkomen): I thought I was on a point of order but it is okay.

**Sen. Madzayo:** Mr. Speaker, Sir, while I have a lot of respect for my colleague who is also a lawyer like myself, there is a precedent we have in our profession. When a senior counsel has advised, I think it is important to take it in that light, rather than trying to hammer the point home, that you have no problem with it being adjourned. Then what are we doing? It is as simple as that. We are taking time when we should go into serious issues. That request I believe has been made by a senior counsel. While he has not argued his point for us to agree, he has placed a Bill for us to look at. I think we should give ourselves a bit of some time to digest and think about it.

Thank you.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, the question that has been raised by Sen. Sakaja, makes a lot of sense. I do not think it was a point of order; that was a point of debate. If Sen. Madzayo thinks it should be postponed, which I can see is the mood of the House---

This House gives us the opportunity to say things for the record. There will be a record in this House in future regarding our process of constitutional debate so that it can be part and parcel of the record of this House. We are not just saying it for the sake of it, wasting time or eating into time for nothing but debating.

As I said, Mr. Speaker, Sir, this process is critical. It ought to happen constitutionally within eight or 12 years from the last review, which may not happen any time soon but it may happen after the elections. The point I am trying to raise is that Bills are brought to this House for win or lose and to convince each other on a point.

For example, some people are raising issues which might prompt me to asking myself if I was wrong. By the end of the debate and everyone having contributed, I might even be among the people who will vote "No" because it is about convincing each other. Someone could have a good idea but there is a better idea.

I was making these comments having accepted that Sen. Orengo proposed a postponement which is important for people to do their personal research and appreciate

the Bill and come back with points that can convince each of us because there is no hurry. It is not that it must happen today.

However, it must also go on record that this Bill has been out there for over eight months. It will be dishonest to tell the public that it is an ambush because it is not. The Constitution created a process that makes it clear that no one will ambush the people of Kenya when it comes to amending the Constitution, because it must be published in good time. That is all I wanted to record.

Mr. Speaker, Sir, I concede that Members will need more time because they have not even seen the Bill but they would like to make contributions on which is okay. We have insisted on comradeship on the other Bills stating that at least 24 Senators must vote in support. No one should feel that we must pass this Bill by all means. We must make the contributions we make on the Floor of this House because every debate and contributions brought here will be recorded for future engagements.

I thank you.

**The Speaker** (Hon. Lusaka): I think you have made your point. Let us now have Sen. Were.

**Sen. Were:** Mr. Speaker, Sir, I would also like to support the delay of debate on this Bill because initially, we wanted a report on the criteria to be used in delimitation. However, from what I have heard, it should not just be the criteria that we brought to Parliament but the report on the alterations and even the naming of the constituencies. Knowing that we have politicians in Parliament, it will almost be impossible for that report to be passed. Therefore, we will be taking the Independent Electoral and Boundaries Commission (IEBC) back.

Secondly, I would like to state that the IEBC is an independent commission and there should be as little interference as possible.

**The Speaker** (Hon. Lusaka): Order, Senator! I gave direction that according to the Standing Orders, you should confine yourself to the delay. Do not get into the subject matter. Otherwise, I will rule you out of order.

**Sen. Were:** Mr. Speaker, Sir, I withdraw the second point but my first point still remains. I support the delay because I thought that we were looking at a report on the criteria and not the brief on the delimitations.

I thank you.

**Sen. (Prof.) Onger:** Mr. Speaker, Sir, the Senate Majority leader rang me asking for support on this Bill. I mentioned to him that I have not seen it and neither do I know the content of the Bill. However, I will make further comments after looking at it. That is the true position as of last night.

I have looked at it and I am in support of the delay for the simple reason. Although the argument is that, it has been in publication for eight months, it does not really come out strongly. First of all, I am at a loss whether the process of processing the Bill was followed. We have the Directorate of Legal Services and the Committee on Justice, Legal Affairs and Human Rights but I do not know whether they were consulted. I am not sure of that. That is why we have to delay this Bill, so that those processes are looked into. We have a Committee that should advise us on its portents.

I do not want to go into the main body of the Bill but what I am seeing here is a potential contradiction of an independent organisation that may put us in bad light.

Before we rush into the debate of the body of the Bill, I will plead with the Senate Majority Leader that we are open and look at the pros and cons of this.

As the Senator for Kisii County, I need to make reference to the people who elected me back home on anything to do with the delimitations or discussions of boundaries. I do not want to scuttle the views of the majority at the county level because it involves the wards. As I said, there is need to go back and look at it afresh. We should look at the pros and cons and what its portents are.

This is coming at a time when there is *Punguza Mizigo* drive and I do not know where the Building Bridges Initiative (BBI) will be. Why do we not wait and take all these together and look at the offending Articles of the Constitution which are due for review?

I am not against any review of the Constitution because it is mandatory every 10 years. Since the promulgation of the Constitution, 2010, 2019 is the time to review the Constitution because it is almost 10 years down the line. However, the process must be followed, so that we do not offend the same Constitution that we want to amend.

I thank you.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, that famous clip of Sen. Orenge happened on this Floor when we were debating this same issue and Sen. Murkomen is aware of that. We strongly objected it. Maybe Members are not aware that the law was amended in this House to give the mandate of delimitation to the National Assembly. I said it was a mistake to remove this House from delimitation of wards because they are found in the counties.

In terms of what Sen. Orenge said, it is important that we look at that law because it is the law now. Once delimitation process is completed, the report will go to the National Assembly and not here. I told Sen. Murkomen that it was a mistake to put the words "National Assembly" as opposed to "Parliament". His amendment seeks the same thing only that there is a small little caption which has finality.

Therefore, I propose that all of us in the team should go round and look at it, so that we do not end up in a quagmire. The issue of Parliament becoming the last resort and that we cannot be questioned was also raised. Although Sen. Murkomen called me about this, there is no problem about the concept. There is just a little thing about the finality of that report which we must look at as a Senate so that we help Sen. Murkomen and the country on the question of delimitation. However, the issue that Sen. Orenge spoke so ably about was a law that we made here without thinking that it was going to haunt us.

I thank you.

**Sen. Mwaura:** Mr. Speaker, Sir, Sen. Mutula Kilonzo Jnr., has raised very serious issues. I think it is important to make laws for posterity and also be seized of an issue, so that when we legislate, we can stand up to what we committed the country to.

From what I have heard, Members are not seized of this matter. We have not read the Bill and Members are a bit apprehensive. It speaks to the issues of representation and having the number. You know that gerrymandering is real in politics because this power can be abused by an incumbent to disadvantage you as a competitor. It is important that it be deferred but not for posterity because that delay needs to also be guarded.

Mr. Speaker, Sir, I seek your indulgence that you rule for how long it should be deferred and what should happen during that adjournment so that there might be some

consensus on what needs to proceed. The reason I am saying this is because if you leave Members of Parliament to determine delimitation of boundaries is like inviting leopards to decide the case of goats. The reason I am saying so is because we are all interested.

However, to leave the Independent Electoral and Boundaries Commission (IEBC) to determine delimitation of boundaries without any oversight can be used by the incumbent to have their way. Therefore, there must be some middle ground that maintains the independence but at the same time ensures that there is validity from Parliament. That is what needs to be found within the period which you may guide the House as to when this debate can resume.

