

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 15th February, 2022

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

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

PRAYER

PETITION

LEAVE RIGHTS FOR WOMEN WHO MISCARRY OR SUFFER STILLBIRTHS

The Speaker (Hon. Lusaka): Hon. Senators, I hereby report to the Senate that a Petition has been submitted to the Senate by Ms. Julia Adifu concerning appropriate leave rights for women who miscarry or suffer stillbirths.

As you are aware, under Article 119(1) of the Constitution of Kenya, 2010:

“Every person has a right to petition Parliament to consider any matter within its authority including enacting, amending or repealing any legislation.”

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

THAT Section 29 of the Employment Act 2007 makes provision for maternity and paternity leaves. The Act does not provide a definition for maternity leave. However, practice has been such that the maternity leave is entitled to a woman who has given birth.

THAT working women who miscarry or experience stillbirths are only allowed either compassionate or sick leave, which is inadequate for them. The loss of a pregnancy for a woman has profound effects associated with physical and mental effects, which makes it difficult for a woman to work. Additionally, the psychological and social effects of pregnancy loss may be severe and long-lasting. These effects are often misunderstood by the society, thereby leaving the victim disenfranchised.

THAT the Employment Act is silent on cases where a woman miscarries or experiences a stillbirth on the need to allow such a woman a leave period for recovery, which may include medical or psychological treatment.

THAT women who either miscarry or experience stillbirths are entitled to the highest attainable healthcare. Furthermore, a woman who has had this experience should not be expected to work and operate with normalcy and, therefore, time for recovery should be allowed in such instances.

THAT Section 6 of the Health Act, 2017, states that every person has a right to reproductive healthcare. Specifically, Section 6(1) (c) states that:

“Every person has a right to access treatment by a trained health professional for conditions occurring during pregnancy, including abnormal pregnancy, conditions such as ectopic, abdominal and molar pregnancy, or any medical condition exacerbated by the pregnancy to such an extent that the life or the health of the mother is threatened.”

The Petitioner, therefore, prays that the Senate intervenes in the matter with a view to introducing an amendment to the Employment Act to make a provision for appropriate leave for women who miscarry or experience stillbirths during pregnancies.

Hon. Senators, pursuant, to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Sen. Wambua: Mr. Speaker, Sir, I stand in support and solidarity with the Petitioner, Ms. Julia, on this matter of leave absence from work denied to women who have had the misfortune of miscarriage.

It is true that the Employment Act is clear on maternity and paternity leave. According to the Act, parents who are blessed with children are given some sufficient time to celebrate and attend to the newborns.

I am impressed by the thinking of this Petitioner that a mother who has miscarried would actually require a lot more time for both psychological and even medical attention.

The prayer by this Petitioner is properly before this House. Perhaps, the time has come and since the Petition has been brought to the Senate and not the National Assembly, I challenge my colleagues that we take up this prayer and push for an amendment to the Employment Act to ensure that mothers who miscarry also benefit from maternity leave.

The same should also be extended to the fathers, whose child has also died at birth or the man whose wife has had the misfortune of miscarriage.

I fully support and hope that before winding up this Session of Parliament, we shall be able to come up with that simple but important amendment to the Employment Act to take care of those women.

I thank you.

The Speaker (Hon. Lusaka): Yes, Sen. Kavindu, via *Zoom*.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this important Petition from this lady. I congratulate her for such a wonderful Petition. It is true---

The Speaker (Hon. Lusaka): Sen. Kavindu.

Sen. Kavindu Muthama: Mr. Speaker, Sir, can you hear me?

The Speaker (Hon. Lusaka): We cannot see you.

Sen. Kavindu Muthama: My *nini* has a problem, but you can hear me. I am on my way coming there, but I can contribute if you allow me. Can you hear me?

The Speaker (Hon. Lusaka): We can hear you. Are you coming to the Chamber?

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Sen. Kavindu Muthama: Yes, I am coming to the Chamber right away.

The Speaker (Hon. Lusaka): Maybe I can give you an opportunity once you arrive.

Sen. Kavindu Muthama: Can I contribute?

The Speaker (Hon. Lusaka): No, just come and contribute here because we cannot see you.

Sen. Kavindu Muthama: Okay, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Let us have Sen. Poghisio.

The Senate Leader of Majority (Sen. Poghisio): Mr. Speaker, Sir, I want to take this opportunity to support this Petition. It is a very sensitive matter and I am wondering why all along this has not come to the attention of Parliament. It is something that should have been considered a long time ago to amend the Employment Act and all other relevant Acts of Parliament to allow for that.

I do appreciate parents who go through this kind of experience. With no support, it can be very difficult. We have always thought that maybe the women who go through such have not actually had a birth, but you can tell that it is unfortunate the child died, or stillbirth was experienced, but the person has gone through the process, maybe even a more difficult process.

This is a challenge to the Committee on Health or any other relevant committee to look at this matter and take appropriate action. I want to thank the Petitioner on behalf of other women. She is not just speaking for women, but also men associated with the same issues. Therefore, I support and hope that the committee responsible for this will expedite and enable us to quickly attain the prayers of this Petitioner.

I thank you.

Sen. Khaniri: Mr. Speaker, Sir, I want to thank you, for the opportunity. I came in when you were presenting the Petition. If I got you right, the Petitioner wants us to amend Section 29 of Employment Act, so that maternity leave can also be given to mothers who miscarry. If I got it right, then I want to say that I strongly support the Petition by the Petitioner. This is long overdue. It is a huge gap in our legislation - if it is not there yet -because if we do what she is asking us, then we are improving that particular Act.

A woman who goes through what she has just described is a terrible trauma. They will require that full maternity leave. Otherwise, if they are not entitled to that then it means you get double tragedy; you lose the baby and still have to go to work. I urge the committee that this matter will be forwarded to, to expedite, so that we see if we can do something before the end of the life of this Parliament.

I thank the Petitioner for having confidence in the Senate of the Republic of Kenya. We are getting many Petitions as you have noticed. This is because Kenyans have confidence in this House; that this is a House where they petition and their matters are resolved. We want to urge the committee that we must maintain that good name and ensure this matter is expedited, so that we work on it in the requisite 60 days.

I thank you.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir for the opportunity. Allow me to start by thanking Julia who has brought this Petition to this House. As a woman, I can say that Ms. Julia has brought a very valid Petition to this House. There are so many

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women out there who are going through harrowing moments; they are looking for children, have done their best and by bad luck, are not able to carry the baby up to full term. That alone is psychologically traumatizing. It is painful for them and they need a lot of time to heal.

When you look at the Employment Act, it is very clear on the leave rights of a full term pregnancy. If a woman gets pregnant and delivers, the leave period is there; for stillbirth it is also there. However, there is a lacuna that needs to be filled with regard to women who are on employment and they miscarry. This is because they miscarry not out of their own accord, but it is just due to unfortunate circumstances. You will find that these women had spent a lot of money hoping from one doctor to another, just to see how they can secure a full term pregnancy, but because of fate, they end up not carrying the pregnancy to full term.

There is need to interrogate and debate soberly on this Bill, so that it sees light at the end because women are suffering out there. Constitutionally, it is very clear that we are keen about addressing the issues of health and Kenya is one of the signatories of State parties that signed and ratified international laws that address issues of health.

When you look at the declarations that Kenya made, it committed itself to ensuring there is good health for everyone. This also addresses the Sustainable Development Goals (SDGs) that speak on wellness. It also addresses Article 43. It is even enshrined in our Constitution. Therefore, if this Petition sees light at the end of the tunnel, we will have implemented what is in the Constitution and it is our onus to defend the Constitution.

I support this Petition.

Sen. Nyamunga: Thank you, Mr. Speaker, Sir, for giving me an opportunity to support this Petition by Ms. Julia, who would like to have us amend Section 29 of the Employment Act.

It is very unfortunate that such a thing exists. In fact, I think it is a very big oversight by Members of Parliament or even members of the public because this should have been brought to the attention of Parliament long time ago.

Any time a woman is carrying a child, it is a very delicate and long process, such that if you end up having that pregnancy terminated or losing such a child, you become more traumatized than a woman who has given birth and has a baby. Even as the woman who delivered a baby recovers from the whole process of carrying the baby and delivery, the one who has lost a baby has double tragedy.

I want support all my colleagues who have supported this amendment. It is important that we find a way of this Petition becoming a Motion and eventually into a Bill, so that it is done with a lot of speed because it is very traumatizing. I cannot overemphasize the trauma of going through the pregnancy, losing the child and then going back to work immediately. Every time you meet your colleagues, they will not know what you may have gone through.

Everybody will be asking such a woman, ‘how is the baby?’ It is traumatizing. Such a woman should be given enough time to recover and go through the process of healing.

I support the Petition by Ms. Julia Andifu and urge the House to work on it speedily for the benefit of women who are suffering or may suffer from lack of the leave days.

The Speaker (Hon. Lusaka): Sen. Omogeni, proceed.

Sen. Omogeni: Thank you, Mr. Speaker, Sir, for giving me an opportunity to rise in support of this Petition. We must thank ourselves as Kenyans for having passed such a progressive Constitution in 2010, which gives Kenyans a right to Petition us on an important issue such as the one that has been presented before us this afternoon.

It is a good connection between the work we do as parliamentarians and Kenyans who believe in us. Kenyans can approach us through a Petition as provided for in Article 119 of the Constitution for us to intervene.

I thank this Kenyan. I do not know whether she is a lawyer or been a victim of having a stillbirth. However, the fact that she has read the Employment Act and picked the gaps there and chose to Petition us, we should not let this pass. I hope that the Committee tasked to look into this Petition will consider bringing amendments to the Employment Act, so that this matter can be addressed.

Some of us have relatives who have gone through stillbirths. About six years ago, my cousin experienced a stillbirth. I remember how traumatizing it was. The sad part was that despite the fact that many people came to condole her and say *pole*, she was required to go back to work immediately. Despite the fact that she had carried the pregnancy for a period of eight months, she was expected to go back to work. It is a matter that we have never picked out as legislators, but we must thank this Kenyan who has taken time to read the law and approached the Senate for the matter to be addressed.

I appeal to other Kenyans to borrow a leaf from this Kenyan. There are many other issues that we may not pick as parliamentarians, but Kenyans can pick them and take advantage of the provision of Article 119 and petition this House. What we must do is not to let down these Kenyans. They need to be assured that once they approach the Senate, we will give due consideration.

We are not bound to agree with the Petition, but let us give it due consideration and allow Kenyans to debate about it. If we agree with the Petitioner, as I have heard most of the speakers who have contributed this afternoon, we should move forward and make amendments to the Employment Act, so that we can address this suffering that our women, who are our mothers and sisters, go through.

Mr. Speaker, Sir, I support.

The Speaker (Hon. Lusaka): Sen. Kavindu Muthama, proceed.

Sen. Kavindu Muthama: Mr. Speaker, Sir, I thank you for giving me this opportunity. I am sorry I had my hand raised on the *Zoom* online platform, but we could not communicate. I am ready to contribute now.

This is a timely Petition. I congratulate the lady, Ms. Julia Andifu, who has brought this Petition to the Senate. It is double tragedy when one miscarries after she has been pregnant for some time. She has the pain of losing the child and one of delivering a stillborn baby. Such women suffer psychologically and emotionally. Whenever they think of the period of pregnancy, it becomes painful for them. I agree with the Petitioner that it is not easy for such a woman to go back to work and deliver normally like any other person.

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Mr. Speaker, Sir, I request that women who have experienced stillbirths get psychological help, so that they can be supported through the mourning period. Giving birth to a stillborn baby is not like giving birth to a healthy child. The mother who has delivered a healthy baby is happy because whenever she sees the baby she rejoices. However, a mother who delivers a stillborn child cries every time she remembers the ordeal. This matter is long overdue and should be looked into.

Mothers with such experiences should be given time to heal. The three months' period that mothers are given as maternity leave is not enough for one to heal from child loss.

Thank you, Mr. Speaker, Sir. I support this fully.

The Speaker (Hon. Lusaka): Sen. Madzayo, proceed.

Sen. Madzayo: Asante Bw. Spika. Namshukuru na kumsifu mama Julia Andifu ambaye ni Mkenya aliyeleta ardhihali hapa Seneti. Kitu cha kwanza, kwa mama ama familia kumpoteza mtoto katika ile miezi tisa alafu dakika za mwisho inaonekana kwamba maisha ya mtoto hayawezi kuwa au daktari kufanya uamuzi wa yupi ataponyesha na ni yupi hawezi kupona, ni jambo la kusikitisha na huzuni ndani ya familia. Nina hakika mama Andifu alipoandika ardhihali hii, akilini mwake alikuwa anatafakari uchungu wa mama. Kule nyumbani tunasema, uchungu wa mwana aujuaye ni mzazi.

