

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 10th October, 2017

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

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

PRAYER

PETITION

ALLEGED NON-OPERATIONALISATION OF PROVISIONS OF THE WILDLIFE CONSERVATION AND AMENDMENT ACT NO.47 OF 2013

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.220(1)(a) and 224(1)(b), I hereby report to the Senate that a Petition has been submitted through the Clerk by the Council of Chairpersons of County Wildlife Conservation and Compensation Committees (CWCCs), regarding alleged non-operationalisation of certain provisions of the Wildlife Conservation and Amendment Act No.47 of 2013.

As you are aware, under Article 119(1) of the Constitution, every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislations.

The salient issues raised in the said Petition are:

1. That, Section 18 of the Wildlife Compensation and Management Act No.47 of 2013 establishes CWCCs for each county and provides for its membership. Section 19 of the Act further outlines the functions of such committees.

2. That, Section 21 of the same Act provides for payment of allowances to members of the CWCCs as shall be determined by the Salaries and Remuneration Commission (SRC).

3. That, following passage of the Act, the CWCCs were constituted in February, 2015 and have been carrying out their functions and mandate as set out in the Act. The term of the current CWCCs is due to elapse in February, 2018, on completion of their three year term.

4. That, despite (3) above, the framework for payment of allowances to chairpersons and members of CWCCs is yet to be agreed upon between the line Ministry and the SRC, as a result of which the chairpersons and members of the CWCCs are yet to be paid their monthly honoraria since assuming office in February, 2015.

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The petitioners further highlight several other challenges encountered by CWCCs in carrying out their work. Among them is lack of consultations in the development of policies, regulations and guidelines affecting the sector as well as delays in compensation of victims of human-wildlife conflicts.

5. Consequently, the Petitioners pray that the Senate investigates this matter with a view to ensuring that:-

(a) The CWCCs chairpersons and members are paid their monthly honoraria for the period 27th February, 2015 to date and for the remainder of their time.

(b) Funds are provided to facilitate CWCC's activities in the counties as stipulated in the Wildlife Conservation and Management Act.

(c) There is adequate public participation and adequate consultations during the development of wildlife conservation and compensation guidelines and regulations.

(d) Funds are provided to the committees to clear the backlog of compensation claims.

Hon. Senators, pursuant to Standing Order No.225, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Sen. Seneta: Mr. Speaker, Sir, thank you for giving me a chance to comment on the wildlife Act and the Petition that has been brought to our attention. I remember very well when this Bill was passed in the Eleventh Parliament, we thought it would be a solution to human-wildlife conflicts in our counties. However, it is very sad that up to today, the Act has not been operationalised to save our people and domestic animals.

I urge this House to get into this matter and urge the Ministry concerned to operationalise the Act because our people are suffering. As I speak, wildlife are invading our homes and consuming our animals because of the current drought in our country and there is no compensation. If you seek for compensation, you are taken round in circles. You are either told this is a county or national government issue.

The committee concerned must take this matter seriously, investigate it and see how it can help in the operationalisation of the Act. I also urge this House to assist us to make sure that the CWMCs are operational so that they look into the issue of compensation. I call upon the Cabinet Secretary concerned to act very fast and prioritise this matter to help our people.

Sen. Olekina: Mr. Speaker, Sir, thank you for this opportunity. It is imperative that we take serious consideration in setting up these committees because our people are suffering. In the Maasai Mara Game Reserve, for example, we have a huge human-wildlife conflict. We also have a problem with our domestic animals. Right now, we have a huge drought. There are things that need to be considered. It appears that in most cases, wildlife is given priority in this country because of the foreign income. It is sad, just like Sen. Seneta has alluded to, animals are more precious than human beings.

I think when we have these committees in place, they will look at the issue of balance between wildlife and our animals. Yesterday, I received a phone call from an old man from the Masaai Mara. He told me when there is a severe drought, ordinarily, they are allowed to access parks at night to graze their cows. We have thousands and thousands of cows that used to be given access to the park at night. In fact, when you go to Masaai Mara, Sikinani or Talik, you will be surprised because during the day, that is

when all the cows are actually locked in. In the evening from 6.00 p.m. women start milking the cows. At around 6.30 p.m. people go into the park to graze them.

Without these committees, the Maasai will suffer a lot. We depend on wildlife, cows and agricultural products. Without these committees to advise on different policies that the Government should adopt in terms of creating a balance between the wildlife conservation measures and also between the communities that reside next to the parks, it becomes very challenging for us to support our people.

This is a great petition that we ought to take seriously and ensure that county governments set up those committees and also balance between the wildlife and ensure that our people, who depend entirely on it and also domestic animals where there is a huge conflict, do not suffer.

Sen. Halake: Thank you very much, Mr. Speaker, Sir, for giving me the opportunity to comment on the Petition that is before us this afternoon. I would like to say that 60 to 70 or 80 per cent of wildlife live outside government protected areas. Therefore, the people who should be custodians of these wildlife – and who have been hosting them – more than the Government is the community. So, if there is a provision within the Act that is going to empower the communities to take charge of wildlife conservation outside the protected areas, it should be given priority.

In support of the Petition, there are several conservation approaches in the country. This includes the Government protected areas such as the national parks, which is what Sen. Olekina is describing, where domestic animals do not go in and they have to go at night. There are also private ranches and community conservancies. With all these, most of the wildlife in this country is hosted by communities. Therefore, these committees give our communities a chance to participate in conservation and benefit from it because, in large part, one of the issues around wildlife crisis is because of the fact that there is disproportionate amount of benefits that go to people that do not host the wildlife or to other places.

The petitioner has a right to alert this House to this fact. Senators should, therefore, give this Petition priority and ensure that we get this actualized and implemented as soon as possible. Having laws is one thing but they are not useful if we are not going to make sure that they are implemented.

Mr. Speaker, Sir, the issue is beyond human-wildlife conflict but, of course, the Committees would help with human-wildlife conflict. But beyond that, I think that it is about time communities that have lived, hosted and even been custodians of the wild-life of this country get a say and participate in conservation of the same. They should actually be given the chance to do so especially if there are provisions in law that have given them the right to participate.

So, Mr. Speaker, Sir, I humbly request this House to take this issue seriously. The economy and tourism of this country is largely wildlife-based. But what is the trickle-down effect of the economics of that fact? Are the communities really feeling it? So, if the implementation of this Act would empower the communities, this is something that we should support.

Mr. Speaker, Sir, I will bring a Bill before this House on community conservancy resourcing in the next few weeks. But when I saw this Petition, I thought what a good thing to start with because little steps do add up. As a conservationist, I have observed

that there is very little going to communities with regards to conservation. There is mention that a lot of the conservation is driven from outside, but it is about time the communities are given back the right to look after their heritage.

I thank you, Mr. Speaker, Sir.

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

Sen. Wamatangi: Mr. Speaker, Sir, I had actually not pressed the button, but---

The Speaker (Hon. Lusaka): That is okay.

Proceed Sen. (Eng.) Maina

Sen. (Eng.) Maina: Thank you, Mr. Speaker, Sir. I stand to support this Petition and the Bill because I happen to have some experience about human-wildlife conflict. I hope this Bill will bring some framework for the people who live close to our wildlife.

Sometime back, I built a water project for the Maasai Community in Amboseli and the whole idea was to take water from the national park to the ranches on the boundary of the park. During the opening ceremony, the late hon. Oloitiptip, who came to open the water project, was put to task by the Maasai people. They said that during the rainy seasons, the wild animals move from the park which is swampy at that time to their ranches. They also said that during the dry seasons, their cattle went to the park to graze. But now, we were giving them water so as to stop them from grazing in the park. I witnessed a conflict there.

I must say that in the conservation that we are geared to in Kenya, we must ensure that there is some friendly co-existence between the animals and the local people who live near the parks. At this juncture, I must mention that even if we set up these committees, Kenya needs to have a broad look at this matter. The people who live near the wildlife need to benefit in a better way rather than just wait for their animals to be killed by a lion and then compensate them. The compensation to be given should also be reasonable.

Mr. Speaker, Sir, Kenya, in its conservation efforts, has even banned culling of animals. In this House, I will be pushing that culling of these animals is allowed because the wild animals also move from their places of existence when they are starved due to over population. When animals are kept in a park like Lake Nakuru National Park which has a limited area, over the years, the animals continue breeding and end up over populated. For instance, there could be about 200 lions without as many zebras to keep the balance. This results in the wildlife animals straying out into farms and ranches.