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

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

**The Senate Majority Leader** (Sen. Murkomen): Can I then suggest that we give the Committee, say, six months or one year to go through the Bill---

*(Loud consultations)*

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

**The Senate Majority Leader** (Sen. Murkomen): There is no hurry, Mr. Speaker, Sir. I am just requesting. It is a suggestion.

**The Speaker** (Hon. Lusaka): Senate Leader of Majority, there are still more Senators who want to contribute to it, so let us hear them out first.

Sen. Wambua.

**Sen. Wambua**: Thank you, Mr. Speaker, Sir. The Senate Majority Leader was almost editing me out.

From the onset, I want to say that I support that we defer debate on this matter. Initially, I was convinced that we needed to debate this matter. However, listening to the Mover; the Senate Majority Leader, he is so dispassionate about this Bill that he is almost anticipating a defeat.

I am reminded that this House debated and passed a Bill by Sen. Mutula Kilonzo Jnr. on review of county boundaries. There is a Bill that was then passed in the last Parliament on constituencies and wards. There will be a need for an informal sitting and we will be asking the Senate Majority Leader to convene this informal sitting so that we align these Bills and we are sure that what we do today will not return to haunt us tomorrow.

I support the deferment of debate on this Bill.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Ali.

**Sen. (Dr.) Ali**: Thank you, Mr. Speaker, Sir. Sincerely, I am a bit confused here. The first time I was informed about this I was in support. However, when I ask questions whether we delay or not, what difference does it make if we delay it and we cannot change anything? Why do we need to delay it?

There is a problem here that I know Members of Parliament, as Sen. Mwaura has said, are just like hyenas when it comes to constituencies. Each one of them wants to get a piece. Whenever there is delimitation of boundaries, usually the (IEBC) goes to counties and everywhere where people discuss these issues.

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

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

**Sen. Madzayo:** Mr. Speaker, Sir, with tremendous respect to my colleague, who is also a Member of the Pan-African Parliament, is he in order to refer to the Senators present in this House as hyenas? Are we hyenas? Could he withdraw and let it be expunged?

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, I did not say Members are hyenas. I referred to a statement which was made by Sen. Mwaura who said that when you compare leopards and goats; I said like hyenas when it comes to the delimitation of boundaries. If that one bothers my good friend, retired judge; Sen. Madzayo, I withdraw the word "hyena". Senators or Members of Parliament or any politicians want to be involved in the delimitation of boundaries. If we continue with that trend, I am sure we will be in a lot of trouble as well. That is why I said that I am confused from the beginning.

I will urge that we continue with the debate. Let the Bill be defeated and then we go to a *kamukunji* or we go have our own sittings and discuss and come up with a new one, because we cannot do anything with this one if we cannot change it. It is unfortunate if what Sen. Mutula Kilonzo Jnr. said is true; if we have removed ourselves from the delimitation of boundaries before and we have given that mandate to the National Assembly; whatever we do here, they are going to defeat it again. So, are we not wasting our time? Let us just debate, argue about it, forget about it and defeat the Bill.

That is my belief.

**The Speaker** (Hon. Lusaka): Sen. Ochillo-Ayacko.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir. I want to say that I spoke to the Majority Leader yesterday, he told me about the importance of this Bill. I totally buy the notion that this is a very important Bill. However, it is a constitutional matter that requires unanimity and carrying along everybody. If the mood as I see is that Members want a little more time to walk together with the Senate Majority Leader, that is a request that is not unreasonable and it is a request that we should all support.

I have heard what Sen. (Dr.) Ali is saying that let us debate this Bill with a view of defeating it. Mr. Speaker, Sir, let us not encourage the Senate Majority Leader to move a Bill that we intend to defeat. I think this Bill is likely to cure something but we all need to walk together. Therefore, it would be important for us to defer debate, consult and agree on what to do. If what we agree to do is not in line with what is being proposed, perhaps the Bill can be withdrawn and amended in such a manner that it will carry all of us. We should not pass something that we are divided about such that when it goes to the other House, we are ridiculed or we look ridiculous.

Thank you.

**The Speaker** (Hon. Lusaka): Hon. Senators, order. I will, therefore, put the question.

*(Question, that debate on the Bill be adjourned,  
put and agreed to)*

Next Order.

*Second Reading*THE ESTABLISHMENT OF CHILDREN'S HOMES BILL  
(SENATE BILLS NO. 12 OF 2019)*(Bill deferred)*

Next Order.

*[The Speaker (Hon. Lusaka) left the Chair]**[The Temporary Speaker (Sen. Nyamunga) in the Chair]***MOTION**CREATION OF SUPPORT SERVICES FOR MEMBERS  
OF THE DISCIPLINED FORCES AND THEIR FAMILIES*(Sen. Kasanga on 7.8.2019)**(Resumption of Debate interrupted on 7.8.2019)*

**The Temporary Speaker** (Sen. Nyamunga): The last time that this Motion was on the Floor of the House, Sen. Were was on the Floor. Are you still keen on continuing to contribute to it?

**Sen. Were:** Madam Temporary Speaker, I had completed making my contribution.

**The Temporary Speaker** (Sen. Nyamunga): Kindly proceed, Sen. Sakaja.

**Sen. Sakaja:** Madam Temporary Speaker, this Motion by Sen. Khaniri was moved by Sen. Kasanga before we went on recess. This Motion is on a very sensitive and important matter. The Motion is about creating support services for members of the disciplined forces and their families.

This Motion appreciates the commitment and sacrifice that members of the disciplined forces have made in protecting our country from both internal and external aggression. It notes the risky and stressful environment that these officers go through whether they are stationed within the country or wherever in the world where peace keeping missions are going on.

The officers in the disciplined forces work in really stressful and risky environments. Daily, they are exposed to risks in the line of duty. Locally, there are also increased threats of terror and terrorism. The purpose of this Motion is to ensure that even the families of officers in the disciplined forces are also exposed to trauma. They live in constant fear, debilitating depression, nightmare, crippling anxiety, thoughts of suicide and Post Traumatic Stress Disorder (PTSD). Further, they are exposed to stigma from the society and they are unable to take care of themselves.

Madam Temporary Speaker, this Motion calls upon the Ministry of Interior and Coordination of National Government in partnership with the Ministry of Defense to

establish counselling and support centres in all premises housing disciplined forces and provide mandatory counselling to all service personnel and the families of those currently serving as well as those who may have been killed in the line of duty.

This is a matter that my Committee on National Security, Defence and Foreign Relations has grappled with in the past. It is true that many of our officers go through a lot of stress. The officers are in an environment that if most of us were put in, would not survive yet as a country for a long time, we have been unable to give officers serving in the disciplined forces the dignity and the kind of life that befits those who put their own lives on the line for Kenyans, be they military personnel or police officers. There are issues with the housing of officers in the disciplined forces because they are not to standard.

Madam Temporary Speaker, in the past, we have had incidences where police officers were assaulted by leaders such as Members of Parliament (MPs) or members of the public, yet we expect them to give service that is not commensurate with our investment to them. I generally support that it is extremely necessary for us to think about the welfare of police officers as well as military officers in this country and all those who put their lives at risk every day in line of duty. We must think about and consider them. The state of the lives of the members of the disciplined forces, reflect directly on the state of our security as a country.

I have interacted with very many officers in the disciplined forces who have dealt with a lot of terrible situations such as handling dead bodies, being in the line of fire or those who have come back from war. From my interaction, many of the officers in the disciplined forces are in need of psychological or psychosocial support. I am glad that in some of our postings and establishments locally, such as army barracks, we have chaplaincy where the officers can receive spiritual guidance and support.