Ardhahali hii ni changamoto sana kwa hili Bunge letu. Hakuna aliyependa kufiwa na mwana ama kumpoteza mtoto wakati kila mtu anajua ni mgeni anakuja katika familia. Ni wakati mwafaka sisi kama Wakenya tuanze kutafakari na kufikiria. Sio lazima baada tu ya kuzaa mtoto aliye hai mama ataenda likizo, hata huyu mama aliyeteseka kubeba mtoto akiwa na matumaini na hatimaye kuambiwa matumaini yake yameangukia patupu anastahili likizo kwani ni jambo la kusikitisha.

Kamati itakayohusika na ardhihali hii inatajikana ifanye haraka iwezekanavyo kwa sababu ni muhimu na njia moja ya kupea afueni familia ambazo zitapatikana na janga kama hili la kumpoteza mtoto kabla hajazaliwa. Naunga mkono kwa dhati.

The Speaker (Hon. Lusaka): Sen. Olekina, Proceed.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support this Petition. From the outset, every time we receive Petitions in this House, it reminds us how unfair we are when drafting legislation. The drafters of the Employment Act ought to have considered that whether or not a baby is born alive, that parent needs time to heal and deal with the difficulties that have occurred to them. It behooves us now during this process – I hope the Committee on Labour and Social Welfare will initiate amendments to the legislation to take into consideration some of these salient issues raised in the Petition.

Mr. Speaker, Sir, I commend the Teachers Service Commission (TSC) for making certain changes in their maternity leave policy. I am aware that female teachers are now given four and not the three months, which has been the norm. It was a little bit unfair for the men because they are given only three weeks' paternity leave. Men are the ones who shoulder the biggest burden because when your wife is just at home, you also want to feel attached to your children. You also need time to spend with your wife and children and support them.

Since this Petition has shown the system to be unfair, I think it will be important for this House to amend the Employment Act. We need to make it clear that it does not

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matter how long a pregnancy has been carried. Whether it is three, four or even 24 weeks, that trauma still requires some time to heal.

Mr. Speaker, Sir, I hope that it will not just be a subject of discussion here. We can actually spring into action and ensure that we bring in the amendments. If the terms “maternity leave” or “paternity leave” will not be appropriate for a situation where a parent has lost a baby after birth or has had a stillbirth, maybe that period could be considered as sick leave.

Parents who have gone through the trauma of a stillborn baby find it very difficult to leave their bed, go back to their employer and seek to extend their sick leave. As we draft and make amendments to the Act, we have to define it. It may not be called ‘maternity leave,’ but an extended sick leave due to unforeseen circumstances that led to the stillbirth.

I support the Petition and hope that we can reduce the pressure from the Kenyans, who suffer through these challenges of this word.

The Speaker (Hon. Lusaka): Sen. Faki, proceed.

Sen. Faki: Asante, Bw. Spika, kwa kunipa fursa hii ili nichangie malalamiko yaliyoletwa na Bi. Julia Difu, kuhusu akina mama ambao mimba zao zimeharibika.

Malalamishi hayo yanazungumzia mambo mazito kabisa katika sheria yetu na pia Katiba. Kila Mkenya ana haki ya kupewa huduma za afya za hali ya juu. Mambo ya uzazi ni mojawapo ya vitu muhimu sana katika afya ya binadamu. Kwa hivyo, haki za kina mama wanaojifungua lazima zilindwe.

Tumeona kwamba sheria inabagua akina mama wanaojifungua kuchelewa na pia wanaojifungua watoto wasio hai. Swala hili lazima liangaliwe kwa haraka kwa sababu Wakenya wengi, hususan akina mama, wanapoteza haki zao ilhali sheria iko wazi ya kuangalia swala kama hili.

Wengi waliyotangulia kuzungumza walitaja mambo muhimu lakini katika Kifungu cha Pili, Bi. Difu amezungumzia sheria ya afya na kutaja vitu vyote ambavyo vinaguza akina mama hapa Kenya.

Tumepiga hatua fulani katika nyanja za afya. Kwa mfano, Wizara ya Afya imeleta mpango wa “Linda Mama”. Hata hivyo, mara nyingi huu mpango unawalinda akina mama waliozaa watoto walio hai. Mpango huo hauwatunzi wale ambao wamejifungua kuchelewa.

Bw. Spika, ipo haja kuhakikisha sheria hii ichunguzwe haraka ili kusuluhisha malalamiko ya Bi. Difu.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No. 232(1), the Petition should be committed to the relevant Standing Committee for its consideration.

In this case, I direct that the Petition be committed to Standing Committee on Health. In terms of Standing Order No. 232, the Committee is required in not more than 60 calendar days from the time of reading the prayer, to respond to the Petition by way of a report addressed to the petitioner and laid on the table of the Senate.

Thank you.

Next Order!

PAPERS LAID

The Senate Leader Majority (Sen. Poghio): Mr. Speaker, sir, I beg to lay the following Papers on the Table of the Senate, today, 15th February, 2022.

THE TRAFFIC (DRIVING SCHOOLS, DRIVING INSTRUCTORS
AND DRIVING LICENSES) RULES (LEGAL NOTICE NO.28 OF 2020)

The Traffic (Driving Schools, Driving Instructors and Driving Licenses) Rules (Legal Notice No.28 of 2020).

REPORTS ON FINANCIAL STATEMENTS OF VARIOUS COUNTY FUNDS

Report of the Auditor-General on the financial statements of Kajiado County Executive Staff Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Uasin Gishu County Emergency Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Uasin Gishu County Assembly Mortgage and Car Loan Scheme Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Uasin Gishu County Education Revolving Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Migori County Assembly Car and Mortgage Scheme Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Kiambu County Education Bursary Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Uasin Gishu Bursary Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Kajiado County Youth and Women Enterprise Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Nyamira County Education Support Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Kwale County Youth, Women and Persons with Disabilities Revolving Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Kirinyaga County Assembly Staff Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Garissa County Scholarship Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Siaya County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of Kilifi County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the financial statements of West Pokot County Bursary, Educational Development and Infrastructure Fund for the year ended 30th June, 2019.

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Report of the Auditor General on the financial statement of Elgeyo Marakwet Alcoholic Drinks Control Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Trans-Nzoia County Nawiri Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Baringo County Bursary Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Busia County Cooperative Enterprise Development Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Kericho County Agricultural Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Kisii County, Kenya Urban Support Programme Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Kajiado County Disability Mainstreaming Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Kisii County Bursary Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Busia County Assembly Car Loan and Mortgage Scheme (Revolving Fund) for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Tana-River County Assembly Gratuity Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of West Pokot County Assembly Members Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of West Pokot County Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Nandi County Executive Education Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Siaya County Bursary Fund for the year ended 30th June, 2019.

Report of the Auditor General on the financial statement of Turkana County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2019.

I thank you.

STATEMENT

CYBERCRIMES AND DATA INSECURITY IN THE COUNTRY

The Speaker (Hon. Lusaka): I do not see Sen. Halake in the House.

(Statement deferred)

Next Order!

BILLS

Second Reading

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THE PRESERVATION OF HUMAN DIGNITY AND PROTECTION
OF ECONOMIC AND SOCIAL RIGHTS BILL
(SENATE BILLS NO.21 OF 2021)

(Sen. Halake on 9.2.2022)

(Resumption of debate interrupted on 9.2.2022)

The Speaker (Hon. Lusaka): I direct that the Division Bell to be rung for five minutes

(The Division Bell was rung)

Let the Bell be rung for another three minutes.

(The Division Bell was rung)

The Speaker (Hon. Lusaka): Proceed, Senate Majority Leader, Sen. Poghiso.

The Senate Majority Leader (Sen. Poghiso): Mr. Speaker Sir, I wish to request that pursuant to Standing Order No.61 (3), putting of the question on this Bill be deferred to a later date.

(Putting of the Question on the Bill deferred)

The Speaker (Hon. Lusaka): In that case, I wish to re-organize the Order Paper for the convenience of House and direct that we go to Order No.19.

Second Reading

THE SPECIAL NEEDS EDUCATION BILL
(SENATE BILLS NO.44 OF 2021)

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker Sir, for the opportunity.

I seek to move The Special Needs Education Bill (Senate Bills No.44 of 2021).

Mr. Speaker, Sir, I feel that it is well meaning to let you and the House know why I have a passion for Special Education.

At one point in life---

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

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

The Senate Majority Leader (Sen. Poghiso): Mr. Speaker, Sir, is it in order for my good friend, Sen. (Dr.) Musuruve, to proceed as if she has moved the Bill when she has not?

The Speaker (Hon. Lusaka): Kindly move the Bill, Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, I beg to move that The Special Needs Education Bill (Senate Bills No.44 of 2021) be now read a Second Time.

Mr. Speaker, Sir, I really have a strong passion for special needs education. The innate desire I have comes as a result of having taught in a special school.

I was a high school teacher at St. Angela's School for the Deaf, where I taught language. I also did my first degree in Special Education. I saw the lacuna that was there and in my Masters I tried to fill it by writing books. Although I did special education, I did not have a platform to legislatively implement the lacuna that I saw. The Senate has given a platform to fill the lacuna.

I congratulate my co-sponsor, Sen. (Prof.) Kamar, for being passionate about this. She encouraged me to come up with this Bill and delve into it. Therefore, I appreciate her for what she did.

Mr. Speaker, Sir, this Bill comes out strongly to provide education for learners with special needs.

Mr. Speaker, Sir, the constitution is very clear in Article 53. It talks about the right to education of every child. Even though it talks about the right to education of every child, it does not specifically delve into the needs of children with special needs. We must be cognizant of the fact that Kenya is among the states that ratified the international laws on children with disabilities.

This Bill will be handy in helping to implement the international laws that Kenya signed enshrining education in its constitution. It will also provide a framework of establishing a comprehensive education system that will ensure that children with disabilities have quality education. It is because this is a significant group that most of the time is left behind when it comes to education. This Bill will also ensure that international standards of education are adhered to.

Mr. Speaker, Sir, when you go to schools for children with disabilities, you will find that the standards have been compromised. I want to give an example where you accompanied us when we visited a school of the deaf with Sen. (Prof.) Kamar and saw how the conditions were pathetic.

This Bill will ensure that standards of education are not compromised. It will also ensure that exclusion, discrimination, and isolation with regard to our special needs children is not there.

One of the guiding principles of this Bill is that we should have education for all. When we talk about education for all according to Article 53, we are saying that even children with disabilities should not just have education but quality education.

Another guiding principle is being sensitive to the cultural development and needs of the learners. It must be clear since learners with disabilities are not on an equal footing because they are diverse.

We have learners who are deaf, blind and those with physical disabilities. Some have development challenges. All these learners should not be treated equally because every learner has a special need that needs to be addressed. This Bill will ensure that learners specific needs are addressed.

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

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

Madam Deputy Speaker, another guiding principle in this Bill is recognizing the family and parents as important stakeholders and caregivers. When it comes to children with disabilities, it is unfortunate that sometimes people take them from a different paradigm. They do not realize that they also have special needs and personal goals. They just take them as people with special needs.

Whether one has a disability or not, every human being has a personal goal. Personal goals can only be achieved if parents and caregivers are also recognized and factored in. Parents can inform what the children need. Together with teachers, they can help children with disabilities reach their optimal potential. Even children with disabilities have potentials. This Bill will ensure that optimal potentials of children with disabilities are reached.

Another issue that this Bill seeks to address, which is equally important, is the issue of equity and equality. You will hear people saying that there is no money for infrastructure in schools and all that. We talk about schools generally but rarely do we find a talk about children with special needs education requiring a significant fraction of money that will help in infrastructural development of their schools.

Madam Deputy Speaker, allow me to say on the Floor of this House about a pathetic situation that I witnessed. Can you imagine having one classroom for children with different forms of disability and about four teachers teaching at the same time using one blackboard? They divide the blackboard so that learners can learn. It is a painful situation and that is the reality on the ground.

In some schools, there is no infrastructure for children with disabilities. Some are all lamped in something like in a cowshed. This Bill will see to it that county governments take issues of special needs education with the seriousness it deserves.

Children with disabilities have the potential, but have we tapped their potential in education? It is only the opportunity that they lack but when we tap the potential and give them the opportunity, they can perform, just like anybody else. This Bill seeks to ensure that we tap the potential that children with disabilities have.

There are those who can do well in academia. Others can do well in crafts, Paralympics, music or games and their potentials should be tapped. This Bill seeks to ensure that every child with disability is seen as an individual who can be helped to become potential.

According to this Bill, both levels of governments will be involved. The national and county governments will have to work in collaboration to ensure implementation of this Bill.

When it comes to policy issues, the national Government will come in handy. The national Government is obligated to come up with policies with regard to education and many other issues in this country.

According to this Bill, the national Government will come up with policies on education for learners with disabilities to ensure there is infrastructure, teachers are posted, equity, and that Government resources reach institutions for learners with disabilities.