Therefore, I hope that the recommendations to this Bill will come from the local level, which will result in better management of the wildlife and the people living around the wildlife conservation areas. I hope the same Bill is going to make recommendation for benefits and compensation of the communities living around the wildlife.

Mr. Speaker, Sir, I support this Bill and I look forward to supporting it further.

The Speaker (Hon. Lusaka): Thank you, Sen. (Eng.) Maina. However, this is a Petition and not a Bill.

Proceed, Sen. Cheruiyot.

Sen. Cheruiyot: Thank you, Mr. Speaker, Sir, for giving me this chance. I support this Petition in the spirit that this Senate, which is the third Senate of the Republic of Kenya, owes a duty to Kenyans to treat all matters that come before it with the seriousness it deserves. It is my sincere hope that this shall not be treated with the

same casualness or lack of keen attention to detail that I saw with other Motions before this House in previous times. This is something very important to the communities that share their land of heritage with wildlife. I am sure that the drafters of this law had taken into consideration so many aspects and thought about the difficult things that it would take. Perhaps, nowadays, when we hear about human-wildlife conflict that is still prevalent in our communities, it is because of lack of enforcement of such well thought-out laws.

Mr. Speaker, Sir, I hope that when you finally make your decision on how this matter will be treated, we will find a final binding solution for the communities that are supposed to have benefitted. I have not had the opportunity to read through the Petition, but I have heard that it is one of the reasons the County Wildlife Conservation and Compensation Committees (CWCCs) are supposed to have had a meeting with the Salaries and Remuneration Commission (SRC) and agree on a few things. Such are the matters that the SRC should take into keen attention and detail and not the one that they are nationally obsessed with; the issue of welfare of Members of this House. If we solve such issues, we give the country good guidance; the people who are supposed to benefit do so, we preserve our heritage as a country and that benefits us.

Mr. Speaker, Sir, the issues that I rose to address myself to is that when you finally make your guidance, it is my sincere hope and prayer that this matter will be fully addressed. It is also my hope that the people who drafted this Petition will find justice and the communities shall live happily ever after, as they say in folklore.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Thank you.

Proceed, Sen. Kinyua.

Sen. Kinyua: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I beg to support this Petition and we should seriously work on it. This is because the area that I come from, Laikipia County, this is the biggest problem that we have; human-wildlife conflict. For instance, if you go to a place called Kinamba, we hardly plant any crops because we neighbour big ranches which have a lot of elephants. After we plant, it is the elephants which come to harvest the crops and yet we cannot milk the elephants. That is our big problem.

Whenever we seek compensation, we are taken round in circles. Therefore, I recommend that we move swiftly and make sure that we operationalize this Act so that when our livestock are eaten by leopards, we can be paid. This is because as Sen. Olekina said, most of us are pastoralists who depend on our livestock. Once they are eaten by lions, we do not know exactly what to do.

The other problem is that whenever we erect our fences, these animals destroy them and we do not get compensation. So, I recommend that this Petition should be acted on quickly so that we can have a lasting solution and stop our persistent complaints. In many parts of Laikipia County, especially now that there is a lot of drought, we have a lot of problems because even the animals themselves cannot get enough grass or pasture where they live. So, they end up in our farms and we end up with a lot of problems.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Thank you.

Proceed, Sen. (Prof.) Ekal.

Sen. (Prof.) Ekal: Like everybody else, Mr. Speaker, Sir, I would also like to add my voice to this Petition in an affirmative way. Petitions like this are necessary because Kenya is largely still under livestock rearing; while the wild animals exist and they also need to eat. Although we make laws and rules about preserving wildlife animals, there is one area that is lacking; which is civic education of the folks, the people or *wananchi*; that having wild animals is beneficial to the country. At the same time, we should also give them an alternative as to what happens if a lion, a leopard or a fox consumes some of those animals. What are they supposed to do? In my part of the world, a lot of these animals are roaming around and they come at night and devour people's animals. I spent the weekend with a man who told me that ten of his goats were consumed by foxes.

I tried to explain to him that foxes are the property of the Government and he will be compensated but he did not buy the idea, which means that he lacks education in that aspect. He told me to bring him some poisonous chemicals that can get rid of the foxes which, of course, I did not support.

When we make these laws, we also need to educate the people and give them the alternatives and act on them. It is useless to say that when a person's domestic animals are consumed by wild animals, he or she will be compensated but when they ask for the compensation, they do not get it and they resort to taking matters into their own hands and the country ends up losing because the animals are eliminated from the world.

The Petition is well placed and we want to get ahead with it.

The Speaker (Hon. Lusaka): I note that the time allocated for that discussion is over. Therefore, hon. Senators, pursuant to Standing Order No. 226 (1), the Petition stands committed to the relevant Standing Committee, in this case, the Standing Committee on Lands, Environment and Natural Resources. In terms of Standing Order No. 226(2), the Committee is required, in not more than 60 days from the time of reading the prayer to respond to the petitioners by way of a report addressed to the petitioner and laid on the Table of the Senate.

Thank you.

PAPERS LAID

Sen. Dullo: Thank you, Mr. Speaker, Sir. I beg to lay the following Papers on that Table of the Senate, Today, Tuesday, 10th October, 2017:

THE PSC ANNUAL REPORT FOR THE FY 2016/2017

(a)The Public Service Commission (PSC) Annual Report for the financial year 2016/2017.

VARIOUS POLICIES FROM THE EXECUTIVE

(b)The National Irrigation Policy 2017

(c)The National Slum Upgrading and Prevention Policy; Sessional Paper No.2 of 2016

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(d) The National Urban Development Policy 2016.

(Sen. Dullo laid the documents on the Table)

STATEMENTS

STATUS OF DISBURSEMENT OF FUNDS TO COUNTY GOVERNMENTS FOR THE FY 2017/2018

Sen. Khaniri: Mr. Speaker, Sir, I thank you. I rise pursuant to Standing Order No. 46 (2)(b). The Statement would ordinarily have been sought from the Chairperson of the Committee on Finance, Commerce and Budget.

Mr. Speaker, Sir, I want to deliberately direct this request to the Senate Majority Leader because I know that the Committees have not been fully constituted.

Pursuant to provisions of Standing Order No. 46 (2) (b), I rise to seek a Statement from the Senate Majority Leader in relation to the status of disbursement of funds to county governments for the Financial Year 2017/2018. The Division of Revenue Bill was assented to on 21st June 2017.

In the Statement, the Chairperson should:

(1) Explain the reasons for failure by the Cabinet Secretary (CS) for the National Treasury to gazette the disbursement schedule for counties in time as provided for in the law.

(2) Explain the reasons for the late disbursement of funds to the counties for the month of August and September which have not been disbursed up to date, contrary to the law.

(3) Explain the measures the Government has put in place to cushion counties from the resultant cash crunch.

The Speaker (Hon. Lusaka): Senate Majority Leader, can you commit yourself on when this will be ready?

Sen. Dullo: Thank you, Mr. Speaker, Sir. I request Sen. Khaniri to give us two weeks to respond to this particular Statement.

Sen. Khaniri: Mr. Speaker, Sir, I think the House and the hon. Senator should appreciate the urgency of this matter; counties are coming to a halt. I am sure that these answers are there; it is not something that will be researched on.

The hon. Senator will do this House a lot of good if this Statement can be responded to this week. We do not need two weeks to research on this. Honestly, I am sure that the answers are there.

Sen. Dullo: Mr. Speaker, Sir, having listened to Sen. Khaniri, I will try my best to see whether we will have the Statement by Thursday which will be a day after tomorrow. It may not be possible but I will try my best. In the event that I will not get it, I will try to deliver it after recess.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I have a couple of Statements. These Statements would probably go to a different Committee but I have decided to direct them to the Senate Majority Leader.

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USE OF EXCESSIVE FORCE/POLICE BRUTALITY DURING PEACEFUL
DEMONSTRATION BY UON STUDENTS

Pursuant to Standing Order No. 46 (2) (b), I rise to seek a Statement from the Senate Majority Leader regarding the use of excessive force and police brutality during the peaceful demonstration and picketing in the country and in particular during the raid at the University of Nairobi (UoN) on Thursday, 28th September, 2017.