However, this Motion is speaking to more professional psychosocial support. Many countries around the world provide psychosocial support. We need to invest in the psychosocial support for our disciplined forces whether they are in battle or not.

Madam Temporary Speaker, the children of many of the officers in the disciplined forces have a certain psychological demeanour or disposition that suggests that they are anti-government and become very cold. Their response to certain stimuli from the environment can tell you that they are disturbed by what their parents have gone through. Therefore, the families of the officers in the disciplined forces also need to get psychosocial support. They need to be counselled and have a call line that any family member can call in. We need to tell our officers that it is okay not to be okay because many of them are suffering in silence.

We have witnessed many cases of suicide amongst our police officers. We have also witnessed many cases of police officers killing each other or killing members of the public after disagreements. Such killings point to persons whose mental state at the point of executing such an action is not 100 per cent. Such killings call for concern. If we are not concerned about our officers in the disciplined forces, we are walking on shaky ground. The issues concerning our officers in the disciplined forces are a ticking time bomb. We need to establish whether the people who walk around with guns are in a mental state to provide proper security because of stress or the PTSD that they might be going through.

Madam Temporary Speaker, we must encourage our officers to speak out. Over the past three or four years, our country has seen the highest cases of homicide and suicide within the ranks of the disciplined forces. If these issues do not call us to a place of self-reflection as a country, we are living in denial and we have buried our heads in the sand. We must confront the issues affecting our officers in the disciplined forces head-on. I must congratulate the church for setting up chaplaincies in many of our barracks. I am aware that we have chaplaincies and mosques in our prisons and barracks.

Madam Temporary Speaker, recently, changes were made to house police officers outside the housing that had earlier been provided within the police station. I have a challenge with that arrangement in Nairobi because many of our police officers cannot afford to stay near their stations. A police officer attached to Kileleshwa Police Station, cannot stay in Kileleshwa. He has to go and look for cheap housing in the slums. A police officer in Muthangari Police Station, Lavington or Hardy Police Station in Karen cannot stay within the environment of the station as was envisioned by this programme.

We are sending many of our officers to stay in the slums. When the police officer lives in the slums of Nairobi, once they have returned their guns at the armoury, they go to interact with the criminals who they chase during the day. What does that do to their psychology or their safety? The criminals in the slums threaten them with revenge over the criminals that they arrested.

We may have implemented the housing programme that was set up but ended up sending our police officers into slums. We have failed to achieve the goals of that housing programme. The other day, I took my Committee on National Security, Defence and Foreign Relations to Kima Market in Vihiga County where there had been killings in Kilingili. Over six watchmen lost their lives but the police officers could not respond to the distress call on time. One of the problems that was cited from that visit is that since the housing policy was implemented, the police officers moved into societies and when an emergency happens, it is difficult to bring them together for them to respond to a distress call.

Secondly, are we paying our officers enough? If an officer cannot afford a house, stays in a shared accommodation together with another officer or in one room with his wife and children, what kind of dignity are we talking about? We have a problem with our wage bill, but security is an essential service in this country. We cannot talk about salaries of Members of Parliament (MPs), yet the salaries of police officers – who guard us and this country – are not taken into account.

We must look at the welfare of these police officers. I am glad that, indeed, they have an insurance program within the military and the police where today, an officer or his family member who has a health problem are being treated very well. It has improved, but it can be better.

Madam Temporary Speaker, all of these things I am talking about contribute to the psychological and mental state of our police officers and they must be taken seriously. A police officer should be somebody who is very happy. A child who is lost or somebody who needs help or direction will first go a police officer, who should be happy to assist. He should be able to give you directions or even help you out if you have a problem. However today, the converse is true.

If you drive in the morning as you come to work or whenever you interact with these officers, they seem very angry. Their disposition show people who are frustrated and have a problem. Something is wrong and that reflects on their work. They will respond to *matatu* drivers or members of the public with anger and disdain, and it ceases being *Utumishi kwa wote*. The wording of this motto should have been changed because we are moving from a police force to a police service. For somebody to serve you well, they need to be in a good mental state.

Madam Temporary Speaker, I support this Motion and pray that we will be able to go to the nitty gritty of the welfare of these officers, including the stigma they face and the amount of money they are receiving as salaries and allowances. Recently, some of them approached us, as a Committee, on the matter of graduate officers within the disciplined forces. There is a different way to look at how graduate officers actually get promotions. We are urging them to sit down with the National Police Service Commission, together with their Inspector General (IG) and their team to agree on that. Let them know that we, as a House and as leaders of this country, actually care about their wellbeing and that of their families and children. A child of a police or military officer must be guaranteed of education, healthcare and a roof over their heads. That is the basic.

As I keep on saying, the strength of a country is not measured by the amount of money in its central bank or advancement of wealth, but how they treat people. This includes how we treat the most vulnerable in society, those offering essential services and making daily sacrifices to the country. In fact, before, being a teacher and a police or military officer used to be called professions. This is because everybody wanted to be a teacher or a military officer, not because it was the only job that was left. Today, people say, "Since I did not pass my exams; since I did not get an A or B, let me be a police officer or a military officer." We must change that thinking so that we attract the best in society to go to our disciplined forces, to become a teacher, *et cetera*. That is how we will make progress.

Madam Temporary Speaker, I thank Sen. Khaniri for bringing this Motion. We support it and even as it goes on, our Committee will engage with the leadership of the disciplined forces; that is the military, police as well as the prison service, to find out, as it is, even before we pass this Motion, what they are doing with respect to welfare of officers. How are they debriefing those who are returning from peacekeeping missions in Somalia, and so on? How are they maintaining a steady flow and a safe place where any officer, wherever they are in Mandera, Wajir, Nairobi, Kisumu *et cetera*, so that if they have any mental or psychosocial issue, they will not be judged, and they can speak to somebody and get counselling.

Thank you, Madam Temporary Speaker.

**Sen. Milgo:** Thank you, Madam Temporary Speaker. I rise to support this Motion concerning our police service. These are officers that we always look up to, and they always put their lives on the line for us. The state of affairs in terms of their welfare issues, including housing and salaries, is actually a challenge.

Many a time, police officers share houses, something that none of us will accept. To make it worse, those houses are in pathetic conditions. These officers are doing a great job in our country. Whenever we encounter traffic jams on our roads, we normally

ask, “Do we not have police officers in this area?” Whenever they arrive, we see some sanity on our roads.

In addition to that, we face security issues whenever the police officers are not around. Whenever they are around, I sleep well and feel very secure. Police officers have faced a lot of trauma, and it is high time we established counseling and support centers to assist them. If these centers were there, we would be assured of officers of sound mind all the time; and they would go to work every day feeling happy.

Madam Temporary Speaker, these officers face anxiety and depression. As a result, they have lost their lives through committing suicide. We read in newspaper about many cases where police officers have shot their wives or themselves due to depression. In some cases, police officers lose their lives and their bodies are never found. As a result, their families suffer trauma.

Madam Temporary Speaker, we have taken the police service as secondary, yet it is an essential service in our country. In terms of remuneration, these officers retire very poor. In most cases, police officers are forced to engage in some funny acts even along the roads. We need to forgive them for such, because of the fact that nobody has looked at their remuneration properly.