Many times we talk about not having enough human resource in special schools. Sometimes when we talk, it is like the information falls on deaf ears. This Bill obligates the national Government to have an inventory of the human resource in special schools.

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That is important because when we talk about lack of teachers, it will be clear in the national inventory that there are few teachers. Without an inventory, we might talk but whatever we say may not be implemented. This Bill seeks to ensure that we have a structured way of having enough human resource in special schools.

We are supposed to have resource centres in the counties. We need resource centres for children with disabilities so that they can be assessed for the purpose of ensuring they are being placed in the right and appropriate institutions.

You will find no personnel and infrastructure in some resource centres. All you find is just a room because people have not taken resource centres seriously.

This Bill states clearly how a resource centre needs to be in terms of human capacity, equipment and its functions. We have IAX but currently they are not functioning. I remember some years back, we had IAX that were functioning when the Government of Kenya collaborated with the Danish International Development Agency (DANIDA). At that time, IAX were performing very well but right now, they are in a deplorable state.

Madam Deputy Speaker, this Bill will awaken what was started with regard to IAX so that they are functional in every county government. This Bill will obligate the national Government to also come up with an appropriate environment for ensuring delivery of services for children with disabilities because they have a right to education, to maximize their potential and to be productive citizens in this country.

According to this Bill, the national Government will be obligated to come up with strategies that will ensure we actualize the education of learners with disabilities. Apart from the national Government, the Bill also speaks to the county governments too which have also been given a role.

Madam Deputy Speaker, county governments need to have an inventory of all special needs institutions within their jurisdiction. The county government also needs to know what kind of institution is there, what categories of disabilities it deals with and the kind of special education they offer. I remember at one time, county executives came before us and they were talking about special education. From their conversation, I realized that they had no clear idea of how they needed to intervene to ensure that children with disabilities get quality education.

Even when there are institutions, there is need for the county governments to categorize the kind of institutions in that county. For example, is the institution dealing with deaf learners, the visually impaired learners, the physically impaired or the developmentally challenged learners? This is because most counties just talk about having special needs institutions but they do not have different categories.

Madam Deputy Speaker, when you look at it, this is an unfair way of dealing with special needs children because they are not the same. Every child needs an individualized educational plan which will ensure that every child can self-actualize.

According to this Bill, the county government has an obligation to ensure that the policies at the national level cascade to the counties. The county government also needs to put strategies in place to ensure there is infrastructure.

When it comes to special education, there should never be a disconnect between the national Government, the county governments and education. There is need for a

tripartite relationship between the national Government, county governments and the implementation of education.

The national Government cannot work alone. Whatever information, infrastructure and policies are there, they need to cascade to the county government. If there is good relationship with regard to the education of children with disabilities, it is possible for county governments to lobby for resources from the national Government so that they are able to implement the demands of Sustainable Development Goals (SDG) No.4 of ensuring that quality education reaches all including learners with disability.

This Bill also seeks to ensure that necessary resources are in the county governments. For example, IAX should be fully equipped so that they are able to deliver for learners with disability. This cannot be implemented if the county government does not step in and if it does not collaborate with the national Government.

Madam Deputy Speaker, there is usually an overlap of roles sometimes because the county governments are not able to execute some of the mandates within their dockets. At times when you go to the county, you will find there is no infrastructure for children with disabilities yet the county government is given money. This means that they do not allocate money for the infrastructure. According to this Bill, the county governments will be obligated to allocate some of the money from their budgets towards the education of learners with disabilities. It is unfortunate that if we make a follow-up, we will find that some of the teachers are not even paid. Some of them work like maids considering this is a tiresome job. Taking care of children with disabilities is not a walk in the park.

You will find that some of these children need a one-on-one teacher, for example, a deaf and blind child. You can imagine having the task of making a child who is deaf and blind, perform; that teacher will have a difficult moment teaching that child. According to this Bill, the Teachers Service Commission (TSC) has to ensure that when it comes to remuneration, teachers who teach children with disabilities are paid for their work. They should be paid well and be given an allowance for the work they do because it is not easy.

The TSC will come in to ensure there is appropriate human resources in schools for children with disabilities. For example, when we talk about the ratio of teacher to learner, it should be 1:1 for the deaf and the blind. When it comes to the deaf only or the physically challenged, there is a ratio.

This Bill will ensure that we are doing the right things for learners with disabilities. I want to say from the bottom of my heart that if there is any achievement I have done in this Senate; it is to fight for special education for the learners with disability because I know the gaps that are there. We need to ensure that we support special education so that it is taken seriously.

I want to mention something that also happens on the ground. You will find that children with disabilities are lumped somewhere while someone somewhere is getting donations purporting the funds to be for the children. However, according to this Bill, no one in Kenya will be allowed to carry out services for children with disability if they are not registered.

It is an honourable thing that teachers who teach children are registered by the TSC. In the same breadth, even those manning special needs institutions should be

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registered by the TSC. We cannot say that we are keen about registration of teachers and yet when it comes to disability, anyone can come up and say they are starting a special needs school. When you walk inside there, you find there is no quality education, nothing is going on and yet the person claims to be running a special school.

There is a fine meted out on people who begin special schools but are not registered. This Bill speaks of parent associations for children with disabilities. Coming up with parent associations is good because parents can help teachers help their children. We cannot wish away parents and we have to bring them and caretakers on board.

When you look at this Bill, the county government needs to raise awareness on issues of disability in the county. I have seen some county executives coming up with a summary indicating the amount spent on special needs and children with disabilities but, when you walk around in the counties, you find that the paper pronouncements do not corroborate what is actually on the ground.

Madam Deputy Speaker, even as we pursue this Bill, there is need to do oversight on what is happening at the counties. Then afterwards, we have a candid discussion in order to do service to children with disabilities.

Madam Deputy Speaker, if we tap the potential of learners with disabilities, it will be a boom for us. This Bill talks about teachers with disabilities who are supposed to retire at the age of 65. The retirement age at 65 years should not be conditional, that even if you get a disability now and you are supposed to retire in three months' time, it is not your wish that you have a disability.

It is honourable for all teachers with disabilities to retire at 65 years so as to ensure that we maximise the potential of the few personnel that we have with disability.

Persons with Disabilities (PWD) experience many challenges getting jobs hence most of them languish in poverty. They are not able to educate their children and so the cyclic nature of poverty continues in their lives.

This is a Bill that is well meaning. I hope and believe that my fellow Senators will support this Bill so that it sees light at the end of the tunnel because they have always supported issues of disability.

With these few remark I beg to move that the Special Needs Education Bill (Senate Bills No. 44 of 2021) be now read a Second Time. I request Sen. (Prof) Kamar to second.

The Deputy Speaker (Sen. (Prof) Kamar): Thank you Senators I am waiting for the changeover. If you could allow us two minutes to effect that.

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

[The Temporary Speaker Sen. Nyamunga in the Chair]

The Temporary Speaker (Sen. Nyamunga): Sen. (Prof.) Kamar, the Floor is yours

The Deputy Speaker (Sen. (Prof) Kamar): Thank you, Madam Temporary Speaker. I rise to second this Bill on the Persons with Disabilities Amendment Bill 2020. I want to thank my co-mover who has done a good job

The Temporary Speaker (Sen. Nyamunga): I think you are seconding the wrong Bill. It is the Special Needs Education Bill (Senate Bills No. 44 of 2021)

Sen. (Prof) Kamar: Madam Temporary Speaker, I do not want to be like the Governor of Embu County who had two speeches to deliver and ended up reading a wrong speech for the second event.

(Laughter)

I thank Sen. (Dr.) Musuruve for this Special Needs Education Bill (Senate Bills No. 44 of 2021).

Madam Temporary Speaker I second this Bill knowing very well that education is a right to every child in this country. This Bill is an Act of Parliament that is supposed to provide for education of learners with special education needs for the conduct of the education institutions as regards to special needs learners and for connected purposes.

This is a very important Bill because according to the Constitution of Kenya, every child has a right to education. I am a member of the National Fund for the Disabled of Kenya. Last week, I visited a school in Kakamega called St. Monica School. It is a special school for the deaf. It is the only one in that region and in the North Rift region. We actually call it the institution for Western Kenya. In Uasin Gishu County, we only have a school for the deaf that only takes care of primary school and after that, we off load our children to St. Monica School in Kakamega.

That tells us that education needs of our special children are completely un-met. A whole county can have a primary school without a secondary school for children with special needs and we cannot have one secondary school in the whole region. That school is fed by all the counties in North Rift Region and Western Kenya.

The provisions of this Bill to enable proper education for these children is very important aspect. The rights of learners with special needs are like the likes of any other learners. The sad thing in our country is that special needs learners were ignored for a very long time. We need to know that if we do not educate these children, they become a burden not only to their families but the nation.

One of the aspects of this Bill is about the access to quality education. Last year, I visited special schools in the Meru, Embu and Isiolo under the program that I am engaged in. Inaccessibility to education for a special child is not just accessing the school and having one teacher like what most schools have done. In most of the school that we visited, they had only one teacher in special education integration. In classrooms where there is integration the children are not getting enough attention.

Children that are disabled in one way or the other need extra attention beyond the reading of the books that they have. We went to one school that was dealing with physical disability. What shocked us was that there were no ramps for the children to access the classroom they are supposed to be in. If there are no ramps for them to access classroom, they have already been discriminated and locked out.

When we talk of the rights of the special learners needs, we must consider the fact that we are not only looking at the education content that we are looking for. We are looking at the accessibility to the learning institution itself and mobility within the school.

We were in a school where the other children have to lift the wheelchairs for the students who are lucky to have wheelchairs. We also had a meeting with the parents of

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the special children and discovered that if the special children are not taken to school, the mothers have no other jobs except to take care of them.

Madam Temporary Speaker, when we say every child has a right to education, it is not the child to conform to the institution, but it is the institution to conform to the child. Every child who has attained the age of going to school should be in school at the same time.

We discovered that most of the special children start school late. We learnt that some of the special children begin school when they are already 14 years because parents have been left to spend their time training them how to cope with the other children. If truly our Constitution says that every child has a right to education, it is important for the schools to conform to the children who go to school and take care of them because it is their right.

Madam Temporary Speaker, you are a mother. You know that we do not choose the children that we deliver. It is God who gives you the child. Whatever child comes forth from our mother in this country should be taken care of by the country.

For example, we said Kenyan children must learn Kenyan Sign Language (KSL) in school. When we had public participation for one of our Bills, a parent told us that that is clear discrimination in our schools. She said that if you teach a special child a language so that they can communicate with only you and their teachers, how do they communicate with the other children? It is time this country thought of how we can enable school going children to communicate with their fellow children.

In fact, Madam Temporary Speaker, in the case of the schools for the deaf, this mother of a deaf child came out very strongly that the language of the deaf is Sign Language, while that of the blind is the Braille. She then posed a very big question; why can the Competency Based Curriculum (CBC) not teach our children all these languages up to class four? The reason here is to allow interaction between our children whether a child is disabled or enabled because all of us are abled differently.

I think these are some of the bold steps that we need to go beyond as we look at this Bill. As CBC comes out, it is very important that they start addressing how these children can enjoy their education. For you to enjoy wholesome education, no education that should shut out play time. These kids must interact with the other children during play time and not be isolated.

I know the Ministry of Education has been talking about interactive sessions for these children. In fact, I went to one of the schools for the deaf and discovered that children from a neighbouring school had visited the School for the deaf, as one of their CBC activities. When they reached the School for the deaf, they found a different KSL. For example, the deaf children had their own signs for “come” and “go”, different from what these other kids had been trained. Some clapped while others put up their hands because that is how they have been trained.

It is very important that when we talk of special needs education, we need to broaden it beyond the child that is being trained. This will enable other children to actually interact with them. That is why I strongly believe that the Ministry should start addressing how to make the special needs education more interactive and not isolative.

It is not to isolate our children into various docketts for their own sake. Yes, we use the Braille to train blind children so that they can go to university and become

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professionals in their line. Same to KSL, which is used to train deaf children to grow to their maximum potential. However, interaction between our children is one thing that is extremely important.

Madam Temporary Speaker, as we look at the rights of the learners with special needs, we need to ask ourselves where their right to interact with others is. That is why I strongly recommend that the Ministry of Education starts giving them interactive sessions. I support the parent who recommended that all our children learn the Braille and KSL up to Grade Four, as one of the languages. After all, we are very busy teaching our children French, German and so forth.

If we want to take good care of our special needs children, our specialist education should be accommodative. We should make sure that the rights of these children are completely addressed through access to education, access and mobility within the classrooms and how to make the learning interactive. That way, we can fulfill what the Ministry of Education calls “accommodation of children with special needs” within the other schools.

It is a very good strategy by the Ministry of Education. We do not want to isolate them all the time. We do not want them to come into class and be isolated further because the other children are learning differently and learning more things than them. We must really address them.