In the Statement, the Senate Majority Leader should explain the following:

(1) Why the police raided the lecture halls and halls of residence of the UoN during the demonstration by members of the public in the Central Business District (CBD) on Thursday, 28th September, 2017.

(2) State who authorized the police to enter into university premises on this eventful day.

(3) State the number of students who died or were injured during this raid.

(4) Confirm whether the Bill of Rights in the Constitution and in particular the freedom from torture, cruel, inhumane and degrading treatment was violated by the police officers who undertook the raid at the university.

(5) The action that would be taken against police officers who will be found to have committed these heinous crimes.

(6) The Senate Majority Leader should table the results of the investigation that the Government undertook to carry out in similar incidences in Kisumu, Mathare during the protests after the general elections held on 8th August, 2017 where lives and property were lost.

(7) Finally, explain the circumstances that led to the subsequent indefinite closure of the UoN on Tuesday, 3rd October, 2017.

That is my first Statement.

Sen. Dullo: Mr. Speaker, Sir, looking at the Statement, it requires an investigation to be done. For us to give a comprehensive answer, I request Sen. Olekina to give me two weeks to respond to his Statement.

Sen. Olekina: Mr. Speaker, Sir, two weeks is such a long period. Parents have paid tuition fees and there is no reason as to why a public university should be closed. I request to get this Statement before we go on recess on Thursday because this Senate Calendar is designed in a way. We will be on recess until 7th November, 2017.

Sen. Dullo: Mr. Speaker, Sir, ordinarily, this Statement has to be sent to Narok for them to give a comprehensive answer in terms of what happened. I will request---

(Sen. Olekina consulted loudly)

Sen. Dullo: Did you say Kisumu or Narok?

Sen. Olekina: I said UoN and Mathare.

Sen. Dullo: Mr. Speaker, Sir, with all due respect to Sen. Olekina, I request him to give us two weeks to reply to this Statement because we only have tomorrow to get the answer which is not possible. If I promise to give an answer on Thursday, I will be lying.

The Speaker (Hon. Lusaka): I think two weeks looks reasonable so that thorough investigations are done and you get a proper answer than hurrying and getting a half-baked answer.

Proceed, Sen. Khaniri

Sen. Khaniri: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No. 46 (2) (a), to make a Statement that I should have made two weeks ago. Unfortunately, I was unable to make it before we broke for recess and, secondly, I was bereaved and I had to travel to Vihiga County.

**SENATOR'S GENERAL STATEMENT
UNDER S.O NO. 46 (2) (a)**

ACTION BY CAF TO STRIP KENYA OF THE RIGHTS
TO HOST THE 2018 CHAN

Mr. Speaker, Sir, I rise pursuant to Standing Order No. 46 (2) (a) to make a Statement on a general issue concerning the actions by the Confederation of African Football (CAF) to strip Kenya of the rights to host the 2018 African Nations Championship (CHAN).

The continental soccer body made the tough decision following Kenya's delay in completing the construction of the stadia that were to be used and the political climate in the country.

It must be remembered that Kenya won the nod to host the football competition slightly over three years ago but it appears that someone slept on the job. This development evokes Kenya's failed attempt to host the African Cup of Nations finals in 1996 after failing to build the necessary stadia leaving the continental football body with no choice but to turn to South Africa as an alternative host.

Mr. Speaker, Sir, the decision by CAF now puts Kenya to shame. We have lost an opportunity to have our players play at the biggest stage in continental football, besides the economic impact this type of events have, not to mention our global profile being raised and a boost to trade and investment.

Mr. Speaker, Sir, the Executive Order Number 2 dated May, 2013 on the Organisation of the Government spells out the mandate of the Ministry of Sports, Culture and the Arts among others; to develop and coordinate sports; promote and develop sports facilities; and spearhead the expansion of the sports industry in Kenya.

It is disheartening that after successfully bidding for the event, no serious thought went into putting in place the infrastructure that is needed to host it. This is another failure of the Government of Kenya and an embarrassment to all of us. This shameful loss comes hot on the heels of the Rio 2016 Olympics debacle where although Kenya had its most successful performance ever in Olympics, the shambolic and chaotic preparations that included missing shoes, ill-fitting uniforms, a brawl among teammates over prize money and completely inadequate training facilities brought a lot of shame to our country.

Mr. Speaker, Sir, I therefore take this opportunity to appeal to the Executive and particularly the Ministry of Sports, Culture and the Arts to wake up and get its act in

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order and starts working. We have lost numerous opportunities and benefits that would have come with the hosting of that particular tournament.

As I end, I would like to say that this is a very serious matter. I intend to bring a Motion to seek leave of the House so that we have a select committee to look into this matter fully, so that we avoid future occurrences of such an embarrassment again. I thank you.

The Speaker (Hon. Lusaka): Thank you. Are there any comments on the same? If none, we will have Sen. Were.

CONTINUED STRIKE BY NURSES IN
PUBLIC HOSPITALS IN THE COUNTRY

Sen. Were: Mr. Speaker, Sir, pursuant to Standing Order No.46(2)(b), I rise to seek a statement from the Senate Majority Leader regarding the continued strike by nurses in public hospitals in the country. In the statement, the Senate Majority Leader should:-

(1) Indicate the cumulative period in which nurses in public hospitals in the country have been on strike for the past five years.

(2) Table the scheme of service for nurses and the respective salaries and allowances for each group under the scheme.

(3) Explain who between the national Government and the Council of Governors (CoG) is mandated to negotiate and sign the Collective Bargaining Agreement (CBA) with the nurses' union.

(4) Explain why the strike by nurses has taken too long to resolve.

(5) Table a list of counties where nurses in public hospitals are currently on strike and those counties whose nurses are not on strike.

(6) Explain the measures the Government has put in place to alleviate the suffering of patients during the period when nurses are on strike.

(7) Explain the measures the Government has put in place to bring the strike by nurses and other medical professionals to an end.

The Speaker (Hon. Lusaka): Let us have the Senate Majority Leader respond to that. I can see Sen. Dullo.

Sen. Dullo: Mr. Speaker, Sir, we will provide the statement after recess.

The Speaker (Hon. Lusaka): Hon. Senator, you may need to give a definite date. You do not just give a general statement.

Sen. Dullo: Mr. Speaker, Sir, I meant to say the first week after recess.

The Speaker (Hon. Lusaka): Do you know when recess is ending? We want something definite.

Sen. Dullo: Mr. Speaker, Sir, we are expected to come back on 7th November, 2017 and I will give provide the statement then.

The Speaker (Hon. Lusaka): Okay. Let us now have Sen. (Dr.) Musuruve.

ALLEGED ABUSE OF HUMAN RIGHTS OF PWDs

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, I rise pursuant to Standing Order No.46(2)(b) to seek a statement from the Senate Majority on the alleged abuse of human rights of Persons with Disabilities (PWDs). In the statement, the Senate Majority Leader should:-

(1) State whether the Government is aware that PWDs from Kenya and other neighbouring countries are allegedly being trafficked and housed in Nairobi and other major towns in the country.

(2) Further state whether the Government is aware that the said PWDs are used by able-bodied people to beg on the streets in Nairobi and other major towns, against articles 28, 30, 43 and 54 of the Constitution.

(3) State the measure that the Government has taken or will take to deal with those found culpable of trafficking in PWDs and using the said persons to beg on the streets.

(4) Explain the measures that the Government will put in place to repatriate PWDs from the neighbouring countries who are involved in begging on the streets of Nairobi and other major towns.

(5) Explain the steps that the Government will take to support Kenyan persons living with disabilities and especially those on the streets to come up with sustainable means of earning a living.

Mr. Speaker, Sir, that is my first statement but I have another statement to seek. Can I proceed?

The Speaker (Hon. Lusaka): You can proceed.

MAINSTREAMING OF LEARNERS WITH
DISABILITY IN THE EDUCATION CURRICULUM

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, I rise pursuant to Standing Order No.46(2)(b) to seek a statement from the Senate Majority Leader on the mainstreaming of learners with disability in the education curriculum. In the statement, the Senate Majority Leader should:-

(1) State the number of learners with disabilities in various public and private learning institutions in the country.

(2) Table a list of schools for learners with disabilities and the number of learners in each of the schools.

(3) State when the new education curriculum will be rolled out.