The new service should be encouraged to look at their welfare, including housing, salaries and even establishment of the centers that we are talking about. This will ensure that despite being trained to be tough, they will also have a human heart. It is high time that this particular force should be assisted, not only in terms of salary, housing and other welfare issues, but also in terms of counselling and areas where they can receive support services together with their families.

This is a very important service that must be looked into, because our country needs police officers in all areas. As Members of Parliament, we feel secure because we have police officers around us.

Madam Temporary Speaker, I beg to support the Motion.

**Sen. M. Kajwang’:** Thank you, Madam Temporary Speaker. I wish to support this Motion that has been brought to the House by the Senator for Vihiga County, Sen. Khaniri. The essence of this Motion is to urge the House to agree that the nation should create support services for members of the disciplined forces and their families.

The House operates through various instruments; that is Motions, Bills and through other resolutions of the House. We have seen in the past when Members bring their Motions, they are debated upon, and a lot of detail goes into those debates; but we find certain challenges in implementation. I hope that this is one of those Motions which, if the House will agree with it, it will find favor in the eyes of the implementing agencies; and that they will implement it as fast as possible.

Madam Temporary Speaker, the issue of implementation of Motions of this House is an issue that my County Public Accounts and Investments Committee (CPAIC) has been grappling with. We have realized that the law provides that an accounting officer or any person with responsibility to implement the resolutions of Parliament, must do so within three months; failure to which, Parliament has been given powers to undertake any action, be it administrative, punitive or recommendations for prosecution.

This is important, because in the life of this Parliament, there are very many Motions that we have passed. I remember there was one lovely Motion that we passed in

the very first Senate meant to ensure that the National Youth Service (NYS) is devolved to counties. So far, that has not been fully achieved.

Madam Temporary Speaker, coming back to the content of this Motion before us, our disciplined forces play an important role. They enable us to sleep soundly at night, knowing that the environment that we sleep in and the borders of our country are safe and secure. Were it not for them, we would then still continue with the practice that our forefathers practiced. In my father's house when we were growing up, he always had a spear in a corner; a *simi*, a bow and arrows somewhere. This is because they were brought up to believe that they have to defend themselves.

However, with advancements and professionalism of our disciplined forces and security forces, it has become less necessary for us to sleep with spears and clubs under our beds. In fact, those who still maintain those archaic weapons under their beds do not use them against thieves and other vagabonds; some end up using them on their spouses. I want to say: "Shame on you" to those men who convert the use of those spears, *rungus*, bows and arrows to instruments of domestic violence, because our forefathers kept them in the house to deal with external aggression.

However, now that we have a very professional and disciplined security service, particularly those that protect our borders, I believe that we need to invest more trust and resources in making sure that these disciplined forces are able to undertake their duties.

Madam Temporary Speaker, the history of neglect of our disciplined forces is as long as the history of this Republic; it is on record and it is a fact that no one can refute. Those people who went to the forests to fight for land, particularly in the areas in this Republic where the white man appropriated land without compensation; what we call the Kenya Land Army were ignored by the colonial government. These include those that operated in the forest around Central Kenya in the Aberdares. When we finally got Independence, the fighters who had gone to the bush were the first who were ignored by the post-colonial Government.

Some of them went back to the bush and died. Some of them died in abject poverty while the sons, daughters and grandchildren of home guards benefitted. These are the people who were siding with white people in this country to give land to the Whites at the expense of the Africans, who are indigenous and the natives. Consequently, those people who formed what you can call the original army of this Republic, that was fighting against the land invasions, suffered. These people were not just in Central Kenya; if you go to the Rift Valley, the Talai Clan of the Nandi Community put up a spirited fight against land grabbing in their respective areas.

For their efforts, the Talai were exiled; some were sent to Mfangano Island in my County; others were sent to Lambwe Valley, where Tse tse flies were supposed to have killed them; while others were sent to all sort of inhospitable places. We have always paid members of our disciplined forces with a very bitter pill, because they fight and protect us, and when we are secure, healthy and strong, we take everything that they have fought for and leave them with nothing.

Madam Temporary Speaker, it is not only about the material benefits that should be given to these members of the disciplined forces. They also need support structures. Very recently, I visited the United Kingdom (UK) and we went to London. While there, we met a Kenyan who has been there long enough to serve in Her Majesty's army. This

Kenyan took us to a hotel facility; a club that Her Majesty's Government has set aside for veterans and members of the disciplined forces who have come from war, who are retired and also those in active service. When you go there, you can get accommodation and meals at very subsidized rates. If you have ever been in the disciplined forces, you become a member of that club for life.

We saw people who are veterans of Iraq, Kuwait, the wars in Argentina and even those who fought in the World Wars. They come there and they get all that range of support, including psychological, physical and material support. The old timers go there just to read newspapers and touch base with the people they fought alongside. Unfortunately in our Republic, I am not sure whether we have such facilities that are dedicated to those who sacrificed and dedicated their lives to the protection of this Nation.

Madam Temporary Speaker, this Motion should have actionable recommendations, that those who are required to implement them should then follow up with immediate effect. We have our brothers and sisters who are in Somalia. Before this country decided to sit on one table and agreed to discuss, as brothers and sisters who are bound by the territory of the Republic called Kenya, some of us used to ask questions about the viability of the war in Somalia. Let the handshake not make us forget; let it not create amnesia on the fact that our brothers and sisters are out there in Somalia.

Let us ask ourselves what the quest for which we are fighting in Somalia is. We have been there for tens of years, and we have lost hundreds of lives. We are not saying that we need to coil our tails, run back home and say that now we are coming back to Kenya, the way the Americans did when they went to Somalia; no. It is important that we, as Parliament – the representatives of the people – find a framework for examining our effort in Somalia. We need to examine our gains so as to do a balance sheet and a liability and asset kind of assessment.

I believe that there is a framework for doing that in warfare, so that we can know that all these years that we have been there, what has been the net benefit to Kenya? What has been the net loss to Kenya? The bottom line is this; is Kenya benefitting or losing? This is because every other day, we come from those rural constituencies and we sometimes bury our brothers and sisters without seeing their bodies.

There have been cases – and I have been involved in quite a number of them – where you find that you have a cousin in the village who joined the KDF and went to Somalia, and there was an ambush. Definitely, when you sign up for war, such things are bound to happen. You find sad situations where a mother has to bury a son, ashes or just a small part of the body of the son. That is the quest of war; that is what we sign up for. That is what these officers of our disciplined forces sign up for. What then is the gain for the Nation and the society? What is the gain for that mother, who has to bury the finger of a son who was burnt up in and Improvised Electronic Devices (IED) attack somewhere in Somalia? How do we sell the benefits of that continued engagement there?

Madam Temporary Speaker, our disciplined forces of this country are very highly trained. We know them because they are our brothers and sisters. If you are looking for some of the best medical professionals, they are in the disciplined forces. Some of the best engineers and IT persons are in the disciplined forces. In fact, the Internet was an invention of a defence agency called Bapanet, which was a defense agency of the USA

that created the Internet that we enjoy today. Why can we not, instead of keeping our disciplined forces in a constant state of waiting for war and aggressors, engage them in other nation building activities?

Madam Temporary Speaker, I am talking about engineering feats. There are things that we have seen even in the counties. We recently went to Kwale County, where we found that they have been trying to build a stadium for the last four years. It is not rocket science to build a stadium, to plant grass and to have some benches, where fans can sit and cheer their teams. Year in, year out, budgets are being committed but are not utilized; they are instead being diverted. Consequently, four years down the line, they are still talking about a vision.