Putting in infrastructure is a key issue. Facilitating the human resource as raised by my dear sister, Sen. (Dr.) Musuruve, is very important. This Bill has assigned roles to different levels of Government. Currently, you find a lot of suffering of the special needs children because nobody takes serious responsibility. In some cases, you will hear a county government say that that is a national Government function. In other cases, you will hear the national Government say the county government has a lot of money; why do they not do it? This Ping-Pong between the national and county governments can bring a lot of problems to special groups that we need to pay attention to.

Madam Temporary Speaker, this Bill has given good and clear guidelines on who should take responsibility for what. The responsibilities of the county government have been clearly articulated. We know that county governments are closest to the children and they should be able to identify every child and take them to school.

If the county government takes special education very seriously, we should be seeing more schools. As I said earlier, Uasin Gishu County has a special school but those children have to go to another county because we do not have something tenable for their progression. You cannot have 40 children and then send about four of them to a school in another county because there is no school in your county. It is very important that county governments take this very seriously and do effective and efficient delivery of special needs education at that level. This will enable our children to enjoy their education.

I do not want to go further because I know a number of our colleagues would be interested in this. I want to thank Sen. (Dr.) Musuruve because she has been a very special person in this House as far as special needs education is concerned. A number of Bills have come of age because of her.

With those few remarks, I second the Special Needs Education Bill (Senate Bills No.44 of 2021.

(Question proposed)

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Sen. Cherargei: Thank you, Madam Temporary Speaker. I congratulate the sponsors of the Bill, Sen. (Dr.) Musuruve and my neighbour, Sen. (Prof.) Kamar.

This is a very straight forward Bill. The reason for this Bill is found under Article 43 of the Constitution on Economic and Social Rights. The right to access to quality education must be defined. The establishment of the Economic and Social Council of Human Rights is a good thing. We are moving from civil, red and blue rights, as envisaged. This is very important because we are now moving to economic and social rights.

Quality education is not just for children who are able bodied or whose bodies are not impaired in a way. All children must have access to quality education. To give meaning to quality education, we must also look for the special needs part.

Apart from English and Kiswahili, Kenyan Sign Language is one of the milestones of the Constitution of Kenya, 2010. Articles 34 and 35 on the rights of media freedom and access to information are not only meant for the people who hear, read and listen.

We must also ensure that the people who cannot see can listen and those who do not hear can understand. This has been captured very well. It was the intention of the drafters that we do not leave out the rest of Kenyans who are the people living with disabilities.

This Bill is very critical to give meaning to Article 34 and 35 on the right on media freedom and access to information, and having the Kenyan Sign Language.

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

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

Madam Deputy Speaker, I can see the Government is implementing the Competency Based Curriculum (CBC). They are doing the rapid initiative in terms of adding classrooms for junior secondary schools as per the CBC programme. However, I have not seen the Bill of Quantities (BQs) that the Ministry of Education is using.

I have seen some of their BQs but not any parts where they are saying those classrooms must be disability friendly where disabled children can access. I know the Ministry of Education is watching. Even if they give local contractors to build those schools, they must ensure that those classrooms are friendly and accessible to children with disabilities.

For example, In Nandi, we only have one school that offers special needs education. That is Kapsabet School for the Deaf which is a primary school. It has been a challenge even in Uasin Gishu as you have said.

The Catholic Church has also been impressive. They have the small home programme where they assist students with special needs. There are special homes and schools in Tinderet that cater for children with special needs. I thank not only the Catholic Church but also the many other churches, religious groups and Muslim faithful that have come up to assist the children with special needs.

I appreciate the fact that there are many Kenyans who may have a problem and become disabled. Some with temporary disabilities. I agree with Sen. (Dr.) Musuruve that we must pass this law. You never know with the accidents that happen every here and there. Many people who were able bodied are now disabled. Somebody can become disabled because of many other diseases such as cancer.

Madam Deputy Speaker, let me say these three things so that I also allow my colleagues to contribute. We have talked about the infrastructure. We, as Kenyans, also need to appreciate that to get a disabled child is not bad. There are cultures that frown upon this.

Madam Deputy Speaker, you being one of the sponsors of this Bill, the biggest challenge is that there should be acceptance from parents who unfortunately have disabled children. They should accept. That is why I agree that there should be in-service capacity training. When you go to most of our schools, be it primary schools or secondary schools or universities, most of the teachers and learners do not appreciate the unique diversity of the learners that are within the environment.

I agree that there should be an in-service capacity training. We want to see that when teachers are being trained on CBC, the Teachers Service Commission (TSC) coordinators should also have time for in-service training. That is very important so as to ensure we are on the same path.

Sometimes people might not appreciate. We have a challenge. Even if we were to have an elected Member and we were to use sign language, I highly doubt that 90 percent of the House can communicate.

I appreciate media houses. I have seen nowadays a number of them having sign language. Interestingly, with live transmission, most of the political rallies have sign language interpreters, which is a good thing. Sen. Olekina can confirm that because he was in Migori yesterday.

We must ensure that there is access, appraisal and review of access to special education. There are no special exams for one group in the exams that are done by students. It is because it is also good to maintain the standards that are there.

One of the important things is that the registration process has been well elaborated. I would not have much because the principles of natural justice have been put in place. There should be adequate time when you want to deregister or close a special school. You have to give adequate written notice of three months or 90 days to the institution so that it becomes practicable.

There is so also the issue of transfer of students in case of closure of school over non-compliance. We have, for example, only one special needs school in Nandi. If you close one, then how will you ensure that there is smooth transition? The 90 days will allow for proper management.

I wish to comment on the role of county governments since Early Childhood Development Education (ECDE) has been devolved. When you visit most of the ECDE centers, especially in Nandi County, they are not disability friendly. They do not have unique ablution blocks and access to the classrooms. This is therefore a challenge to county governments and governors.

They must ensure that buildings in those ECD centers are disability friendly. They should, for example, have a ramp. I heard the Mover say, "like this and this." I did

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not understand. I thought she meant that they are not disability friendly. I hope it was not, “like this and this.”

The point I am trying to make is that preparing a ramp for access at ECDE center does not even need a rocket scientist. I have seen that they even have a disable Chief Executive Officer (CEO). They should put in place mechanisms of accessing those classrooms

The county governments are the ones starting most of the ECD and Technical and Vocational Education and Training (TVETs) centers. There are learners with disability who go to these TVETs. I expect that most of these TVET centers must also be disability friendly in terms of learning and living. The hostels should also be easy to access.

County governments have a huge role. Somebody may ask that why is the Senate saying that county governments have a huge role? It is because they are the ones who are in charge of ECDE and at some level TVETs.

County governments must also play a role on bursary disbursement. They should also ensure that children who have special needs are prioritized. They should be given even 30 per cent of bursary allocation be it the National Government Constituency Development Fund (NG-CDF) or the county government bursaries.

It is very expensive. I have on several occasion met parents who have children with special needs. They tell you that the cost of keeping children with special needs in school is a bit expensive than for student without disability who would go to an ordinary school. We should not only emphasize fairness when hiring but also when allocating bursary.

Madam Deputy Speaker, by and large, this is a straight forward Bill. It is one of the key Bills that will allow us to be compliant in terms of human rights. We cannot talk about Article 43 on access to quality education, when we have not put the necessary legislative framework that we have in place.

So, I appeal to our colleagues that this can be one of our legacies. I can assure the Senate that we can get an award for this, not only for the sponsors of the Bill, but also the entire Senate and Parliament. This is because we are going into the waters where many people have not gone into. In Africa, I have cross-checked that there are few countries which have complied in terms of putting up proper, unique legal framework which does not mix with the Education Act.

What we are doing here is to ensure that we respect the human rights of every Kenyan and the dignity of every child. We do not want any child who is disabled to feel that they are not part of this country.

As I conclude, Madam Deputy Speaker, I hope that all those candidates running for the presidency will also make an undertaking that the people with disabilities, especially our learners, must be given priority to ensure they access quality education.

So, with those many remarks, I wish to thank and congratulate you and your co-sponsor. I wish you the best and hope that this can be the legacy of the Senate of this session.

I would also like to tell our colleagues who will be governors to make sure that they implement this law. We do not want to call you back to come and ask you why you did not implement it. I know you are among those who are eyeing that seat. So, we expect you to be among the first ones to implement the law.

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Thank you, Madam Deputy Speaker.

The Deputy speaker (Sen.(Prof.) Kamar): Thank you, Sen. Cherargei. Sen. Milgo Alice Chepkorir, please proceed.

Sen. (Dr.) Milgo: Thank you, Madam Deputy Speaker, for giving me this chance to contribute to this Bill.

First of all, I take this opportunity to thank the sponsors, Sen. (Dr.) Gertrude Musuruve, and Sen. (Prof.) Kamar for sponsoring such a critical Bill. This Bill has been in my Committee for some time.

I am part of the people who are very excited today that it has come to the Floor of the House. It is my hope that this Bill will transit to the next level and be assented to before the end of this period of the Senate.

Madam Deputy Speaker, education is a fundamental right that is enshrined in the Constitution and the Bill of Rights. Article 43(1) (f) that-

“Every person has a right to education”

Article 53 (1) (b) states that-

“every child has the right to free and compulsory basic education is a right of every child in Kenya”

However, for many years, children with disabilities have really suffered because of lack of a legal framework to speak to their issues.

Madam Deputy Speaker, we have had several challenges are in the villages. Every Senator will be given a chance to give various scenarios of how children with special needs have really suffered because they are unable to access education as stated in the Bill of Rights or in the Constitution. When they access it, there is no infrastructure for the learners and the teachers and so there is no provision for quality education. This is because access is one aspect and quality is another.

Madam Deputy Speaker, this Bill has really spoken to very many issues. I hope that upon implementation, these shall go a long way to ensure that the special needs child is considered.

Madam Deputy Speaker, Part 1 of this Bill speaks to many issues in terms for example the preliminary issues of definitions of terms. When it comes to Part 2, on the objects, this one even recognises the importance of parents and family when it comes to special needs education.

Of late, the Competency Based Curriculum (CBC) has brought on board parents. I hope more than ever before, these special needs parents and families shall be brought on board to ensure that learning takes place when it comes to these particular children.

Madam Deputy Speaker, this Bill has played a very critical role in terms of setting out the national and county roles.

Madam Deputy Speaker, as usual, the national roles would be setting out the strategies, the plans, the curriculum, and the policy to be followed up to ensure that special needs education is delivered in the best way possible.

Madam Deputy Speaker, I remember, sometimes back on a visit to some schools in Uasin Gishu County, we managed to visit one special school just to look at the delivery of CBC.

We found out that there was a disconnect between what the teacher was actually presenting and what the learners were taking in. This immediately showed us that there is

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something that needs to be done as a matter of urgency to ensure that special needs education is given the attention it deserves to ensure that no child is left behind. We should not talk about not leaving anyone behind then leave the special needs children.

Mr. Deputy Speaker, Sir, you have spoken critically with a lot of passion about how parents with special needs children suffer. In this case, they will be able to go through an education system and be self-reliant. This will go a long way to actually relieve those particular parents or guardians.

Madam Deputy Speaker, Kenya is implementing CBC, which is a skills intensive kind of education. It is our hope that with this Bill, special needs learners will further have teachers who have skills that speak to their needs more than ever before because their needs go beyond the ordinary child.

Madam Deputy Speaker, apart from certain standards, we call upon the national Government in whatever they do, to ensure that they have the special supervisory unit which we usually call standards assurance unit that will ensure that whatever has been set out in the county governments is followed up to ensure that the proper standards are implemented.

Madam Deputy Speaker, I say this, because Early Childhood and Development Education (ECDE) is one of the most challenging sectors of education. It is the foundation of education that must be delivered in a proper manner. However, most of the ECDE centres in our counties, which is a function of the counties are suffering a lot. This is because of the fact that the teachers that are supposed to teach in ECDE centres have been those from one level to another.

The county government that is supposed to remunerate them keeps on blaming the national Government that it actually sent the functions of ECDE and never sent together with funding.

When we spoke to the national Government, it says that the whole function was sent county governments but then they only lack issues of delivery.

As I speak right now, ECDE centres have suffered a lot. The infrastructure may be put up but there is no proper sanitation and teaching materials, teachers are not sufficient, yet that is the function of the county governments.

While special needs education is still a function of the national Government, most of the infrastructure which is supposed to be implemented by the county governments is domiciled at the counties.

In this case, we expect that the special needs classrooms will be up to the specifications that is given out by the public board that designs and provide for necessary infrastructure.

This Bill also seeks to ensure there are proper infrastructures in ECDE centres. We must construct classrooms bearing in mind that children with special needs require ramps and proper sanitary facilities. We need to create conducive environment for them to learn. Otherwise, they will be in school, but learning will not take place if they are not comfortable.