(4) Table a list of schools for learners with disabilities and the number of learners in the respective institutions that are slotted for the piloting of the new education curriculum.

(5) State the measures that the Ministry of Education has put in place to improve the performance of children with disabilities and especially those that have hearing impairment and are faced with linguistic challenges which affect their overall performance.

Mr. Speaker, Sir, I thank you.

The Speaker (Hon. Lusaka): Let us have the Senate Majority Leader to reply or another Senator on his behalf.

Sen. Dullo: Mr. Speaker, Sir, we will provide the statement on 10th November.

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, disability is an issue that many people are not sensitive about and we need to talk about it with passion. As we speak now, people with disabilities still continue to be abused in the streets of Nairobi. According to our Constitution, it is very wrong for their dignity to be reduced that way by allowing them to beg on the streets. I feel that 10th is very far because there is need for an immediate action.

The Speaker (Hon. Lusaka): You sought for a statement and Sen. Dullo gave some indication of when the statement will come. I can see she is on her feet.

Sen. Dullo: Mr. Speaker, Sir, I do agree with the Senator's sentiment. I am sure that she requires a more comprehensive answer to be able to deal with the issues she has raised here. Therefore, I am requesting her to bear with us so that we can give her something that can answer what she has requested.

Thank you.

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

WITHDRAWAL OF SECURITY OFFICERS ATTACHED TO
RT. HON. RAILA AMOLLO ODINGA AND
HON. STEPHEN KALONZO MUSYOKA

Sen. Olekina: Mr. Speaker, Sir, I rise pursuant to Standing order No. 46 2(b) to seek a statement from the Senate Majority Leader regarding the withdrawal of security officers attached to the former Prime Minister, the Rt. Hon. Raila Amollo Odinga and the former Vice President, Hon. Stephen Kalonzo Musyoka.

In the Statement, the Senate Majority Leader should:-

(a) explain the security entitlement to the former Prime Minister and the former Vice President as required by law;

(b) explain the circumstances that led to the withdrawal of the security details attached to both the leaders;

(c) confirm whether the withdrawal of security officers is an intimidation for the candidates of Presidential Elections scheduled for 26th October, 2017;

(d) state whether the Government is aware that this action puts the lives of the two leaders in danger; and,

(e) state when the security officers attached to the two leaders will be reinstated, considering that the leaders are actively involved in the campaigns for the presidential election slated for the 26th October, 2017.

Thank you.

The Speaker (Hon. Lusaka): Yes, Senate Majority Leader.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, this is a very important matter. I will be very happy to seek a Statement on the same. I am very excited to hear a confirmation regarding the preparation of the former Prime Minister and the former Vice President for the election of 26th October, 2017.

Considering that they are seriously preparing for that election, I would like to return back to this House with a statement by Tuesday next week. It cannot wait considering that 26th October, 2017 is very important.

Part one of the request asks whether indeed that security has been withdrawn and then the other questions follow. I recognise the seriousness with which my colleague is taking this issue. Presidential candidates are not just simple people and it is important for them to have security. I will come with the answer on Tuesday next week.

The Speaker (Hon. Lusaka): The Senate Majority Leader, on Tuesday, we shall be on recess; it has to be before that.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I can give a brief Statement on Thursday, so that it can assist the situation for the time being. I will give the more salient issues by this Thursday. Thereafter, the comprehensive answers will follow as to why this happened, whether the leaders are given security officers and so forth.

The most important answer that everyone would like to know is whether a presidential candidate of the level of a former Prime Minister and Vice President have security or not? I should be able to answer that by Thursday. Even if they are no longer presidential candidates, it is important to know what they are entitled to in terms of protection, given that they enjoy the position of former Prime Minister and former Vice President. I can come up with an answer by Thursday.

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

Sen. Olekina: Mr. Speaker, Sir, I am actually baffled by the Senate Majority Leader for trivializing this matter. This is not a joke. This relates not only to one particular person, but former state office holders. It is not in the prerogative of one body to determine when a particular former state officer is entitled by law to have security.

Therefore, it is imperative that he provides a full statement on this matter on Thursday because, if you have been coming to the House regularly, you know that we will be on recess until 7th November, 2017. This is not an easy matter.

The Speaker (Hon. Lusaka): Yes, the Senate Majority Leader.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, as I said, I take this matter very seriously. If my colleague wants an answer immediately, I can give it to him now. However, for that answer to have institutional authority and authenticity, it must be in writing. It must come from the Inspector General of the Police; as to whether or not they have security.

We celebrate the Senator for Narok County because he is only one of the three Senators who have not obeyed the orders from *Baba* not to attend the proceedings of this House. He has used that advantage to protect the interest of his party leaders.

(Laughter)

Therefore, for him to say that I do not come to this House is misguided. If you allow me one minute, this is the example we need in this Republic; that leaders even on the Minority side take their job seriously. You can see how the party leaders of NASA are benefiting from their Members disobeying those orders that are illegal to come here

and execute legal duties with gusto, determination and passion like my friend, Sen. Olekina, is doing.

The Speaker (Hon. Lusaka): Thank you.

Let us move to the next Order.

BILL

Second Reading

THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 3 OF 2017)

Sen. Olekina: On a point of order, Mr. Speaker, Sir. Last week I requested for a statement from the Senate Majority Leader on the issue of security at the Esoit, Naibor and Kimintet ward. It was supposed to be given today.

The Speaker (Hon. Lusaka): I will excuse you but next time you will have to be timely. Once we are on another Order, you cannot take us back.

Let us proceed.

Regarding Order No. 8, the Mover has consulted with me and requested that we defer the matter to another date, which will be communicated to the House.

(Bill deferred)

MOTION

ESTABLISHMENT OF SPECIAL NHIF FUND FOR PLWD

Sen. Mwaura: Mr. Speaker, Sir, I beg to move the following Motion, with the permission of the Senate Majority Leader:-

THAT, AWARE that about 15 per cent of the Kenyan population is persons living with disabilities;

APPRECIATING that the Government has taken several measures to avail certain privileges through the National Council for Persons with Disabilities to registered persons living with disabilities;

NOTING that the National Hospital Insurance Fund (NHIF) is a contributory health insurance cover and the remittance of contributions for persons living with disabilities by Government for the cover, is not among the privileges extended to persons living with disabilities;

CONCERNED that most persons living with disabilities have difficulties engaging in gainful income generating activities that would enable them pay the contributions to NHIF, hence are without any medical cover;

FURTHER CONCERNED that many persons with disabilities are unable to access medical services leading to high mortality rate;

NOW THEREFORE, the Senate urges the National Government to put in place the following measures through the Ministry of Health and the Ministry of East African Community, Labour and Social Protection:-

1. Undertake vetting of all persons living with disabilities in Kenya to ascertain those who are unable to afford payment of contributions to the NHIF; and
2. Set aside a special fund for remittance of contributions to NHIF for those persons who are living with disabilities and cannot afford to pay the contributions.

Mr. Speaker, Sir, the Kenyan population is estimated to be 45 million. Out of this, 15 per cent are persons living with disabilities of various types and categories. There is a saying that if you want to know the dignity of a nation, you need to look at how it treats her weakest or minorities, for that matter. That purview or that ambit is where persons with disabilities always find themselves.

Kenya has committed itself to the attainment of universal healthcare in various treaties and global declarations that we are party to. Indeed, the right to health cannot be gainsaid as enshrined in Article 43 of our Constitution that speaks to economic and social rights. In it, all Kenyans are supposed to access affordable and quality healthcare.

Kenya is also a member to the treaty of the United Nations Convention on the rights of persons with disabilities. Article 24 of that Convention speaks very expressly on what State parties are supposed to ensure for persons with disabilities in relation to access to health. That, of course, has an impact on their human dignity as envisaged in Article 28 of our Constitution.

Our own Constitution is also replete with various provisions that seek to ensure the inclusion of persons with disabilities in the body politic of our country. However, this can only happen if such members and such citizenry are also healthy. If you look at our Constitution, it expressly mentions persons with disabilities in a record 18 times.

In the spirit of the new Constitution, health services have been dissolved. Therefore, they fall under the purview of the county governments. This House which is supposed to debate on issues concerning counties is where we need to debate on how we can improve the health services of persons with disabilities. It is also true that 79 per cent of persons with disabilities live in rural areas, essentially our counties. Therefore, when such a matter arises, this august House is called upon to legislate, debate and persuade. This is because Motions in their very nature are not legislative and compulsory, but they are persuasive.