If we took the NYS and deployed them there for six months, I am pretty sure that they will complete that job. We have even seen private contractors quoting astronomical figures to do civil works at the ports. However, when we bring in members of the NYS or the disciplined forces, they quote a far more reasonable amount, which then provides value for money for public resources.

Madam Temporary Speaker, our neighbors in Tanzania have now resorted to using the expertise in their disciplined forces to get some of the public projects going on. They have realized that if you leave it to some contractors, you will have all sorts of cowboys whose job, responsibility and desire is to inflate prices, and those projects will never see the light of day. Let us engage our disciplined forces so that by the time they retire or opt to leave, they have some hands-on and real life skills. They should reach a level of integration where they will not find it difficult to live with other people. We have all the professionals in the disciplined forces, such as doctors, engineers and lawyers. Let us engage them in some important aspects of nation building. That way, they will integrate better and be accepted.

More importantly, Madam Temporary Speaker, is the psychological effect of warfare and activities that those men and women do, on behalf of this country. Many of us will shudder at the sight of blood. Many men do not go to the theatres where their wives deliver, because of issues of blood. Indeed, there are men who shut down business four or five times a month because of issues of blood within the domestic setup. However, these are people who live with blood, and whose business and day-to-day endeavours is about bloodshed. They do that not as an end, but as a means to ensuring that our borders are protected and we are kept safe. That has psychological implications.

Today we woke up to the news that a member of the police force killed a little boy in one of the slums here in Nairobi in an unprovoked situation. That story also has details of other members of the disciplined and security forces, some of whom have had to take their lives out of frustration. Some have even taken the lives of others as a result of poor psychological grounding. It is, therefore, important that even as we talk about mental health in accordance with the Bill that was brought here by Sen. Kasanga, we need to ensure that we have dedicated units to cater for members of our disciplined and security forces, because any other lesser person might not be able to survive what they go through.

I want to finalize by hailing the professionalism with which our disciplined forces have conducted themselves since Independence. If you read the story of Africa, the military and disciplined forces have been involved and have been a factor in the politics

of every other country. However, this has not been the case in Kenya. I spent quite a few years in a neighboring country where, if you are a captain in the army, you are even more powerful than a Member of Parliament (MP). That is because the army is so entrenched in the politics and governance of that country. To our credit, our disciplined forces have allowed civilian rule and civil liberties to flourish in this country.

Madam Temporary Speaker, I do not think that just happened by autopilot. I believe it is because of the dedication of those who had the opportunity to lead our disciplined forces from Independence to date. There were many cases where there were temptations by leaders of our disciplined forces to join politics. If we had to learn from Nigeria, where there have coups and counter coups, then our disciplined forces were not short of examples, even in our neighbouring countries of Uganda, Rwanda and Somalia. However, they kept their head high, remained focused and they have allowed us, Kenyans, to have some of the most liberal environments.

Madam Temporary Speaker, those of us who were there during the previous Parliament will recall that there was a time during State events where the Head of State, the Chief of Staff of the Defence Forces and the entire top brass of our disciplined forces, including the police and other civilian security apparatus, were present. We, however, exercised our right to protest and picket in Parliament, and it was called “*Firimbi* Moment.” We blew whistles and carried placards in that House. At the end of that day, I went to my house and slept soundly, because no one followed and threatened me with the rest. There was no drama, unlike the drama we have been seeing of late. For once, there is peace in Kibera and disquiet in Murang’a.

As political leaders, we need to ensure that officers of the disciplined forces are disciplined and stick to their lane; politicians in this country must also stick to their lane. I do not know what benefit we get by going back to the days of chaos that we saw during the pre and post-elections period. There is no value in this country when a television station with national circulation and viewership, spends 10 minutes to show how, in the entire country, fires are being lit in some dark alleys in Murang’a. There is no value when a television station decides to focus on a small group of young men and women – who have clearly been organized and mobilised to demonstrate and cause chaos – and project that as a crisis of national importance so that the nation can take note. Those are the kind of things which incite people to violence.

Madam Temporary Speaker, I am glad that despite extreme pressures on the business community in Kisumu City caused by the demolition of business structures along the lake and the railway line, people have agreed to find a way of dealing with these issues amicably. They did this without uprooting the railway line, uprooting roads or causing violence. I am happy that despite the political situation in Kibra Constituency, where the political parties are now fighting for succession, we have seen that things can be done peacefully. In fact, there are people who are disappointed that political parties can hold nominations in Kibra Constituency without violence or people threatening to uproot the railway line that passes through Kibera.

We are not supposed to be seeing some of the scenes of fire that we were treated to last night, since we have reached a point as a country, because our disciplined forces and security officers have done their bit. Even though sometimes they step out of line, they have, by and large, remained civil and organised.

When I gave the example of the situation we had in Parliament when the President was present, and we held demonstrations in that House, it demonstrates that we have a mature security apparatus and disciplined forces. If it was in another country and the President is embarrassed by whistling, doing catcalls and carrying placards in Parliament in the full glare of the entire Republic and in full presence of the entire security apparatus, I would probably have had to find a safe house to sleep in that night. I would have either been taken to a safe house by the State, or I would have looked for a safe house myself. That credit goes to our disciplined forces and security apparatus; we went home and spent a peaceful night with our wives and children.

I want to encourage them that despite all the irritations that come up in the political space, we should hold that kind of approach to civil liberties. Let us not run after MPs with 50 officers of the General Service Unit (GSU); let us not use a hammer to kill a flea. That way, we will be inflaming situations and passions, and creating a situation that this country is burning and that it is on the wrong path; but that is not the case.

Officers of the disciplined forces have done their bit. They have stuck to their lane, avoided *coup d'états* in this country, and provided a conducive environment despite the pressure we have along our borders. We must congratulate them because if you look at the northern border, we have issues in South Sudan, Ethiopia, Somalia---

*(Sen. M. Kajwang's microphone went off)*

**Sen. Omogeni:** Thank you, Madam Temporary Speaker. I also rise to support this important Motion by our good friend, Sen. Khaniri.

Let me first make an observation, that this is action that is long overdue from our Government. I was once privileged to visit a hospital in Texas, the United States of America (USA), where my sister works. The hospital is dedicated to serving members who have retired from the military in USA. The world over, it is known that it is not easy to serve in the disciplined forces. Often times due to human error, you can cause deaths of so many people without a deliberate act.

For instance, due to human error, an air force pilot of the USA Armed Forces who served in Afghanistan bombed a hospital. He was later shocked to learn that what he thought was an enemy target was a hospital, where he ended up killing innocent children, pregnant women and sick old people. You can imagine returning to your house and watching on television that your action has caused that kind of pain to innocent families. These are not aggressors or people whom you were targeting, but purely because of human error, you have caused deaths of so many lives. Those are the kind of situations that this Motion is trying to address. In serving in the disciplined forces, there are occupational hazards.

In 2007, we saw Kenyans who were trying to exercise their democratic right of picketing and demonstrating. At times, we respond with excessive force and you end up killing innocent people. I remember there are a number of Kenyans who were serving in the disciplined forces who were charged in courts of law. That is baggage that you carry for your entire life – that you have caused deaths of innocent Kenyans – and it haunts you.