County governments will establish assessment committees that will place children with the special needs in the right institutions so that learning takes place. Upon this particular Bill being assented to, there will be a board that will manage those particular

institutions and ensure that those classrooms have the necessary facilities. Even integrated schools must have all the necessary facilities for children with special needs.

In Part IV is on registration of schools. This is critical because it will help us maintain a proper inventory in order to know where special needs schools are and what they need. The inventory will also help to know whether these institutions have proper facilities and the right number of instructors or teachers, whether they have the necessary materials and if they meet standards set out by the Ministry of Education.

This Bill also sets out reasons for closing private institutions that do not meet the standards and guidelines set out by the Ministry of Education. We need to be careful because there are children with special needs who go to institutions that are pathetic. These institutions are owned by private individuals who are out to mint money and they do not care about the wellbeing of those children. No learning takes place in such institutions. There are quite a number of them in my county, but I do not want to mention them here.

Madam Deputy Speaker, I brought a Motion here about children who are taken to daycare homes in the name of ECDE centres. It has become a lucrative business in this country. In most cases, those homes are not conducive for learning.

This Bill speaks to a number of issues. There will be a board which will include persons with special needs in order to specify the needs for learners with special needs. It will also make sure children are provided with the right materials in various institutions.

Clause 5 talks about identification. I have already said that centres should be set up in various counties to ensure that learners with special needs are given the necessary facilities. With the passing of this Bill, the needs of learners with special needs will be taken care of.

We also have the Kenya Sign Language Bill that was sponsored by Sen. (Dr.) Musuruve and other Bills. I am sure if those four Bills are passed, the needs of learners with special needs will be taken care of. The concerned parties must ensure learners with special needs are provided for.

I urge those aspiring to become governors to make sure that they implement proposals in this Bill. Otherwise, it will remain on paper. It will not be of use to any learner.

Madam Deputy Speaker, with those many remarks, once again, I thank Sen. (Dr.) Musuruve for this great Bill and I hope it shall see the light of day.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Proceed, Sen. M. Kajwang’.

Sen. M. Kajwang’: Madam Deputy Speaker, I rise to support this Bill that has been ably sponsored by Sen. (Dr.) Musuruve and Sen. (Prof.) Kamar. These are two Senators who have distinguished themselves, not just in the House, but when it comes to issues of education, training and capacity development in this Republic.

I am a proud student of one of the core sponsors of this Bill, Sen. (Prof.) Kamar who was my senior principal while I was at Moi University. I have also heard the passion with which Sen. (Dr.) Musuruve has spoken about her commitment to special needs education. I do not think there is anybody in this House with that kind of passion, experience and training.

I, therefore, support this Bill without any equivocation because I believe it has been drafted by two eminent Members of this House who understand how education ought to be.

I also take note of the Fourth Schedule of the Constitution which has given responsibility for ECDE, vocational training institutes and village polytechnics to county governments. Special needs education cuts across all these institutions. Therefore, we must start thinking about it from early childhood, primary, secondary and university level. This becomes an important shared responsibility between the national and county governments.

When you talk about disability, there is a lot of stigma that is associated with it, yet it has been said for a very long time that disability is not inability. In many cases, disability has been caused by poverty. In fact, many a time, you will hear people say that one is poor and disabled. They are poor because they are disabled and disabled because they are poor. In many cases, it is poverty that has driven many young children not to undertake even proper immunization and early childhood healthcare initiatives that they end up with cases of disability.

I am glad that Kenya is one of those countries that has largely eliminated polio, which in many years that have gone, was one of the major causes of disability amongst the population. I still see in my village elderly people who became disabled as a result of a weak vaccinations regime back in the days. You will find that they missed certain vaccines. A result, they suffered polio and other diseases that were easily preventable.

I am glad that even though we are still battling poverty, illiteracy and disease, the aspect of disease that causes outright disability because of issues like polio have been bought largely under control. I hope that there will not be a resurgence as has been seen in places like Nigeria where religious beliefs are turning people away from getting conventional vaccination and health initiatives.

Madam Deputy Speaker, as I have said earlier, special needs education needs to be looked at from all levels. I do not think we should be generally advocating for segmentation or separation of special needs students from the rest of the population. I believe we should advocate for an integration framework. It might not be feasible for us to say that the percentage of Kenyans who have special needs should be segregated and placed in different institutions that only cater for their needs.

To the greatest extent possible, we need to make it clear that for any child you come across with a hearing, speaking or mobility disability, there is nothing different between them and your child, brother or sister who is fully abled. Perhaps they would be disabled in one way, but greatly gifted in another.

Madam Deputy Speaker, I would wish to see a school like where my son goes to, a situation where children with special needs are integrated into the curriculum and into the programmes in a manner that still respects their special abilities. I would like to see ramps established in those institutions. I would like to see availability of braille in those institutions for students with reading and seeing disabilities. I would also like to see the integration of technology in those institutions so that these children can take advantages of their special abilities - not inability - to be part of the bigger community of other children.

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

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[The Temporary Speaker Sen. Lelegwe in the Chair]

Mr. Temporary Speaker, Sir, in drafting this Bill, I hope that you have taken into consideration that we are not talking of segregation or concentration camps for children with special needs so that they can be trained in a different environment and integration. This will ensure that those children who seem to be born with all their physical features intact can learn to integrate and live together with those with special needs.

We have many Kenyans who have battled disability, or special ability and have become very prominent today. Sen. (Dr.) Musuruve is a very shining example in this House. Sen. (Dr.) Mwaura is another very shining example. In the last Parliament, we had good examples like Sen. Leshore and others.

I can tell you that as it is today, when it comes to my taste and my choice of music - because taste and choice of music is fairly dynamic - the best Kenyan gospel musician that I can spend hours listening to is a gentleman called Reuben Kigame. He also happens to be a presidential candidate. If *Baba* was not running, I would vote for Reuben Kigame simply because of the beauty of his music. He lives with a disability which is in the form of seeing, but God has blessed him in other alternative ways.

If you follow his career, you will know the number of songs he has composed and the manner in which his songs are applied in praise and worship across churches of all denominations, not just in this Republic, but also across Africa. This is a clear testimony that if God takes away your sight, he will give you something else in double measure compared to what he has taken away from you.

It is, therefore, important as a society we be compassionate and considerate to those who have been born with certain lesser abilities because God shall multiply their abilities in other ways.

There is a school next to my home called Hope School for Children with Special Needs. When I look at this legislative proposal, I see some hope that the Hope School for children with Special Needs is finally going to get some consideration. As it is, it is hanging somewhere in limbo because there those who assume that it should be the responsibility of the county government and there those who think it should be the responsibility of the national Government.

This confusion arises because there are students in these schools who should be at early childhood education level. Now, when they go Hope School for Children with Special Needs, they neither get facilities or facilitation, because the national Government that does capitation to that school, does not do capitation to take care of early childhood education.

There are those who ought to be at primary school level. You would expect that the national Government would take care of all the needs; be it infrastructure needs, the software that is required or the human resource needs. Yet Hope School for Children with Special Needs that is right next to my village home has a perennial shortage of teachers.

I am glad that in this legislative proposal by Sen. (Dr.) Musuruve has put in a section that talks about the obligation and responsibility of the Teachers Service Commission (TSC). The TSC must ensure that in the curriculum for teacher training and

development all our teachers are equipped with skills to deal with children with special needs.

I do not know whether we want to just have some people to specialize in it. However, I think just like in some countries where swimming is mandatory for the adult population, even in Kenya, every teacher must have certain basic skills to deal with children with special needs. It can never be and it should never be that a child with special needs is told by a teacher: “Go and see Mr. Wanjau or Mrs. Nyaboke because I do not know how to handle your case”. The care, compassion, consideration and training for children with special needs should be 101 in teacher training colleges.

I believe that this is a Bill which both Houses should prioritize so that it becomes the legacy of this Parliament. When it becomes a law, I am confident that Hope School for Children with Special Needs will finally get consideration under the National Government Constituency Development Fund (NG-CDF) that has been used to finance infrastructure for other schools in this country.

Many of the NG-CDF committees are only looking at primary and secondary schools. They are not looking at these special needs schools. As I said earlier, there are those who think that they should be taken care of by county governments and there are those who think that the national Government should finance them directly. So, I am hopeful that school will get some money that will go into infrastructure.

Admittedly, this particular school has benefitted from some allocation from the NG-CDF of Suba North. However, I think that in a constituency that probably has 30 secondary schools and maybe three or four special needs schools, there needs to be some proportional allocation for some special consideration for the special needs schools because they are fewer and yet they have got higher transformational impact.

I am also hopeful that particular school will get teachers seconded by the TSC. When we started this school as a community initiative, we benefitted a lot from volunteers who came from the United Kingdom.

The stigma we put on children with special needs has prevented certain cultures and communities from bringing them outside. There are cultures - and we should not be afraid to say this - where if you gave birth to a child who is a hunchback, for example, you will be ostracized. You as a parent will never be able to ascend to leadership in that community because they will say how can you lead us and you gave birth to a child who is a hunchback? If you gave birth to a child with a hearing or physical disability, you will be stigmatized and ostracized. We must speak out against that stigma.

Earlier on, we had a Petition that was talking about the misery that women go through when they lose their children prematurely. There are a lot of things that would happen if we do not invest in a proper and sound healthcare system and if we do not ensure that our women have got access to hospitals and clinics where they can go for prenatal visits. If we do not ensure that there is proper and equitable distribution of vaccines and immunization facilities across the country, there are children who will either be born with disabilities, or who will fall into disabilities for no fault of their own. Therefore, we should toss that stigma out of the window. We should treat all our children in a manner that makes them feel comfortable and proud to be part of this country called Kenya.

When we started this school, we had very few teachers who had the skills to deal with children with special needs and we had to benefit from volunteers who came from UK. Those volunteer corps that normally come from UK and US are generally not trained. All they have is a big heart. So, sometimes we cede our compassion to foreigners due to our own lack of compassion.

We have people who are probably very well trained in this country, but they are not compassionate. When you take them to a school with children with special needs, they mistreat them. We saw sometimes those children who had some mental difficulties being tied on poles and posts like animals and yet these actions are being done by persons who are supposed to have had training. Training without compassion is not enough. Those British volunteers were young boys and girls of perhaps 19 years old who had just completed school. They showed us what compassion means and what difference it makes.

That person who the entire society has given up on, and whose job is to roam around the market place and collect garbage at the end of the day---. That person, given an opportunity, there is a talent and a skill and ability in them that can be nurtured to make them useful members of society. We need to look at that. We need to look at those persons born or have acquired disabilities in the course of their lives. Let us give them equal opportunities and provide them with equitable opportunities so that they exploit their hidden potential.

As I said, Reuben Kigame is a very good example of a musician who has overcome adversity to run for presidency today. The fact that he is not getting a lot of coverage in the media is simply because beside his talent, compassion and skills he has not stolen money to stage big shows and convoys like anybody else.

I wish him well because he is a very good representative of the small community of persons born with or acquired disabilities, but have overcome them to achieve and accomplish much more than those who God gave all their faculties.

I pray that we fast track this Bill. As Sen. Cherargei said, I pray that this become a poster Bill from the Senate and from this Parliament.

Mr. Temporary Speaker, Sir, I am eagerly waiting for the vote so that this Bill can get to the President's desk.

With that, I beg to support.

The Temporary Speaker (Sen. Lelegwe): Proceed, Sen. (Dr.) Zani.

Sen. (Dr.) Zani: Thank you, Mr. Temporary Speaker, Sir. I support this Bill and congratulate Sen. (Dr.) Musuruve and Sen. (Prof.) Kamar who are both past and present Members of the Standing Committee on Education. We have interrogated and interacted with this Bill a different time. We have also had experiences within Committee on Education. As I have heard other Senators mention, we visited schools and seen children with special needs not well integrated in all levels.

For example, in a school we went to, we found a small girl who could not hear nor speak and had been put in a pen. You could see that child was in a great difficulty and needed specialized care which did not seem to be coming through. We found this one child, but this might be replicated across the board in many institutions.

This Bill seeks to address and streamline this sector where we have been able to give input here and there. For example, we need a register of special needs, education

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centres, registration of private special needs education centers, admission of learners with special needs and a process for that, special school boards, establishment of parents' associations, responsibility of governance and facilities in institution providing for special needs *et cetera*.

Part V of the Bill talks about the identification and assessment of children with special needs, registration of learners with special needs, identification of the same and establishment of special needs education advisory boards. Quite a number of institutions have been created in this Bill. It will be very important to have a hierarchy of these institutions and the same integration with the current Education Act, so that there is concurrence of which board operates to what level. There is one operating at school level and another at the county level. However, how much power does the one operating under the county level have *vis-à-vis* the one in the Education Act.