Why is it that we need to look at this matter? It is not the absence of the law, but it is in doubt in this case. It is not because earlier Parliaments, in their wisdom, have not pronounced themselves on this matter. The issue is, indeed, well enshrined in the Persons with Disabilities Act No.14 of 2004, where the Government is supposed to take care of all persons with disabilities who are in constant need of medical attention. I can see our former Legal Officer of the Disability Council, the Senate Deputy Majority Leader, consulting. These are issues that persons with disability hold very dear.

Why are we here? It is because there is a bi-directional covariance between poverty and disability. What covariance? The covariance is that poverty leads to

disability and disability leads to poverty. When you are poor, thus you cannot immunize your children and your family, they may end up having polio hence being disabled. When you are disabled and you cannot get access to education, health and opportunities, then you end up being poor. It is true. If you look at the economic power of persons with disabilities, it is really very low.

It is for this reason that the Jubilee administration has had very good programmes to empower such disadvantaged groups of people like the preferential procurement that seeks to increase the businesses of persons with disabilities. However, we are yet to be there. The face of begging in this country is typified by persons with disability. Indeed, they are highly over represented in that very category. If you look at the completion rates in schools, there is high attrition from basic education to higher education. This happens because a lot of persons with disabilities also have impairment.

It is good to educate this House that, indeed, there is a difference between impairment and disability. While impairment is any form of bodily loss of function that can be as a result of injury, illness or congenital condition, disability just like gender, is a social construct that results from the interaction between persons with various forms of impairment. There can be as many impairments as there are individuals. There can also be various barriers, primarily environmental and attitudinal. Environmental can be natural or the built environment or attitudinal barriers around the social stratification and power relations that do exist within our public fabric and mosaic.

We need to address the issue of how we can ensure that persons with disabilities access health services as and when they do require. We are all aware that one of the most important things that segregate this society is access to health care services. This is because there is one for the poor, which is public hospitals, and there is one for the rich, which is private healthcare. In this country, private healthcare is very big. It is not similar to the ones in other jurisdictions such as the United Kingdom (UK). In the UK, the National Health Service benefits people. I am reminded of that because I used to be a student there.

If health is accessed based on how much you earn, it, therefore, follows that persons with disabilities cannot access it. This is because of poverty issues, lack of opportunities and lack of inclusion. A mother with an autistic child, who has to be there every day to care for this child, will obviously reduce her chances of participating in gainful employment. When the child is sick, they still have to pay the bills. For people with disabilities, you will realize that there is a very high prevalence of single mother headed households.

It is also a gender issue because you will realize that there is a very high prevalence of children with disabilities being taken care of by single mother-headed households. A person with albinism – and I wish my good friend, Sen. Olekina, would be here because at some point he asked why I wear caps to Parliament – would require to apply sunscreen lotion everyday of their lives. One bottle of sunscreen lotion costs US\$20 a month; how many families can afford Kshs2,000 or thereabout for that?

How many people who are totally blind or visually impaired would afford to even buy spectacles, and we know very well that they are very expensive? Those with physical impairments would require visiting Physio and occupational services. There are so many health-related needs that would necessitate that access to medical healthcare for persons

with disabilities should be a basic requirement. Indeed, that is why you will even see that a wheelchair user in this country is always confused for a sick person. This is what Goffman calls the “sick role”; that you are apportioned a sick role identity because then disability is associated with poor health.

Mr. Speaker, Sir, I would want to imagine that it is the desire of the Jubilee Administration that we move gradually towards universal health care services. One of the ways to do so is to ensure that as many Kenyans as possible are covered by the National Health Insurance Fund (NHIF). This fund is actually doing wonders; it is able to take care of the cost of dialysis and other medical complications. However, the deterrence is that it is targeting those who are in gainful employment and the monthly contribution, even if they would be US\$5, cannot really be accessed by many Kenyans. Therefore, I would want to imagine that if we were to pass this Motion – and if the government would be so persuaded – it would ensure that we reduce the cost of burden to the country when we facilitate the families that do take care of persons with disabilities.

Currently, the Government cash transfer program for person with severe disabilities is able to reach out to 52,000 households, yet there are so many people who are on the waiting list. I am very happy because if you succeed in getting into the program, the Government has gone ahead and provided the NHIF Card as a complimentary service so that, then of course, we increase the health care of such individuals.

The issue of social safety has gained a lot of currency. Indeed, bodies such as the World Bank have allocated a lot of resources towards the social assistance of countries so that they can reach out to the poorest of the poor. When you look at the Sustainable Development Goals (SDGs), the real aim is to ensure that we reach out to those who have not been reached, starting out with the furthest. I would want to argue that, indeed, persons with disabilities are really at the bottom of the bottom.

Mr. Speaker, Sir, for the last 10 years, we have had an initiative to register persons with disabilities under the National Council for Persons with Disabilities (NCPD). This Motion seeks to ensure that the concerned Ministry and, indeed, the state agency conduct an audit or a vetting of those who are not able to pay for their health care. We really want to thank the Jubilee Administration because those who are in gainful employment do benefit from tax exemption of up to Kshs150,000; but a majority of the people with disabilities are not in employment.

It is the reason why we have the provision of Article 54(2) which seeks to ensure that 5% of all members of the public in both appointive and elective positions be persons with disabilities. But we are yet to achieve such a goal, although we have been able to do that progressively under the Jubilee Government. However, we need to ensure that whatever social safety nets we provide to our people are not just seen as handouts, but are seen as hand-ups. I do not want to imagine that there would be a better hand-up other than ensuring that whoever you would want to assist or empower would be able to access medical services.

Many of the Senators will agree with me that a majority of the requests that come to us, as legislators within our informal social welfare regime, appertains to requests to help them foot medical bills, access hospitals and what have you. I would want to imagine that for many of the Senators here, some of those requests do come from very

needy families or persons with disabilities. So, if we were to pass this Motion and if the Government were to take action as urged by this House, then it would lessen the burden of dependence on our elected leaders and ensure the independence of such individuals towards self-reliance.

I believe that the government would have the capacity to do so. If you look at the cost implication of such administrative action, I do not think it would cost a lot, yet the dividends would actually be quite significant, going forward. This is because when you have a healthy nation, then you also increase national productivity and, of course, you are also able to rank very highly in terms of the human development index.

Mr. Speaker, Sir, why would we want to invest in persons with disabilities? We would want to invest in them in terms of health because disability is a club, anybody can be a member and there is no application. If you want to know whether that is the case, ask old people because you cannot differentiate between old age and disability. So, at some point, it will catch up with us. We may have already lost our earning power; we may have already lost the vigor to go out and fend for ourselves. So, when we invest in this, we are actually assuring ourselves of a prosperous future and the eventuality, should we or our children and even our descendants have disabilities. So, this leads to a better society, community and a future that would be sustainable; a future that would ensure that everybody would be living a dignified life.

I want to inform this House of the story of a young person with disability who recently approached me. This person is an orphan, living in the slums; he had not managed to go to school and, as a result, he had actually tried to start a business but it failed. And there he was, he was sick, telling me to help him foot some medical bills. But, honestly, if he had an NHIF card, he did not have to come to me. This is not the story of only one individual; this is the story of so many Kenyans who are waiting for that time that the government can actually intervene and they have some respite.

We represent special interests and counties. Therefore, it is incumbent upon us to ensure that by the time we finish our tenure of being in the third Senate in the Twelfth Parliament, we leave a legacy that would benefit not only the people that we represent now but also the people that will be represented by other people when our time is gone.

Mr. Speaker, Sir, I would like to urge us to consider this Motion as very timely. I am persuaded that we will pass it as a House. After we have passed it, we should ensure that it is implemented by the national Government. I say so because with my experience of having been in the National Assembly, we have realised sometimes that we come up with very good Motions. Sometimes they even get support from across the political divide, the national media and people celebrate them but then they just remain as that. They are Motions that did not end up contributing to the development of Kenyans.

It is also time that even when we have a Committee on Implementation and those that follow up, we come up with mechanisms that would ensure that whatever we debate in this august House ends up being implemented by the national Government.