Madam Temporary Speaker, when you retreat to your family in this era, where we have cross-cultural marriages, your spouse may end up putting you to task by asking why you did that. These are situations that require us, as a country, to put in place measures that ensure that we have enough counselling services for our people serving in the armed forces.

Madam Temporary Speaker, President Moi was a very wise President, despite some of the negative things he did in this country. He came up with schools that were dedicated to people serving in the armed forces. Why did he do so? It is because you can be sent out of the country only to come and find that the children you left behind never went to school. However, President Moi decided to take care of these kinds of situations, and established the Moi Forces Academy. It is a very good school that serves members of the Air Force at the Moi Air Base (MAB) in Eastleigh. There is also the Memorial Hospital along Mbagathi Way.

However, Madam Temporary Speaker, after President Moi exited power, I have not seen any initiative to come up with mechanisms meant to ensure that we have facilities dedicated to the care of people who have served in the armed forces. This Motion now seeks to extend these services to residential areas, where people serving in the armed forces reside. This is a very good Motion.

You will be surprised that the people who serve in the armed forces do not enjoy the normal life that we live. For instance, look at the food they eat. I was talking to a friend of mine who had been sent to serve in a United Nations (UN) Peace Keeping Force. He told me that for the entire period he was there, he forgot about ugali, as he was surviving on biscuits, water and energy drinks. That, in itself, is something that can cause a lot of stress to any human being.

Let us also be cognizant of the fact that the people we send out to serve in the peace keeping missions are young people and they are not used to these hardships. They are recruited at the early age of 20s, and by the time they are 25 years old, they are enlisted and sent out of the country away from their spouses. You can imagine somebody staying away from a spouse they have just married for three years. When you come back, you do not know what to expect. When you come back to surprises, you need counselling. That is why we are seeing increased cases of suicide. We do not want to lose people who have volunteered to serve our country, and who play a very important role. Stress is a killer.

Many schools today have employed counsellors for our children. Maybe what is stressing the child is a parent who has failed to buy them a phone, denied them a chance to watch a movie over the weekend, or a parent who has denied a friend to visit his child. Because of that, we employ counsellors. There are dedicated counsellors in many schools for our children.

What about people who serve in the armed forces? You can imagine a situation where two pilots leave Eastleigh Airbase for duty. They greet their colleagues and go out to do their job with the hope of coming back. However, one of you does not make it back. That leaves you with a lot of trauma, because you ask yourself what you could have done to save your colleague. The kind of occupational hazards that face our policemen and people serving in the military call for a dedicated service that can offer counselling to them.

In this era of terrorism, they are exposed to so many risky situations every day. Most spouses of the military officers keep bidding good bye to their husbands or wives because when they leave in the morning – of course, even all of us – nobody is sure you will go back home. However for them, it is a situation where there is anxiety and worry for their spouses, day in, day out.

Madam Temporary Speaker, extending counselling services to family members of people who served in the armed forces will serve a very useful purpose. I propose that this should even be extended to their children. Some of us know what happens when we are away from home for a week. You come back to questions from your children, wanting to know where you were and why you decided to be away all the week. You can imagine a young father or mother who is forced to be away from home, maybe for two years because of duty. What do you expect of that family and the young children? They will be exposed to a lot of stress.

If these services are extended to them, they can be counselled to understand the nature of work that their parents do. That way, we will not mess the families of people who serve in our disciplined forces.

Madam Temporary Speaker, suicide is preventable, but if not handled well, it can cause death within a minute. It does not have any medicine or painkiller; it just needs professional counselors to continuously engage people who are exposed to some work that can expose them to some stress, trauma, depression, or form of nightmare. As a country, we need to take special care of the military officers and have counselling and support centres in areas that house them.

Madam Temporary Speaker, I do not know whether it is true, but I am told that if you are sent to areas where there is winter, it may even call for a situation where you are subjected to a form of “treatment.” Some injections are administered to your body, so that you can cope with the temperatures. These things have side effects on these people.

Some areas are extremely hot, with temperatures of over 35 degrees celsius. If you watch television, you will see people who are serving in areas where temperatures are 35 degrees Celsius, wearing those combat gears. If you went there, you will not manage even with a light jacket, like what I am wearing. These things have side effects. If you go to a place where temperatures are up to 40 degrees Celsius, you get injected and stay there. For the time you will be there things will be okay, but when you go back to your station, for example, Nairobi where the temperatures are 19 degree Celsius, there will be adverse effects to your body.

Nobody counsels these people. They find themselves in a situation where their bodies react. Whenever they go back home, they are not able to behave normally. It is not that they have done anything wrong, but in serving this country they have been exposed to situations that make their kind of work risky and out of the ordinary. It is not normal for anybody to be sent to Morocco and they are told that before they go there, they will have to be injected. But for them, these things happen.

Madam Temporary Speaker, I am saying this to demonstrate the kind of work that people from our Disciplined Forces do, which end up exposing them to so many situations that can easily trigger depression and stress. If we do not manage those kinds of situations, we will continue having cases of suicide.

Madam Temporary Speaker, with those few remarks, I support.

**Sen. Cherargei:** Thank you Madam Temporary Speaker. I rise to support the Motion on the creation of support services for members of the disciplined forces and their families.

This Motion is timely because Kenya, under former President Kibaki, did go to Somalia through a programme called Africa Mission in Somalia (AMISOM) to try and bring stability and ensure that Kenya and the horn of Africa is safe, secure and lives and property are being protected.

I happen to have one of my brothers in the military service. Luckily, he has not met any casualties while in Somalia. However, there are many families in Kisumu County as well as other counties that have buried many young people, below 30 years, because of terror attacks while in their line of duty, especially in Somalia and other missions abroad. We appreciate that Kenya is one of the critical partners in terms of being used as missions to provide stability across the world. That is very critical in terms of ensuring that we have a stable and secure society.

Madam Temporary Speaker, according to some statistics, although the Government is yet to confirm, there are many deaths that have occurred, especially involving military officers from Kenya. More than 60 of them have died in the line of duty and coincidentally, it happens that most of them are from Nandi County. It is very sad because it is said that in time of peace, it should be the sons burying their fathers, while in times of war, it is the fathers who bury their sons. It is always very sad as they leave young wives and children who are barely in nursery school. You can imagine the trauma that their spouses, immediate family members and community go through. Whenever you attend such funerals you get the feeling that many young people are no longer willing to be recruited to the military in this country.

Madam Temporary Speaker, I agree that counseling is very important. I remember, as the Committee on Justice, Legal Affairs and Human Rights, we have been working also to establish trauma and counseling centers after the Solai dam tragedy. This is ongoing and the Red Cross has been of very great help. We hope that the Ministry of Defence, through the Cabinet Secretary, Madam Rachael Omamo, will be able to effect some of these changes of providing counseling to the spouses and the members.

As Sen. Omogeni has said, these are people who are in line of duty and see their colleagues dying. Some are injured and when they comeback, they face psychiatric problems. Having counseling or trauma centers to offer services to the families that have lost great heroes and soldiers in the line of duty is important. They should be counseled. Our memory as a country is very short. We have seen many tragedies and issues happening, like the Ethiopian Air crash that killed 32 Kenyans. The Government did not provide any counseling for a period of time. It would be very important for counseling to be done within a period of time. Whenever an officer dies in the line of duty, there is need for the family to be counseled, because they face many issues.