The Standing Committee on Education which is the sponsor of the Bill needs to interact with so that we have a sense of the situation on the ground. This is because every time we create various institutions, then we have a situation where the institutions will deny that they have those responsibilities because it is about power.

I will give examples of some of the clauses that speak to these responsibilities as we continue to integrate this. This Bill goes to look at the integration of the various institutions, including the TSC being put on board with responsibilities. The responsibilities of governing bodies and disqualification from receiving funding for those who have not kept to certain rules. Quality assurance is key and has been mentioned. I have given an example where it is important that quality assurance is put in place.

Most of the time when we talk of special needs, we just make assumptions about key specific special needs categories. Many a time we deal with what is physically seen. However, we have special needs that might not be obvious to us. For example, schizophrenic and maniac attacks and others that can come as a result of psychological processes. At the point of registration and having somebody at the level of the county who is able to vet the children, is very important.

This Bill also talks about the registration of home based special education learners and what it means. We know that in many communities many times, children are put aside and not allowed to even interact with activities of the family. This Bill does very specific good in terms of this field. For example, it helps to provide a framework for the realization of the right of education. It also provides standards which are very key to provide uniformity across each country.

Clause 4 of the Bill states that every person shall in formulating the functions under this Act be guided by various principles. I will talk about (g) which states that such persons should ensure the intervention are based on objective information and methods and that the monitoring mechanisms are regular and evaluations are established. At the end of the day, the special needs learners should make something out for themselves.

I heard Sen. M. Kajwang' mention that there is always a very special gift with people and students who have special needs and it is a question of identifying what it is. As a result, there is a talent. They might have one issue, but they have many other benefits they can bring on board.

The roles for county governments and national Government are well stipulated in this Bill. The Fourth Schedule of the Constitution talks about delivery of special needs

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education. This is in line with national policy. That is well contextualized and needs to be put into the fore.

This Bill also addresses the issue of necessary facilities being put in place. We have dwelt on this for the longest time, especially when we were dealing as a committee with ECD Bill, facilities in the schools and ensuring that facilities are there. At the end of the day, it will always become an issue of resources and resource allocation. Question arises on where the resources come from, especially for devolved unit. Should the resources come from national or county office? We have found that there is disconnect about how those resources should go to the county.

Ring fencing has been suggested as one way to ensure that those funds, if they do not go as conditional grants that they can be ring-fenced and used within the counties. However, that is not always the case. In this case, we have to empower the county governments and county assembly so that they find a way to budget for those funds and how appropriately they should be utilized.

The issue of coordinating comes in at Clause 4 (i). It states that that every person shall in formulating the functions under this Act be guided by various principles the coordinating activities of state organ institutions, private sector, non-government organization and community based involved in matters relating to special needs. This is to make sure that there is interplay; some sort of multi-agency approach is put in so that all these can play significant role.

Mobilizing and sensitizing communities about different ways of treating special children with special needs and about ensuring that, for example, their needs including nutrition and medical needs are taken care of and the need for integration. The registration and management of special needs children should be taken into consideration. The registration and management of special needs education centres is well formulated.

Mr. Temporary Speaker, Sir, this is the Second Reading Stage of the Bill, but we will have amendments at the Committee of the Whole Stage. Looking at the arrangement of clauses as listed in the table of contents, Clause 12 should be on special schools' board.

(Loud consultations)

Mr. Temporary Speaker, Sir, kindly, could hon. Members consult in lower voices so I can prosecute my thoughts?

(An hon. Senator spoke off record)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order! Proceed.

Sen. (Dr.) Zani: Thank you, Mr. Temporary Speaker, Sir. Looking at Clause 12 on the special schools board, you expect to see who are in the board and their roles. You end up seeing this, but the introduction of the clause is misleading. It states:

“The following categories of learners shall be represented on the Board of management of an institute for learners with special education needs”

When you look further, there is no category of learners mentioned in that clause. So, it talks about learners who should be represented in the board, but then it moves on to give the categories.

In the formulation of the special schools' board, it says:

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“(i) one person elected from amongst parents of the learners at the education institution;

(ii) one representative of the teaching staff at the education institution;”

It goes on up to (vii).

Mr. Temporary Speaker, Sir, Clause 12(2) is indicative of what has not happened in Clause 12(1). It states:

“The Board of management constituted under subsection (1) above shall have an odd number of members.”

Clause 12(1) has a total of seven members which makes it an odd number. The complication can come where it now says for the seventh member:

“(vii) in the case of a sponsored education centre, one person nominated by the sponsor.”

What if it is a centre that is not under sponsored education? The membership will then be six, which is not an odd number. This clause may need a bit of rectification for clarity.

The marginal notes on Clause 15 is Responsibility of County Education Boards. However, the clause states:

“Where a county education board is satisfied that the resources or facilities required for the delivery of special needs education are not available---

This is a description for something else. When somebody reads responsibility of county education boards, we expect to see those responsibilities. However, some of the responsibilities are contained in Clause 21 and Clause 19 of the Bill. Clause 19 says:

“Every County Education Board shall maintain a register of all learners with special needs in their area of jurisdiction who are receiving domestic, medical, institutional or other special education services outside of regular school programmes as well as special needs learners who are not receiving any special education services.”

Clause 20(1) of the Bill says:

“Every county board of education shall examine or cause to be examined—”

It then gives specificities about that.

Mr. Temporary Speaker, Sir, as we proceed with the Bill, there is need for clarity. For example, at Clause 22(4), there is clear stipulation of the functions of the advisory board. We know that every time we talk about all these institutions, especially at county level, people will try to take up some of the responsibilities and there might easily be an overwrap. When it comes to the county board we need to be specific on their responsibilities.

For instance, functions of the Advisory Board at Clause 22(4) are clear-

“(a) to examine, comment and advise the Cabinet Secretary on any rules and regulations proposed to be made under this Act;

(c) to make an annual report to the Cabinet Secretary which report shall be published in the Gazette on the progress or lack thereof made in special education by the Government, its agencies and institutions;”

The formalisation of various institutions in the Bill is good. We only need to bring out of all these responsibilities. It is a question of technical putting of various clauses at

various times. Nonetheless, this does not affect the content of the Bill which is on formation of the institution. It then goes on to give the pros, cons and various responsibilities which should all be put together.

Mr. Temporary Speaker, Sir, for Part VIII, the quality assurance and standards are clear. Most of the time, this is where things go wrong on legislation of law and Acts. Without follow up and creating institutions that will make sure there is quality assurance, you may find that everything you have put in the legislation ends up not being implemented.

The idea of inspection of the institution, ongoing development and audit of accounts and every item put under quality control is good. It will help us achieve what the sponsors intended.

The intent of the Bill is good because it focuses on a key mandate of a Member of the Senate who is representing People with Disability (PWD). It is a key mandate for other Senators as well, who have various Senators who represent various groups.

A big congratulation to Sen. (Dr.) Musuruve because she has done what she came to do in this House. She can go back to her constituents and tell them: “You sent me there to about special needs. I have talked about PWDs and I am now going down to the learners.”

Mr. Temporary Speaker, Sir, I hope this Bill will see the light of day. We have less time, but we can do a lot. This Bill will change the education sector. Apart from this, I think a lot of private mobilisation can be done on the side. Sometime back, we used to hide children with special needs, but we have now moved away from that.

Any societal change and awakening of a people always bring positive change towards how those people are treated. This is one positive change that will be recorded in the Senate for our progress to improve special needs education among our children.

I support.

The Temporary Speaker (Sen. (Dr. Lelegwe): Sen. (Dr.) Langat, you have the Floor.

Sen. (Dr.) Langat: Thank you, Mr. Temporary Speaker, Sir, for giving me this chance to add my voice on this important Bill. The Special Needs Education Bill is a game changer in as far as education for people with special needs is concerned in our country.

The current situation is pathetic. During my tenure as the Chairperson of the Committee on Education, we managed to go around several special needs schools. We realised that the names and signposts along the roads point to special schools. However, the content available in those particular schools does not match the standards required for them to be special schools.

We went to a Technical and Vocational Education and Training (TVET) centre in Kitui County and found some students with special needs. However, they could not access some buildings, including some classrooms.

Some classrooms were built traditionally without the consideration of special needs requirements. We also visited another special needs school near Kitui town and some in Eldoret and the situation was pathetic.

When we were in Kitui there was a challenge as to who should be financing special needs education centres. They were receiving very little from the county

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government. County governments were expecting that the national Government should be supporting fully the special needs schools.

They were so pathetic even the food that was supposed to be given to the children was so scarce. To make the matters worse, most of the children who are in local special schools in our county come from very poor families.

This Bill will be so important when it becomes an Act of this Parliament because it will support those children with special needs. I have gone through this Bill right from the Object part of it. It will provide a proper framework that will guide all the structures, the curriculum, examinations, construction of the infrastructure and management of this particular special need education programmes.

I am so happy that some parts of it touch on proper objects that will be guiding special needs education programme. For example, it will provide a legal framework that will guide whatever will be happening in that place.

When you have a legal framework in an institution or area of concern, it will be easier to monitor and provide checks and balances in those places. When there is a legal framework, whoever will work in contrary with what the law requires will be answerable according to the law.

In the Object part it will also eliminate exclusion and discrimination that is happening now in those institutions. Even though everyone in this country has a right to education, the current legal framework does not provide a robust legal framework that will eliminate discrimination on matters of special need education.

This Bill provides the clear role of the national and county governments. Right now, the secondary and primary school, tertiary education and universities fall squarely in the hands of the national Government.

That is why provision of finance and management is so organized and structured that it can easily be identified and monitored. On matters of finance, it is easy to tell who should be funding which level of education.

When it comes to ECDE, I thank this Committee. During our tenure, we managed to come up with Early Childhood Education Bill that is now providing effective framework to management, recruitment of teachers and structures of ECDE in this county.

With the assent to that particular Bill to an Act of Parliament, most of the counties today have implemented it. One the county that has implemented this Act is Bomet County. Today as I am speaking, the county government has employed 1,300 teachers to handle ECDE on permanent and pensionable basis. Most of the counties have implemented this Bill and are now providing feeding programmes to our children in ECDE.

If the Bill has done a lot of good work to our ECDE centres. Therefore, this Bill on special needs education is very important.

I have also seen in some part of it that it provides a framework for registration and management of Special Needs Education Centres. Registration of schools in this country is very slow. It is very interesting that even normal schools like primary schools in some counties have not been registered.

Some that have been built by parents and have students have developed to the level of reaching standard seven or eight and even form three, but have not been

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registered. When you get to the ground to find out from the Directors of Education, the reasons these schools have not been registered include concerns over the size of land and provision of facilities such as washrooms and the rest. The Government is refusing to register these schools yet the same Government is supposed to provide. In some places where the parents have struggled to put down some structures, still the Government is not ready to register or support the parents.

In my county, for example, I am still struggling. I have five schools that were supposed to register candidates for standard eight, but they could not do so because they are not been fully registered. The schools have dispersed learners to very far away centres to be registered. Even though there is proper framework for registration in this country for secondary and primary schools, they lack Government support.

The Directors of Education simply come with quality Assurance Personnel to inspect what they have not assisted the parents to build. It is very ridiculous that instead of supporting the parents' efforts to establish structures they only go round to inspect them and at times close then without instead of offering them support.

If now it is a struggle to implement the law within high schools and primary schools that already have a legal framework for registration, how difficult when it when it comes to schools that provide special needs education? We should speed up the process of making sure that this Bill becomes law in country so that it may assist in the registration and management of Special Needs Education Centres.

Currently, schools which are good in the provision of special needs education are only those managed by religious institutions. Those managed by the Government are pathetic. When I was in the Senate Committee on Education, we managed to visit some. I am sure that was what motivated Sen. (Dr.) Musuruve and Sen. (Pro.) Kamar to come up with this important Bill

This Bill also provides identification and assessment of children with special education needs. Currently, assessment centers are very few in the country and they are not known by villagers everywhere.

Another thing that I am sure is lacking is information to these particular families in remote areas that have special needs children. They rarely get the information on what is happening in assessment centers. Therefore, awareness should be made by the professional administration and everybody concerned so that these children are assessed and categorized accordingly to various institutions that provide their needs.

I am so sure that in Bomet County where I come from, there is only one assessment center. One time, I visited it and it was so idle. Nobody was visiting it and the officers that were there were relaxed and they did not have a clear structure on making public awareness of assessment of children with special needs.

The identification and assessment of children with special needs is very important. Stigma is also very high in some communities. Some parents are not ready to take these children to assessment centers to be assisted accordingly. The provisions by this particular Bill on effective structure on assessment is very important.

Another point that really impressed me was the institutional management for special education, which is lacking in our country. This will be a game-changer on matters to do with management special needs centers.