Mr. Speaker, Sir, in conclusion, we need this Motion. We need these facilities to ensure that we save lives. We need to ensure that we improve the dignity of all Kenyans. This also needs to be looked at as an indirect way of increasing the financing of our public institutions, hospitals and access to good quality health care.

So, I urge this House to favourably consider this Motion, robustly debate it, ask the questions that need to be asked and when we do so, it will be a country that has its national conversation about a people that have for so long been deprived of their liberties and neglected. We will be rising to the occasion of empowering them.

Mr. Speaker, Sir, I beg to move and ask my dear fellow Senator, Sen. Gertrude Musuruve to second.

(Technical hitch)

The Nominated Senator (Sen. (Dr.) Musuruve): Mr. Speaker, Sir, before I second this Motion, I thank God for an opportunity to be in this House. As a person with disability, it is very difficult to have a voice. So, I thank God for the opportunity of being in this House.

I also thank the nominated and elected Senators in this House who represent their various interests groups. I congratulate them. I also thank my party, the Orange Democratic Movement (ODM) for giving me an opportunity to represent Persons with Disabilities (PWDs).

Mr. Speaker, Sir, it is very difficult for PWDs even to be in a situation where they are in decision and policy making. However, Article 100(a) of our Constitution has allowed me to be here as a woman, and specifically because of Article 100(b) I am also here as someone with a disability. It is an honour that my party nominated me to come here to represent this interest group.

For PWDs to be in this House for a first time on an elective position it is very difficult because of societal attitude but once you are nominated it becomes a platform to voice out your issues and see how you can strategize to also come back to the House as an elected Member. This is because of societal attitude towards people with disabilities. So, I thank the party for giving me the opportunity.

Mr. Speaker, Sir, when I was affirming and accepting my role as a Senator to represent PWDs. I affirmed that I would voice out issues of disability. Every one of us is a candidate of disability. As long as you are living you cannot count yourself out. So, when we air issues of disability, regardless of your political divide, just know that you are airing out issues that can affect you, your child or anyone who is so significant to you. Issues of disability can befall anyone.

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

[The Temporary Speaker (Sen. Kang'ata) in the Chair]

That is why I second Sen. Mwaura on this issue of disability. It is an issue that will benefit everyone either directly or indirectly. These are people who do not have a voice. Since they do not have a voice we have to see how to give them that voice because they are very few in the House or in decision making.

Issues of disability are pertinent in this nation. When we look at the ODM manifesto, it comes out clearly that they are keen about issues of disability because they want to be involved in issues of disability and see how to support the vulnerable and the

most at risk people in this society. So, I support the suggestion of the NHIF cards being distributed to PWDs but before this is done, there are certain issues that need to be put into consideration.

First, the number of PWDs in this country is not known. So, there is need to do a critical study to know how many people in this country are PWDs; nationally and at county level. Even at county level, there is need to go even to *mashinani kabisa* to see how many people have disabilities. If people are to benefit, then there is need to know the number of people in order to know the amount of money to be reserved to that task.

In addition, PWDs are economically poor. They do not have the economic empowerment. First, most of them come from families that are poor and since they come from families that are poor, the cyclic nature of poverty runs in their families. When somebody is disabled, did not go to school and did not have a job, he would not be able to take his children to school. So, the poverty cycle continues in that family. When the poverty cycle continues, it means that they will be deprived of their socio-economic rights as stipulated in our Constitution in Article 43.

If this Motion is concluded favourably, it will be a plus to all stakeholders. Remember our Constitution actually provides that the weak people with disability should be supported. So, if they can be supported, it will be very good for People With Disabilities (PWDs) in this country.

Even when you talk about setting aside a Fund to support PWDs, there is need to know that there are some PWDs that cannot even reach at the county level. Of course, it is good to set some funds aside, but these funds should be devolved at the county level because there are some PWDs who are not known, even those who come from the remotest parts of Kenya.

Sometimes you will find that if, for example, the health facilities are not devolved, sometimes it may end up not benefiting those people who are in the remotest parts of this country. So, there is need to improve the infrastructure so that hospitals are put up in the counties, so that even the smallest person in the village is able to access these facilities.

I will not go into very many details. However, in brief, I am supporting this Motion. We have a responsibility to take care of our PWDs because if we do not do that, then nobody will.

(Question proposed)

Sen. Farhiya: Thank you, Mr. Temporary Speaker, Sir. I support the Motion for the following reasons. PWDs are already disadvantaged in many ways and so if they can access healthcare, then as a society we are failing. There is need to provide healthcare for PWDs in terms of equality. We owe it to our society to have everybody enjoy the same facilities. Many other people may also not have medical cover, but they probably have other means to pay for the National Hospital Insurance Fund (NHIF) cover.

For that reason, it is imperative on us to ensure that we provide medical cover for our PWDs. I am sure all of us know somebody or have relatives and friends who are disabled. This needs to be addressed so that as a society, we ensure that we provide

healthcare for PWDs. Development can only be attained if everybody in society is contributing to gainful employment.

That person living with disability who is not engaged in any gainful employment is disadvantaged because at some point they also become ill and yet they do not have a medical cover.

I support this Motion for those reasons.

Sen (Dr.) Mbiti: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion. This is a very important Motion that affects a very important section of our community. These are communities that for a long time have been ignored. It is high time we came in to support this group.

As you know, PWDs are people who cannot engage in gainful employment and are most likely unable to access these medical services. So, I stand here to support this very important Motion that we help our brothers to access the NHIF medical cover.

Sen. Halake: Mr Temporary Speaker, Sir, I rise to support the Motion. Listening to Sen. Mwaura belabour the point, I felt like saying to him that it is very clear that people with disability deserve and have every right to have access to medical cover and everything that other able-bodied Kenyans have.

Of course, there are certain injustices and things that happen to people with disability and we are all aware of this. In any situation, there are people that are usually aggressors of that situation, victims and bystanders. In supporting this Motion, this House should ensure that we do not standby as our fellow Kenyans with disabilities, out of no choice of their own, go through immense suffering in every aspect of life, be it access to buildings, much needed medical services and information. This House owes it to Kenyans, for the privilege of representing them, to support this Motion, and as Sen. Mwaura has said, ensure its implementation.

Today we were discussing a Petition where a law that was passed was not implemented and therefore, a few years later we are here again discussing this. I urge that we should not just talk but ensure that it will be implemented. This Motion does not just highlight problems but provides very simple and actionable solutions, which include the provision of the National Hospital Insurance (NHIF) cover for our brothers and sisters with disabilities.

It should also be noted that minorities are a dynamic situation. Today, people with disability are the minority, but any of us can slip into that minority group anytime, as has been said. I cannot, therefore, think of a better Motion to support both in terms of passing and downstream implementation. I would like to assure this House, the Mover of this Motion and our colleagues who represent our brothers and sisters with disabilities that they can count on me to support not just this Motion but its implementation as well.

I beg to support

Sen. Kibiru: Mr. Temporary Speaker, Sir, I also rise to support this Motion. Just like many have said, it is very important that we support people living with disabilities. As the last speaker has mentioned, anyone can slip into that bracket of minority.

I also listened to the Mover of the Motion, Sen. Mwaura, and could see how passionate he was in urging the Government to take care of the people living with disabilities. In the counties we come from, more often than not we are called to go for *harambees* to contribute to families who have people living with disabilities. I think it is

only fair that we support this Motion. We may now consider this group as a minority, but if we do the vetting we would come up with quite a sizeable number of people who are in need of this help and facilities. I urge the Government to move fast and extend the support that is sought.

I beg to support.

The Temporary Speaker (Sen. Kang'ata): The requests are as follows: We have Sen. (Dr.) Milgo, Sen. Mary Yiane, Sen. (Rev.) Waqo, Sen. Kihika and Sen. Kinyua. However, allow me to be guided by the traditions of the House and give preference to the Chief Whip. Maybe she has something up her sleeve.

Sen. Kihika: Mr. Temporary Speaker, Sir, I also rise in support of this very important Motion having listened to the Mover, Sen. Mwaura. I know how much the people living with disabilities have so much to overcome in order to get a smoother life.

Our Government has done quite a bit to try to equalize things so that the persons living with disabilities are able to get a leg-up a bit. I would also agree that the Government should set aside a fund, just like we have seen with the senior citizens of the country, where there is a fund that helps them get their NHIF dues paid. They have cards to access medical care. That would be important for persons living with disabilities. Once they are vetted and the Government ascertains that they are not able to come up with the payments, then through the fund they can get that access to a lifetime medical attention for them and their families.