We have seen cases where many Kenyans commit suicide because of other issues. What happens to somebody that has seen colleagues die or lose their legs? You can imagine the horror that such people go through. We propose that when a soldier dies in line of duty, and these are our heroes that we should celebrate, their immediate family members should be taken through a rigorous and elaborate counseling sessions.

Secondly, when some of these heroes come back home after serving in their mission, especially in AMISOM in Somalia, they should also be taken care of, so that it does not become a psychiatric problem in their lives. As we talk about counseling, I know that the Government offers support services of monitoring. However, part of the stress that Kenyans undergo is because of hard economic times. Therefore, as we counsel the soldiers and their families, the Government should also provide monetary support to them. We are happy that we now have an insurance cover for the police and other disciplined forces, such that when they die in the line of duty, the health insurance cover is provided to their families.

I would like to propose something, and I hope the Mover of the Motion will be able to check the HANSARD. With regard to the soldiers who have died in line of duty, fighting the terror that would have caused havoc in this country, the Government should provide a system of ensuring that their children are put on a bursary programme until they reach university or college level. Even if we counsel the spouses and their children, without monetary support, the vicious cycle of poverty will continue.

Counseling should be made part of the health cover. In the United States of America and other countries, they have a specific docket that deals with the welfare issues of the veteran soldiers. Therefore, as we provide for the health cover while in active duty, that cover should extend at least to their immediate families. Counseling should be part of the cover, through the National Hospital Insurance Fund (NHIF) card, so that the families can go to any hospital, be it Kenyatta National Hospital or Kapsabet Hospital and be given counseling service. That is a critical issue that we need to look at.

We also need to ensure that even as we send officers to missions, for example, AMISOM, we should also ensure counseling services are taken there.

The Kenyan Government, through the Ministry of Defence, should establish a counseling and trauma centre. I know that it is already there, but it should be more active so that it can help them while they undergo their programme in Somalia. Most of us are sure that we will go back home, but by the time soldiers wake up, they are not sure of reaching midday or evening. Therefore, let us have more active and rigorous established trauma and counseling centres, especially when our soldiers go for peace keeping missions across the world.

Madam Temporary Speaker, we celebrate our soldiers who protect our country, properties, lives of Kenyans and the tourism industry. I know that with time, we will defeat the terrorism that is ravaging across our borders and the world as a whole. I would like to tell our soldiers in Somalia, where they are trying to bring peace; or in Lamu, where they are protecting our boundaries, that they have the unequivocal support of the Senate. We will continue to pray for them, so that they continue to be our heroes.

**Sen. (Dr.) Langat:** Thank you, Madam Temporary Speaker, for giving me this chance, although the Motion had come to an end. I support this important Motion that concerns our military personnel.

These particular people play an important role in our country. They also sacrifice their lives and their families. This reminds me of one time, when there were many riots in our schools, and most of the students were burning schools. One of the findings of a particular body that was asked to conduct research on the causes and the type of students who were most prevalent in causing this problem, found that the highest number of the

culprits were children whose parents were either in the police or the military. We realised later on that these people live far away from their families. The parents arrive home as visitors, once every year for some few days. Therefore, the day to day discipline of their children and providing the father figure in their families was a great challenge.

This particular concern should be taken seriously. We should also examine and revise the policies and legislation that are related to the service of these particular people. Their spouses also face a lot of challenges. They live in isolation and are constantly worried, particularly for those who are serving in the African Union Mission in Somalia (AMISOM). Therefore, they require these particular services.

The housing facilities in the military for those who are married should be considered, so that they can accommodate the spouses when they visit. They should not be accommodated in tents. The quarters for the married people are few, yet the ones that are married are many. This should be considered so that they are closer to their families. They should be given a chance to bring up better families, like any other person. Otherwise, they will risk protecting our country from *Al shaabab* and the rest of the dangerous groupings of people, only to retire home and find their children worst than the *Al shaabab* that they have been chasing away.

Madam Temporary Speaker, the Committee that is concerned should take this Motion seriously and develop it into a Bill. So that the structures in the armed forces are revised. Otherwise, most of them are still colonial and are not supportive to the armed forces. That is why when most of them retire, their homes are miserable. They become frustrated and they start to over-drink. They, therefore, need to be supported. The support services to these people are crucial.

I, therefore, beg to support this important Motion.

**Sen. (Rev.) Waqo:** Thank you, Madam Temporary Speaker, for allowing me to add my voice to this important Motion. From the outset, I support it, because of what our disciplined forces and their families go through. They are exposed to a lot of dangers and risks. Their lifestyle also exposes them to a lot of stress, and that is why I support this Motion so that we can help them and transform their lives. Many have suffered and lost their lives in the past, but we, as a nation, have not taken care of their families.

In fact, many children have lost the opportunity to join good schools. Families are suffering and the women who were left behind are depressed. Some of them have even developed chronic illnesses because of the problems that they go through. Members of the disciplined forces go through rigid rules, which expose them to a lot of frustrations. Therefore, it is my prayer that, one day, this nation will behave and take care of their families.

Madam Temporary Speaker, we have lost many heroes, but we have not given their families the attention they deserve. Sometimes mothers whose sons or daughters lose their lives as they protect their nations suffer a lot of stress because of that loss of their loved ones. Unfortunately, the Government does not have good plans for them.

The issue of counseling has been stressed by hon. Members. I know that they have Chaplains in camps. However, due to the risk that they are exposed to and the challenges that they go through, they should have a counseling centre that goes beyond the individual. It is also important for the families to go through counseling sessions so that women can be fully prepared, and stand firm to support their families just in case

anything happens. Children should also undergo counseling sessions so that in case of anything, they can be fully prepared.

Madam Temporary Speaker, we should also enhance their capacity. Most of the times when we send our armed forces for a mission, they do not undergo capacity building on how to improve themselves. If we do that, we will motivate them. For example, they can improve their levels of education and be relevant to the field. Therefore, the Government should come up with a proper plan for them to enhance their education and have proper capacity building, so that they can be active enough and gain knowledge in what they do. That way, if they get an opportunity to go outside the country, they will serve others well.

As I conclude, we know well that they get minimal salaries. Most of the time, when you look at them, their families and where they stay, you sympathize with them. We should come up with a way of empowering them economically so that they are able to create their wealth. As they serve the nation and protect all of us, then their families can also be given opportunities to do business so as to create their own wealth. This will ensure that they retire peacefully, gracefully and enjoy the investments they have made.

Madam Temporary Speaker, there is need for us to stress on gender issues, so that there will be no gender discrimination. Women should also be given enough opportunities to exercise their gifts and talents, and also to serve their families very well.

Madam Temporary Speaker, with those few remarks, I support the Motion and hope that Kenya will one day provide all the things that our armed forces and their families need.

Thank you, Madam Temporary Speaker.

**Sen. Kinyua:** Asante sana, Bi. Spika wa Muda, kwa kunipa fursa hii. Kwanza kabisa, ningependa kuupongeza Mswada huu ulioletwa na Seneta Khaniri. Huu ni Mswada unaofaa Zaidi, kwa sababu askari wetu wamejitolea na kujizatiti kuilinda nchi yetu; kwa hivyo, familia zao zinafaa kulindwa ipasavyo. Hii ni kwa sababu hawa watu wamejitolea maisha yao ili kutulinda sisi na wengine, kwa hivyo ni vizuri Serikali na maofisa wanaohusika wachukue fursa ya kuangalia masilahi ya askari wetu, wanaofanya kazi nzuri sana. Hawa ni watu ambao wanajitolea maisha yao pamoja na familia zao na kuziweka katika hali ya tahadhari. Kwa hivyo, tuchukue fursa yoyote ambayo tunapata ili kuwasaidia.