There is also the development and financing of special needs education. As I had earlier said, the greatest challenge that we discovered in the Committee on Education as we were going around these particular special needs education centers is financing.

We realized that the existing centers have very poor structures meant for formal and informal education for able people. What is lacking is financing. These schools are not well financed. The county governments are not aware if it is their responsibility to finance the special needs institutions. The national Government is also not ready to provide financing to those institutions.

A directorate should be created to deal with matters of management and financing of special needs institutions in our country. Funding special needs education institutions makes me so happy. This Bill has stated and demonstrated in a very robust way an effective financing structure of this particular institution. Of great interest, is to make sure that they are up to standard and of high quality. I am very happy that quality assurance and standards of special needs education is also provided for in this Bill.

Without a directorate or a department of quality assurance, things will not move on with special regards to the standards that are required. To arrive at international standards in the provision of special needs education, this particular department is very important. The measure of a civilized society can be seen in how a Government handles special interest like when it comes to cognizance of gender, children and more so, people with special needs.

I support this Bill. That is why I had to take time this afternoon, to make sure that I stand in this House and say that this is a very important Bill, that will support the development and educational growth of children with special needs. I ask our brothers in the National Assembly to make sure that such important Bills are given special time. We should handle them with a lot of decorum, so that within a very short time, they are finished and become Acts of Parliament to support people in this country. Another Bill that we had started in the Committee on Education was on the County Vocational Education and Training Centers.

Yesterday I read in *The Daily Nation* newspaper - I was shocked - that 3.1 million people in this country do not have academic qualifications. The only way we can support these people to get skills that will enable them to work effectively and earn their living is provided in that Bill. This is because it emphasizes on skill based education not examination based education.

I hear that the Bill is in the National Assembly. I request them to speed up the progress of that Bill. These are some of the issues that will enable our country develop.

I support this Bill and congratulate the two sponsors.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Proceed, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Temporary, Speaker, Sir. I rise to support this The Special Needs Education Bill (Senate Bills No. 44 of 2021) with amendments.

From the onset, I am very proud of the work that, Sen. (Dr.) Musuruve and Sen. (Prof.) Kamar, for having thought about the special needs persons. Sen. (Dr.) Musuruve has been very active. All differently abled people in this country must recognize her for the good work that she has been doing. She has been an advocate of special needs and is also very knowledgeable on the subject.

I have skimmed through the Bill and I am concerned about two provisions. First, it is about time that we leave legislation to be the work of Parliament. Every time, we give a lot of power to Cabinet Secretaries (CSs) we end up having problems.

I have a problem with Section 46 of the Bill which seems to give the CS so much power, such that they can come up with their own legislation on how special needs schools are handled and registered.

Clause 46 states that-

“The Cabinet Secretary, in consultation with the relevant stakeholders, may make subsidiary legislation to provide for such matters, as the Cabinet Secretary considers necessary for the better carrying into effect of the provision of this Act.

Further, in the memorandum, there is a statement on the delegations of legislation, powers and limitations of fundamental rights and freedoms.

It says that-

“The Bill once enacted, would give the Cabinet Secretary powers to create subsidiary legislation that would affect all education facilities in order to accommodate special needs learners”

Mr. Temporary Speaker, Sir, this topic on special needs is very important. As it has been spelt out clearly, it is a special need and it is time we looked at provision of education in all the 47 counties particularly to people with special needs. Just like fingers, not all the 47 counties are equal. This is something we need to find a way out. I think some of my proposals might call for amendment of the Constitution or rather we find a way to develop certain regulations that will give this task only to the national Government.

Mr. Temporary Speaker, Sir, if you go to Samburu or Narok counties and visit schools for children with special needs, you will be embarrassed. Those people are disadvantaged by some of us who are advantaged and can move from one place to another. Even if the paths are not smooth, in one way or the other, you can find your way. To some of them, the schools they go to are dilapidated. That function should be given to the county governments.

Clause 7(1) states that-

“A county government shall be responsible for the implementation and effective and efficient delivery of special needs education with respect to the learning institutions falling within their mandate under Part 2 of the Fourth Schedule to the Constitution.”

It sounds good but for me it is utopian because many county governments do not even follow what they are supposed to do. If you go to counties like Narok, Kajiado or Samburu, you will find that they spend most of the money building secondary schools but that is not their responsibility but it is a national Government’s function. This is something they will put aside.

Mr. Temporary Speaker, Sir, the other one I have concerns with is the issue of land. If you look at Clause 40 under Miscellaneous Provisions, it is states as follows-

“Where a special educational institution is established on land owned by the Government including land held in trust by a county government, the education institution shall have the right for the duration of its existence, to

occupy and use the land for educational purposes at or in connection without interference.”

The words “duration of its existence” are dangerous. It is like saying that schools for children with special needs should not be perpetual but only set up for a period of time. That is already creating room for them to be interfered with because you have given the Cabinet Secretary (CS) enough powers to say that a school should no longer exist.

Therefore, I would like to beseech the Sponsors of this Bill to either delete that provision completely or amend it and indicate clearly that land shall be set aside for schools for children with special needs and shall be fully protected and not be tampered with.

Clause 41 is also another issue of over-legislation, which will give room to violation of the rights of those people who occupy that place. Clause 41(1) states as follows-

“No land owned by the Government and occupied by a public special education institution may be alienated except with prior approval of the Cabinet Secretary.”

There you go again, giving the CS a lot of powers.

Mr. Temporary Speaker, Sir, I want to summarize by saying this. The intention of the Bill is fabulous. However, when you over-legislate and give the CS in charge of education a lot of powers, if they CS does not agree with a particular county government, that county government may never be supported.

If that is the case, county governments may decide not to allocate any money. I believe this Bill can help but if you over-legislate and give the CS so much powers such that they may decide what to do at any particular time, you will not be achieving the goal that you intend to achieve.

Finally, I hope and pray that this Senate of the Republic of Kenya--- I know this is a time when everyone out there is trying to rally out support for their party leaders and campaign to be elected. Such Bills require us to take our jobs seriously and I know we can multitask.

In the morning, we can go and defend our colleagues like Hon. Sabina Chege who was being persecuted by a body, which we have given power. Later on in the afternoon, we can come here and pass legislation. However, even when you go to the online platform, we are barely 10 of us. In fact, if someone was to raise the issue of quorum, it would be a problem. I beseech my colleagues that we have so much which we still have to do.

We have so many Bills pending at the Committee of the Whole Stage. We also have this Bill. I would hate for it just to go to the HANSARD. We might waste our time here contributing and giving advice to the Sponsors of the Bill, like the one that I am giving to Sen. (Dr.) Musuruve and Sen. (Prof.) Kamar, not to give the CS in charge of education too much power. However, if we are not here to go through Second Reading, Third Reading and also lobby a lot--- Sen. (Dr.) Musuruve and Sen. (Prof.) Kamar may have to lobby a lot in the National Assembly, so that at least this Bill becomes law.

I heard my colleagues talking about the importance of this Bill. If there is any Bill that should be prioritized, it is this Bill, but how is it going to be important if we are not

here to discuss it? We will be judged by our constituents based on the issues we would have resolved in this country.

Just to end, I wish Sen. (Dr.) Musuruve good luck when it comes to passing this Bill. I have said what I have to say. If it remains in the HANSARD of the Senate during this term, so be it. For us to have a good piece of legislation, let us not over-legislate. Let us restrict legislation work to Parliament.

The Temporary Speaker (Sen. Lelegwe): Let us now listen to Sen. Faki.

Sen. Faki: Asante Bw. Spika wa Muda kunipa fursa ya kuchangia Mswada huu kuhusu elimu ya watoto wenye mahitaji maalum. Kwanza kabisa nawapa kongole Sen. (Dr.) Musuruve na Sen. (Prof.) Kamar kwa kuleta Mswada huu katika Bunge la Seneti. Maseneta hawa wawili wana tajriba katika mambo ya elimu. Kwa hivyo, Mswada huu ambao wameuleta ni wa muhimu sana kuhusu elimu ya wanafunzi wenye mahitaji maalum.

Desemba mwaka jana, Siku ya Watu Wanaoishi na Ulemavu, nilibahitika kutembelea shule ya watoto wenye akili thaathira mjini Mombasa, yani Mombasa School for the Mentally Handicapped. Nilipofika pale, watoto wote walikuwa na furaha kwa sababu walikuwa wameelezwa kuwa kuna mgeni angewatembelea.

Tulikula chakula cha mchana na wao kisha tukacheza mpira kidogo. Hata hivyo, niliona kwamba ipo haja ya shule kama hizo kupewa kipaumbele na misaada maalum ili kuhakikisha kwamba watoto walioko pale wanaangaliwa na wanapata chakula na mahitaji yao yote kisawasawa.

Nilisikitika kwamba tangu shule hiyo kujengwa zaidi ya miaka 10 iliyopita, haijafanyiwa ukarabati wa aina yoyote na watoto walioko pale wote ni wenye akili thaathira. Wasaidizi pamoja na walimu wa watoto hao wanafanya kazi kubwa sana.

Wengi wetu tutukipata watoto wenye akili thaathira, mara nyingi hatutaki watoke nje kwa sababu ni aibu. Unyanyapaa ama *stigma* inatokana na watu kutokubali kwamba mtoto kama huyo ni kiumbe cha Mwenyezi Mungu kama wengine, na kwamba akipelekwa kwa taasisi, itasaidia pakubwa kuboresha maisha yake na kumfanya mtu wa kutegemewa katika siku za usoni.

Bwana Spika wa Muda, tukija katika Mswada huu, niko na mambo mawili ambayo ningependa kuzingatia. Kwanza kabisa ni kuwa, ingekuwa kuna kipengele cha kusema kwamba elimu hii ya watoto ambao wanamahitaji maalum ifanywe ya kwamba ni elimu ya bure. Wanafaa wasiwalipishe watoto wakiingia katika taasisi kama zile kwa sababu hivi sasa, wengi wanataka watoto wao wakasome.

Lakini, wengi pia ni maskini na hali ya uchumi imewabana kiasi ambacho hawawezi kupeleka watoto katika shule hizi kwa masomo ikikumbukwa kwamba wale walimu ambao wanaosomesha katika shule hizi sio walimu wa kawaida. Ni walimu ambao wamefundishwa au wamefanyiwa mafunzo ya taaluma yao kwa njia ya juu. Kwa hivyo wanahitajika kulipwa pesa zaidi kuliko wale walimu wa kawaida.

Bwana Spika wa Muda, naona ya kwamba kungekuwa na kipengee kwamba watoto wanaopelekwa katika shule zenye mahitaji maalum wawe hawalipishwi karo yoyote katika shule zile na kwamba ni jukumu la Serikali kuhakikisha tahasisi zile zinapewa fedha za kutosha.

Nimeona hapa kuwa kuna swala la *facilitation*, lakini *facilitation* ni kitu ambacho hakiko wazi. Walimu wanaweza kupewa *facilitation* au wanafunzi wapewe vifaa vya

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kusoma, vitabu na venginevyo lakini swala muhimu ni kwamba kuwe na fedha za kutosha ambazo zinapelekwa katika tahasisi hizi kuhakikisha kuwa wale watoto wanaosoma pale wanapata elimu ya hali ya juu na mazingira yao yako sawa kuweza kuishi katika eneo lile.

Ningependa pia kujiunga na wale wenzangu walikuwa wametangulia kusema kwamba Mswada huu ni mzuri sana kwa masomo ya watoto wenye mahitaji maalum. Kwa hivyo, ni jukumu letu kuona kuwa Mswada huu umepitishwa ili wale watoto ambao wanazaliwa na mahitaji maalum kwa mfano, viziwi, vipofu, bubu, wale ambao akili zao zina tahadhira waweze kupata elimu ambayo itawasaidia maishani mwao na siku za mbeleni.

Bwana Spika wa Muda, naunga mkono Mswada huu na nitakomea hapo. Asante.

Sen. Sakaja: Thank you, Mr. Temporary Speaker Sir. I rise to support this Bill, the Special Needs Education Bill which is sponsored by Sen. (Dr.) Musuruve and Sen. (Prof.) Kamar.

First, just to note that this advent of co-sponsoring Bills is really a novel idea that has only been done by the Senate and it produces very good results. Different Senators have different expertise in different areas that are dear to them and the synergy that is created really brings quality legislation.

The first Bill that was sponsored by two Senators was one of the Bills by Sen. Mutula Kilonzo Jnr. and I; I think it was the Disaster Management Bill or the one for determination of nature of Bills and he was able to bring in his legal expertise and I brought in other expertise.

In this particular one, Sen. (Dr.) Musuruve and Sen. (Prof.) Kamar are both very passionate about education. If you look within the preliminaries and definitions, you can see that some good research has gone into this Bill.

I rise to support it.