In the course of working in the county we have come across persons with children living with disability. They have kept them in the homes and are not able to access school because some cannot walk. In some cases, the parents have no wheelchairs and cannot take the day off from work. This is because they need the resources to pay rent. They, therefore, opt to just leave the child at home.

It is my belief that we can in many different ways try to make things much easier for the persons living with disabilities. Whenever you walk into some buildings you only see the stairs and wonder how a person, say, on a wheelchair is supposed to access these buildings. Granted now, there are laws and regulations that have come into place for newer buildings to have access.

There are a lot of challenges that the persons living with disability encounter in their day to day life. We have also seen how the current Constitution has helped a bit by taking away some of the difficulties that stand in the way of persons living with disabilities enjoying their lives.

I support this Motion and hope that we will pass it. I hope that the Government will go ahead and implement it, so that persons living with disability will get cover and access to the NHIF. I hope that it will also set up a pool of funds for those who are not able to pay for it. This will ease the lives of persons living with disability.

I beg to support.

Sen. (Dr.) Milgo: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion. I listened to Sen. Mwaura presenting this Motion with a lot of emotions and I learned that there is some sun screen oil that is very expensive. I know of some persons living with disabilities who got it in their advanced age and they face a lot of challenges in daily lives. Many times, they have to beg for money to cater for their medical care and buy food. Many of them come from disadvantaged backgrounds.

Mr. Temporary Speaker, Sir, Article 54(b) of the Constitution has given PWDs access to accredited schools in the society in order for them to get gainful employment at the end of it. However, we do realise that many schools are not friendly to them because many buildings are storied or have no special toilets and materials for learning. Therefore, they are not able to access gainful education and cannot compete with other people for employment opportunities in our society.

Additionally, they cannot access capital to do business. Most of them do not have the National Insurance Hospital Fund (NHIF). We need to assist them live decently. Therefore, this Motion was long overdue and I urge the Government to put aside some fund to assist these special people.

I support this Motion.

Sen. Seneta: Thank you, Mr. Temporary Speaker, Sir, for giving me this chance to contribute to this important Motion. I want from the onset to thank my colleague Sen. Mwaura for having thought deeply on how to help PWDs in our country.

The Temporary Speaker (Sen. Kan'gata): Hon. Senator, hold on for a minute.

There is a Member whose card has a technical problem. She inserted it and immediately it failed to read and yet she was on the queue. I urge the Serjeant-at-Arms to assist her.

Proceed, Sen. Seneta.

Sen. Seneta: Mr. Temporary Speaker, Sir, I want to thank Sen. Mwaura for having thought deeply on how further we can go as a country to assist the PWDs. From his contribution, it is true that the PWDs, especially women and children face a lot of challenges in this country. In some communities, for example, if you have a child living with disability, they see it as a curse or as a punishment. As a parent, you suffer both psychologically and physically when taking care of your child. It becomes very difficult for your child to interact freely with other children in school. It is a pity that women with children living with disabilities are sometimes divorced and end up as single mothers. So, it is very hard to bring up these children single handedly without the assistance of the Ministries concerned.

Although we have the National Council of Persons with Disability (NCPD), we still have to do more in terms of consolidating their privileges in the society. For example, we have a few of these people who are beneficiaries of cash transfer and school programmes from Non-Government Organizations (NGOs). We should think of those others who do not benefit from these programmes and enroll them.

When registering them, the NCPD concentrates more on the degree of disability which is not very clear. They should do more and ensure that they categorize the PWDs on what benefits they can get depending on the degree of their disability. I support the issuing of NHIF cards to them so that they can access any health facility and get treatment without discrimination. Access to health is a constitutional right of every Kenyan. This card will assist a parent who has to take a child living with disability to hospital every day.

Mr. Temporary Speaker, Sir, there is so much that needs to be done for this particular group. We need to mainstream their education. The Education Act provides for them to be integrated in education. However, we still have challenges when it comes

to our public schools which do not have integrated units where the PWDs can get quality education like other Kenyan children.

There is still more to be done to assist the visually blind and deaf people as they have problems when they go to churches or hospitals and cannot explain their ailments. We, as a country, have to do a lot to help PWDs.

I support this Motion and urge the Government to implement any laws that will go a long way in benefiting the PWDs.

Sen. (Rev.) Waqo: Thank you, Mr. Temporary Speaker, Sir. I stand to support this Motion for PWDs to get access to medical care. I also want to appreciate the Mover, Sen. Mwaura, who passionately brought this to our attention.

The reason I support this Motion is because of my personal experience. I have worked as a church minister in the past where I interacted with many families who have children with disability. In the society and even at family level, many PWDs have been isolated. It is as if we have rejected them in our society and even at the family level, many people have rejected the people living with disability because they have been isolated. Most of the times when you go to a place, you will find a person living with disability hidden in a house for 15 to 20 years and nobody wants to talk about the suffering person.

That is why I stand to support this Motion. It is our responsibility as leaders to take care of all people and see how best they can be served. In the past and even currently, we have seen that many of them have been misused. If you walk on the streets or any part of Nairobi City, you will see people living with disability on the road, begging. Some people support them while others ignore them. At the end of the day, their take-home is minimal from what they have been given. Many of them have been misused and will continue to be misused. That is why we need to approve this Motion so that they can at least get the National Hospital Insurance Fund (NHIF) medical care, which is one of the basic needs that we all have.

On implementation, once this Motion is approved, at the National and even at the County level, we urge the people on the ground to make sure they encourage families with people living with disabilities not to be ashamed of them by hiding them. They should come forward, speak about them and see how they can be supported. People with disabilities do not only need medical care; many of them have not even had education. As a result, their young children are suffering and if they can be supported, they can be great leaders in future. Therefore, we need to see how else they can be supported in future so that they can get all the services that other humans get in our society.

So, Mr. Temporary Speaker, Sir, I stand to fully support this Motion. It is my prayer that we will all be there for the people living with disabilities.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Kang'ata): Proceed, Sen. Kinyua.

Sen. Kinyua: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion. Sen. Mwaura did a very good thing to bring this Motion. However, I want to find out whether this 15 per cent is the correct figure of Persons living with Disabilities (PWDs). This is because many of the PWDs are normally hidden; so, we may not have the correct figures.

But this is a very good idea because in the African setup, we are supposed to be our brother's keeper especially to these disadvantaged people. We are supposed to provide more for them than those who are a bit healthy or those who can do many of the activities without a lot of difficulties. So, for me, this is a very good idea and we should do more, especially to identify many more of the PWDs, because as my colleagues have said, many are hidden by their parents or relatives.

Mr. Temporary Speaker, Sir, if we provide the NHIF to all of them, it will help us because you will agree with me that many of the Harambees we attend are for the people who are disabled. I would encourage that we set aside some amount of money so that we can be remitting to NHIF on behalf of these people. However, that will not be enough; we should even go ahead and create a fund just as we have done for the old people. I do not know much about the disabled, but *Daktari* will tell you they are classified. There are those who are considered more disabled than others.

For example, if someone does not have both legs, you cannot classify them with a person who does not have one eye. I want to suggest that for the people who are more disabled than the others by the classification, we should at least provide a fund for them as we do for the old people. Being an African society that advocates being our brother's keeper, through the fund, we will take care of many of them who are hidden. If you are living with a disabled person, you will be able to bring them forth to be assisted. As a result, the harambees we conduct on behalf of PWDs will reduce.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Kang'ata): I call upon the mover to reply.

Sen. Mwaura: Thank you, Mr. Temporary Speaker, Sir. You, I and Sen. Seneta here are used to getting three minutes to speak in our earlier lives in the 11th Parliament. I am surprised to learn that here in the Senate, you have abundance of time to speak to the gallery and, of course, to the nation. When I was moving this Motion, I did not know that I had a record sixty minutes to do that. I was glad to learn from the Clerk at the Table that I was able to speak for twenty five minutes. Even now, I am supposed to respond for thirty minutes. This actually speaks to the fact that we, as Senators, need to research more in order to develop a lot of content so that when we speak, whatever that will be put on record is something that speaks to the real issues of the common *Mwananchi*.