Bi. Spika wa Muda, najua kwamba kuna askari wengi waliopoteza maisha yao wakishughulikia nchi yetu. Familia zao hubaki katika hali hohe hahe, na wanashindwa kuelewa kwani nini hali imekuwa ngumu kwa kuwa familia iliyobakia haiangaliwi vizuri. Akina mama wanabaki wajane, watoto wanabaki mayatima na mtu mzee anabaki peke yake baada ya mke wake kupoteza maisha yake akiwa anashughulikia nchi hii. Unapata watu wanakosa motisha na uzalendo, kwa sababu hata wale waliokua na upendo kwa nchi yao, unapata hakuna mtu wa kuwashughulikia ipasavyo.

Kwa hivyo, Bi. Spika wa Muda, naunga mkono Mswada huu, na kusema kwamba haifai watu hawa wachukuliwe kwa mzaha. Hawa ni watu ambao wamejitolea maisha yao, ambapo ni kinyume na, kwa mfano, mwalimu. Huyu ni mtu ambaye anabeba bunduki, na tunajua kwamba risasi ikitoka kwa bunduki, mpaka mtu afe ama ajeruhiwe. Nampongeza aliyelea Mswada huu, kwa sababu wakati huu tunaishi, kuna maafa mengi. Kwa mfano, kuna magaidi. Tunapata shida katika mipaka yetu kwa sababu

hakuna usalama katika nchi tunazopakana nazo. Kwa hivyo, ni vizuri tuchukulie Mswada huu kwa hali ambayo inafaa, na sisi wenyewe tuunge mkono. Nataka kumpongeza Seneta Khaniri kwa kuleta Mswada Huu.

Asante, Bi. Spika wa Muda.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, pursuant to Standing Order 79, I determine that this Motion does not affect counties. Therefore, I will put a voice vote. I therefore put the question,

*(Question put and agreed to)*

Next Order.

### MOTION

#### PLANTING OF TREES ALONG MAJOR INFRASTRUCTURE PROJECTS IN KENYA

THAT, AWARE of the numerous benefits that trees play in environmental conservation, combating climate change, air and water purification, carbon sequestration, flood control, prevention of soil erosion, human and wildlife sustenance, urban planning, as well as other social and economic benefits;

NOTING THAT Kenya has and continues to implement various infrastructure projects across the country, among them railways, roads and highways, airports, sea and inland ports, pipelines, dams, among others;

CONCERNED by the extent of environmental degradation that takes place when undertaking such infrastructure projects, entailing clearance of trees, foliage, soils, rocks, excavation of quarries, interference with forests, wetlands, rivers, drainage systems and other embankments, as well as human and wildlife displacement along the paths of the infrastructure projects;

ACKNOWLEDGING THAT the Environmental Management and Coordination Act (No.8 of 1999) and the Guidelines issued thereon require an environmental audit to be undertaken before any infrastructure projects are undertaken, with a view to identifying potential environmental impacts of the proposed projects, assessing the significance of those impacts, and proposing mitigation measures to address the negative impacts of the said projects on the environment;

CONCERNED HOWEVER THAT the implementation of these provisions has failed to comprehensively address the continued large-scale environmental degradation that takes place during construction of these infrastructure projects, and that the mitigation measures undertaken thereon have failed to compensate for the damage done to the environment as well as the negative effects to human and wildlife populations along the infrastructure project paths;

AWARE THAT the national Government has launched an ambitious plan to plant 1.8 billion trees by the year 2022, with a view to enhancing the country's tree cover from 6.2 per cent to the globally accepted minimum of 10 per cent, and that this entails, among others, planting at least 1 million trees annually in each of the 47 counties;

UNDERSCORING the need to balance between development and sustainable environmental management, for the benefit of present and future generations, as enshrined in the preamble to the Constitution of Kenya;

NOTING that planting of tree buffers alongside and around major infrastructure projects in the country would help offset the carbon footprint of these projects, enhance the beauty and aesthetics of the projects, create safe spaces for human recreation and for wildlife to thrive, and help in meeting the target of 10 per cent national tree cover by the year 2022;

NOW THEREFORE, the Senate resolves that the national Government, together with the county governments, formulate a policy mandating the planting of trees alongside and around all major infrastructure projects across the country, setting out the roles of various actors at both the national and county levels, and outlining incentives and penalties to ensure that the policy is complied with, in ensuring a balance is attained between development and environmental conservation.

*(Motion deferred)*

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

## MOTION

### LEGAL AND POLICY INTERVENTION FOR CAREGIVERS OF PERSONS WITH PERMANENT MOTOR AND NEUROLOGICAL DISORDERS

THAT, AWARE that cerebral palsy, down syndrome, autism and other permanent motor and neurological disorders are birth defects characterised by, among others, disturbances of sensation, perception, cognition, hearing loss, congenital heart defects, lower than average Intelligence Quotient (IQ), impairment in social interaction and rigid, repetitive behaviors;

COGNIZANT that persons born with these and other permanent motor and neurological disorders face considerable difficulties in the social and behavioral aspects of their lives, including discrimination, physical challenges, mental and emotional health issues, and problems with inclusion and social isolation;

ACKNOWLEDGING the critical role that parents and caregivers of persons with permanent motor and neurological disorders play in

ensuring that they realize their potential to the fullest extent possible and that they have long, healthy, and satisfying lives;

RECOGNIZING that, in taking care of these persons, caregivers make considerable sacrifices in the pursuit of education, employment, investment, and other opportunities for their own advancement and, in some cases, spend the most productive years of their lives taking care of persons with these disorders;

NOTING that most caregivers lack the training, tools and psychological support required in taking care of persons with these permanent disorders, are often subjected to the same stigma as the persons they take care of and are exposed to stresses and pressure that have an adverse impact on their mental and physical wellbeing;

CONCERNED that, while a lot of progress has been made in taking care of other vulnerable and disadvantaged members of the society, equivalent efforts have not been made to recognize the important role that caregivers play, to create through policy and legislation, a conducive environment for the provision of adequate, safe and informed care to persons with these disorders;

NOW THEREFORE, the Senate resolves that the Ministry of Labour, Social Security and Services, together with the county governments, formulates a policy framework for the recognition, training, empowerment and protection for caregivers of persons with permanent motor and neurological disorders, including:

- a) provision of financial assistance and incentives to caregivers, including inclusion in the list of beneficiaries under the Inua Jamii Cash Transfer Programmes;
- b) provision of appropriate tax reliefs and exemptions to caregivers, equivalent to those advanced to other Persons with Disabilities (PWDs);
- c) exemption from taxes on goods and services required for the care and protection of persons with the disorders; and,
- d) provision of the specialized training, psychosocial and other support necessary to engage in income-generating activities for caregivers of persons with permanent motor and neurological disorders, including accessing the quota set aside in law for vulnerable groups for the supply of goods and services to Government entities.

*(Motion deferred)*

## ADJOURNMENT

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, there being no other Business, it is now time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday 11<sup>th</sup> September, 2019, at 2.30 p.m.

The Senate rose at 5.37 p.m.