In the year 2011, a few friends and I were doing something called “Team Uhuru” for the election of President Uhuru Kenyatta. We visited a place in Langata, on the birthday of President Uhuru Kenyatta - then he was Deputy Prime Minister - that is run by the sister to the Senator for Kajiado, Sen. Mpaayei, her name is Ms. Simaton. When we went there we found very many children - it is called Therapies for Kids - children who ordinarily would be locked at home.

In many of the slums or informal settlements in Nairobi, you find because there is no one to take care of that child because the mother must go to wash clothes or to look for a job, many times when such a child is born, because of the stigma, the father disappears. So, the father is not there, it is only the mother, and these children are locked inside those houses. They stay there for years almost like animals.

We saw the improvement that this lady had done because she was able to get physiotherapists, people for the different special needs of these children. A child who had been written-off because of the mental health issues, whether it is autism, palsy of one sort or the other, are able to be rehabilitated and actually turn out very smart. This lady explained to us the challenge she has, and I am glad this Bill is talking about facilities and equipment because many parents cannot be able to physically get their children to that center or to a similar center.

I want to thank the President Uhuru Kenyatta as well as the First lady because it is the First Lady helped us push for it and was able to give us a bus. I got a bus with special facilities at the back to get wheelchairs in and the bus was handed over to Simaton. It goes round Nairobi picking up some of these special needs children. It is not enough; it is a drop in the ocean.

Mr. Temporary Speaker Sir, the strength of a country is not based on its foreign exchange reserves or its military but on what the country does deliberately for the less fortunate and for the vulnerable in society. No child chooses to be born with special needs. No family, no parent chooses for their child to be born that way. However, today, the only children with special needs who are able to have a fair chance at life are those of the rich because the rich are able to take them to institutions that cater for them.

Many years ago, when Nairobi was working- I keep saying let us make Nairobi work, we had a lot of these units in our schools. In my primary school we had a deaf unit for children with hearing impairment and there are many whom to date are my friends that went through that education. Of course they would take a bit more time, but they were able to learn and be taught. Many schools had those centers; it has not been done.

Hon. Rachel Shebesh tried a bit when she was a Woman Representative, to introduce a lot of these facilities in schools with the National Government Affirmative Action Fund (NGAAF) but it was not enough. Hon. Pasis has also gone on with it.

We need a legislative framework to make sure that we are able to provide specifically in each and every ward or constituency, units. When you cluster either three or four schools one of them must have special education teachers, classrooms, and facilities that these children will require. That is something that we will definitely need to do.

Mr. Temporary Speaker Sir, I know of even family members and friends who have really struggled with children who have autism and they do know where to take them. You find that even some schools that are well-to-do, I will not mention here but I was really surprised that some of these very high-cost private schools do not have teachers who understand some of these special needs.

Beyond this Bill, there needs to be a proper discussion with education stakeholders on how we make sure---

We take children to school for a reason and not just to pass time. If you look at the statistics that are coming out, that almost 90 per cent of children in fourth grade are reading at the first-grade level. What are we doing? Are we just keeping children busy and then we will have a whole generation that is not educated?

That should not be the case. We need to take education a bit more seriously. This experiment called Competency Based Curriculum (CBC) is not working. It is a challenge to many parents and to their children. When you tell a student in an informal settlement or in the rural areas to go do an assignment and print it, where do they print it? Some of these things are good in theory or on paper but they are not practical.

Sen. (Dr.) Musuruve, where you come from, some of these things they are asking for in Lugari, Kakamega, cannot be done. Let us give people an education. When I did 8-4-4, I think I was behind most of you who are here now, but, in as much as we had many subjects, it was practical. By the time I was in class eight, I knew how to stitch clothes, make a frame loom, do some carpentry.

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In Form Two, I was taking 18 subjects including woodwork, power mechanics, building and construction, metalwork, artwork, drawing and design. We did not go deep into all those things but by the time you completed school, you were able to do something. Ideally, our curriculum should not be standard for the whole country.

Mr. Temporary Speaker, Sir, a child completing form four in Samburu should immediately be of benefit to the economy of Samburu. If they go for higher education, the better but for immediate purposes, their skills are required there; whether it is livestock farming or any other relevant field. By the time a young person in Mombasa completes school, he should be able to participate in the blue economy or in the port activities at an elementary level.

Someone who comes from the agricultural areas should have agricultural skills because education is to impact the community, not for exam purposes only. A child in Habaswein does not need to do the same exact exam as a child in Lavington. What are you measuring? There are certain basics like Maths, English, Chemistry and Physics that can be measured but for the rest of it, we should equip and educate children to be of benefit to our society especially with devolution.

When I look at some of the provisions here, they are talking about the responsibilities of County Governments but this is limited to Early Childhood Development (ECD) because of the Second Schedule. They point to the Fourth Schedule; that a county government shall be responsible for implementation and effective delivery of special needs education with respect to the institutions falling under their mandate.

Mr. Temporary Speaker, Sir, that is a bit limiting. In certain places, we will need to invoke Article 187 of the Constitution. This is not a campaign promise, I have said this and it is something I believe in. Last year at the beginning, I was touched. I went to one of my schools in Dagoretti North Constituency to donate desks because during the Covid-19 pandemic, many desks had been vandalized. People stole them for the scrap metal and wood.

When I donated those desks, the children were told that their Senator was around and they became excited. We went and sat with them. As usual, I asked them what I should do for them. You would expect them to say they needed more balls to play or a school bus if they are ambitious. Those children told me that they want food.

Mr. Temporary Speaker, Sir, those children said all they wanted was food because there was no food at home and there was no food in school. One of the things I will make sure is done in Nairobi is to ask for the school feeding function to be transferred from the National Government to the county governments. We must feed the children.

Right now, the Government together with a lady who does Food for Education feeds around 33,000 children. One kitchen serves 11 schools. I am glad that my Member of Parliament for Dagoretti South, Hon. Kiarie John KJ has taken up the issue and has built a kitchen. Hon. Theuri from Embakasi West is doing the same.

I know Hon. Yusuf and Hon. Korir are also doing the same. With Kshs15 the children get 650 gm. of food and they take it back home too. They eat half of the food and carry the half back home because they have other siblings who have nothing to eat.

Mr. Temporary Speaker, Sir, this must be a responsibility of the Government. I do not know what is more important than this. I know there are school feeding programs maybe in the arid areas and that is how Nairobi has been discriminated against. When

you say those are marginalized areas because it is the Northern dry part of the country whilst there is urban poverty that bites so hard.

In Nairobi, if you do not have money you have no place to stay and you will have nothing to eat. God willing, if I am elected the governor of Nairobi County, that school feeding program in Nairobi City is a function we will take up including the one for special needs. The National Government does not have the capacity to be able to support such a program of school feeding and even on special needs. Their focus is spread too thinly.

Mr. Temporary Speaker, Sir, these are things we must do. Disability has changed over time. At some point, it was seen as a medical issue but now it is more of a human rights issue. If we all went outside of the Kenya International Conference Centre (KICC) and there were no stairs, there would be no difference between you and somebody who is abled differently on a wheelchair. All of us would not get up. Going up the KICC has been made possible by the stairs and lifts. In the same way, there needs to be complete provision.

I remember we were reviewing the Building Code. I do not know whether this is something Sen. (Dr.) Musuruve can take up. There is an International Organization for Standardization (ISO) certification of all public buildings. Kenya Bureau of Standards (KEBS) have that standard. All public facilities including schools must have certain widths, lengths of entrances, ramps and access for persons with special needs including schools.

Mr. Temporary Speaker, Sir, I remember we were discussing it in the last Parliament when I was in the House Business Committee (HBC) when one of our colleague and Member, Hon. Denittah Ghati became disabled. We then realized that somebody with a disability cannot get to the first floor of this Parliament. There were no lifts to the First Floor of Parliament building. You could only use the staircase. Hon. Ghati could not get up stairs to the meeting room as a Member of the HBC.

We need to be more proactive and think beyond of what these children need; they only need a fair chance at life. Once given this chance, you will find a lot of greatness in them. Some of the most brilliant inventors and musicians had dyslexia and others autism. That is because they are abled differently. When one sensory organ is subdued, others come up. If you use colour or music, you produce amazing products.

Thank you, Sen. (Dr.) Musuruve and Sen. (Prof.) Kamar for this Bill. I support it completely. I will look into it to see if it needs any amendment. I also ask Hon. Members to expedite on such legislation. Both the National and County Governments do not need a law to tell them what to do.

Mr. Temporary Speaker, Sir, you cannot legislate on humanity or basic common sense and decency on what we need to do for our children. The quality of our schools right now, it is really wanting yet the Ministry of Education gets the bulk of our budget together with other Ministries. Since people have refused to be proactive, that is why Sen. (Dr.) Musuruve has to create such a law. I do not think it is over-legislation as my colleague, Sen. Olekina said. It is appropriate and we should implement it.

Thank you.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, I now call upon the mover to reply.

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Sen. (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to reply. I thank fellow Senators who have contributed to this Bill. Before Sen. Sakaja walks out, I acknowledge him as a champion for persons with disabilities. I am aware that he can gesture your name using the sign language. You showed me. Thank you so much for being inclusive.

I wish to thank Sen. (Prof.) Kamar. Since the time we met in Parliament, she has become a true friend. I also realized she was keen on issues of disability. She has encouraged me many times. We have done so much together including coming up with books on sign language that the Senate launched *mashinani*.

I have distributed to some of our *mashinani* programs. Our friendship has made us develop a Bill together on the Kenyan Sign Language (KSL). I remember that many times we would sit in my office until late, past seven in the evening, trying to come up the Bill. She has been very active even on this one on the Special Needs Education Bill. I will forever remember the friendship she has given me in this House concerning issues of disability.

Mr. Temporary Speaker, Sir, I thank Sen. Cherargei for his input. I also thank Sen. (Dr.) Milgo, the Chairperson of the Committee on Education, for her input and for seeing to it that the Bill was presented in its raw form to the Senate Committee. We interrogated it and called for public participation on it. We were able to get meaningful input. I thank her for the role she has played up to the time this Bill has reached this stage.

Further, I thank Sen. M. Kajwang, Sen. (Dr.) Zani, Sen. (Dr.) Langat, Sen. Olekina and Sen. Faki for their input. If there is any Senator I might have failed to recognize, I still thank you for your input.

There has been a favourable environment from the Senate, where colleagues have always supported issues of PWDs. When it comes to matters PWD, Kenyans out there must know that they have a friend in the Senate.

Mr. Temporary Speaker, it has come out clearly from all Senators, that this is an important Bill. Sen. Cherargei put it clearly that it will make everyone realise that as a Parliament, we are keen on issue of PWDs. We can even fly high the Kenyan flag internationally just using this Bill. All Senators are in agreement that there is need to fast-track this Bill, so that it goes to the National Assembly and sees light at the end of the tunnel.

I thank Senators for their input. Special education is an element that should be included in the teacher training programs. Such training will enable trainee teachers to get the basics of special education.

The KSL aspect was brought out very clearly by my Co-sponsor. She reiterated that all learners should be taught KSL up to Grade Four, just the same way learners are taught foreign languages and other subjects. Everyone is a candidate of disability. You can get a disability even when you are an adult.

Mr. Temporary Speaker, Sir, there is also need for both levels of government to intervene on matters of special education. They need to be proactive in ensuring that issues of disability and Article 53 of the Constitution are implemented.

Sometime back during county visits, it came out clearly that infrastructure in schools for children with disabilities are in pathetic state. During a Senate Mashinani

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visit, legislators visited a special school. We found very deplorable conditions. My former Chairperson in the Committee on Education, Sen. (Dr.) Lang'at, affirmed the fact that such schools are in dilapidated state. There is need for something to be done.

Quality education should be a priority for special schools. There is need for concerted efforts right from the national government to the county government, to ensure service delivery to special need education.

Most children in special schools come from poor families and the cyclic nature of poverty runs in the families. Senators have suggested that children with special needs should learn for free. This will break the socio-economic disparity that exists between them and other families.

In conclusion, every one of us is in agreement that the Bill needs to see the light of day.

Pursuant to Standing Order No.61(3), I beg that putting of the question be deferred to another day.

The Temporary Speaker (Sen. Lelegwe): Thank you, Sen. (Dr.) Musuruve. Hon. Senators, I defer putting of the question on the Bill until tomorrow.

(Putting of the Question on the Bill deferred)

Next Order.

BILL

Second Reading

THE COUNTY RESOURCE DEVELOPMENT BILL
(SENATE BILL NO. 45 OF 2021)

*(The Temporary Speaker (Sen. (Dr.) Lelegwe)
consulted Sen. Nyamunga)*

After consultation with the Mover, Order No.20 is deferred.

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, there being no other business, it is now time to adjourn the House. Therefore, the Senate stands adjourned until Wednesday, 16th February, 2022 at 10.00 a.m.

The Senate rose at 6.06 p.m.