I say this because in the National Assembly – this is not a popularity contest or a supremacy battle – you would rarely have an opportunity to execute your mandate in terms of the issue at hand. I can see Sen. Seneta agreeing with me on this. So, this is a challenge for us to use the time we have for debate in the best way possible.

I want to thank all the Senators who contributed to this Motion; including Sen. (Dr.) Musuruve for seconding it; Sen. Halake, Sen. (Rev.) Waqo, Sen. Iman, Sen. (Dr.) Milgo, Sen. Kinyua, Sen. (Dr.) Mbito and also our Majority Whip, Sen. Susan Kihika. I hope I have not forgotten anybody.

(An Hon. Senator spoke off record.)

Sorry for that; I forgot to mention Sen. Farhiya Haji. I want to thank you all for the robust way in which you have debated this Motion.

Indeed, the challenge we have in our society is not because we, who were called to act, cannot actually act. It is because we know that we have a good idea and yet nobody takes it up. I am very fascinated by politics because politics is a question of having an idea and persuading the world through democratic means for the idea to carry the day.

Indeed, the motivation that has made most of us to come to this august House is because we saw it in ourselves and fashioned ourselves as people who can go between intellectuals, the masses and institutions of Government. Therefore, we need to commit ourselves to ensure that whatever good ideas that we bring to the floor of the House actually see the light of day. It is both a question of tactic as well as of persuasion.

Mr. Temporary Speaker, Sir, when I look at this matter, it is very important that when we ensure that we have the NHIF card, it does not just benefit those who are going to be the end users. It should also enable us, for example, to do more research on the various types of impairments for PWDs.

In this country, very little is known about autism spectrum disorder. Sen. (Dr.) Milgo did not know that I use sunscreen. She also said that people acquire albinism later in life. That is not albinism but a disease known as vitiligo. So, there is a law that is yet to be known because of the minority and taboo nature which perpetuates that discrimination and marginalisation.

Mr. Temporary Speaker, Sir, I congratulate the Jubilee Government because the only Senators who are here to support this Motion are from the Jubilee side of the political divide. That is a very clear indication because the only person who has spoken to this issue from the NASA is ODM's Sen. (Dr.) Musuruve. Other Senators walked away.

They were here to discuss about wildlife and that means that they value wildlife more than PWDs. If they were to value PWDs, they would be here to robustly debate about this issue. They were here to debate about personal entitlements of their party leaders who have confessed that they may not go for elections. The most important thing is to ensure that we speak to the issues that affect the "Wanjiku" and women of this country. That cannot be embodied more clearly than the struggle, claims and needs of PWDs.

Mr. Temporary Speaker, Sir, when you go to the hospital, sometimes you discover that you have an ailment that was not known heretofore. So, when you have the NHIF card, it gives you the impetus to approach a health facility for medication. When we have as many people, in this particular case PWDs accessing healthcare, we increase our chances to address and arrest such ailments that would go unnoticed. That of course will reduce the death rates in our country and increase the longevity which is a key indicator of the wellbeing of the nation. Therefore, NHIF also benefits the country in that manner in terms of research, data and improved healthcare for its people.

Sometimes when you talk about marginalisation, you may not understand that it affects everybody. Personally I started using sunscreens much later in life. As the national coordinator of the Albinism Society of Kenya, every time I have to take care of people who want money to go and be treated for skin cancer. For a very long time, people used to think that persons with albinism die prematurely because of the skin cancer. That became a myth yet skin cancer can be arrested and treated and people could live the longest. This is a question of access to health services. Therefore it is important that we

pass this Motion as we have discussed because it will lead to even dealing with our taboo problems.

Mr. Temporary Speaker, Sir, PWDs have been framed in various models. The initial model of disability is called the traditional model of disability which is about individual relationship. It is about how I see you and how you see me. However, there is a problem with that kind of model because PWDs are seen as objects of pity and people who require alms to be given. The power to donate resides with the giver and not we PWDs. That is a disempowering kind of way that still exists in many mindsets of our people. It is the basis upon which people would want to beg. In this country, people beg using the aspect of disability.

You have seen people who put tomato sauce on their bodies and lie on the streets so that we give them money. Does it mean that that issue cannot be addressed? My answer is “no”. If we give NHIF cards to every deserving PWD, it will discourage such individuals from misusing PWDs for their own gains.

Recently we saw some exposé on Citizen Television of people who beg in our Central Business District (CBD) and majority are from our neighbouring country of Tanzania. We take that as a lucrative kind of business instead of empowering the people. I want to tell the nation that there is no way of empowering somebody by giving them alms. That has never happened because it creates a dependency that can never be overcome. The picture we create is that it is easier for somebody to beg than go to work. If we are to empower our nation, we need to ensure that our citizenry, in this case PWDs, access free medical healthcare.

Mr. Temporary Speaker, Sir, we know that the NHIF card has got its challenges. Sometimes people go to hospitals and they are just given basic medicine and sometimes the card is not accepted. Even with those teething problems, it is better to have the card than not to have it because there is nothing without challenges.

We as Parliamentarians and honourable Senators feel very nice when we go to pay our medical bills and are asked where our NHIF cards are. Even if the card caters for Kshs20,000, that helps you such that you do not exhaust your outpatient allocation. That is the same benefit we should confer upon people of less privileged status than Members of the Senate. I think it can be done and that has been demonstrated.

We even have situations where NHIF has enabled people to seek medical services outside the country. At some point, the NHIF had a total of Kshs4 billion that the Grand Coalition Government wanted to use to build a hospital. So, the more we allocate the cards to PWDs, we will not only be increasing the expenditure on health but also empowering the Government to invest in the very infrastructure that will ensure that people do not have to travel out of the country so that services are available here locally.

Mr. Temporary Speaker, Sir, the problem with the insurance coverage is because of the fact that insurance companies are risk takers. Somebody may as well argue that they are risk seekers but the truth of the matter is that they calculate the risk. We thank them for that because they employ many actuaries to ensure that they calculate it. However, when they are confronted with a client who needs constant medical attention – the devil is in the details – they reluctantly engage such an individual because that person would claim as much more than they would make profit based on the probability of knowing who would go for certain services.

God has blessed most of us because we have medical insurance but a year could pass without you being admitted yet you do not claim the money. Insurance companies shy away from covering PWDs because of the challenges they have. The only respite would be providing evidence that it can be done through the National Health Insurance Fund (NHIF).

I would also want to add that as a country, we must seriously think about how we deal with our social welfare system. As much as we try to run away from it, one of the reasons that are making our parliamentarians poor is because of the high dependency rate from their constituencies. By the way, for those of us who are nominated, it may be claimed that we are not elected by anybody, but I dare any person in this House to tell me whether they can identify the people who voted for them.

Leaders are not only approached for handouts from those people who voted for them. There is no way you can prove that since the ballot is secret. However, in our African social welfare system, it is expected that the most prosperous and successful person must help the poor. That is our social system. In that regard, the burden is very high on us as leaders, but what does it do? You actually end up paying people's medical bills, school fees and so on, to the point that you also become poor and join that class. It is not sustainable! We should have a conversation as a country on our social welfare system.

A very good example, as I had alluded to when I was moving this Motion, is that we need to have a National Health Service akin to the one in Britain. You can see this even in America which is one of the biggest democracies in the world; through Obama Care, they are trying to do so. Due to that initiative, they have been able to bring on board about 20 million Americans who would otherwise not be able to access health care.

You could call this socialism, but the truth of the matter is that you have got to have a situation where you have growth of the economy with some form of equity. The best way to do so is to provide the basic social amenities such as health care.

With those remarks, I am sure I have persuaded the House that the Government should implement this Motion and seriously consider following through the recommendations that we have made. When we come back to allocation of resources to the counties, we can use some of these parameters to track the disability budget. This will help us to see how many counties, for example, have issued NHIF cards *vis-a-vis* how much they are receiving from the national Government towards healthcare.

That will also be a very good incentive. Some of the criteria that we are using to allocate these resources to the very counties that so much require that--- Another issue that will also help is that, for example, our deaf brothers and sisters who would require sign language, it would occasion that doctors and nurses would have to learn this language. I really want to thank the Jubilee administration because it is under the leadership of His Excellency the President and the Deputy President that we can now see sign language being used on our national televisions, especially during news time.

This is actually provided for in Article 7 (3) (b) of the Constitution which states very clearly that: "The State shall promote the development and use of indigenous languages, Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with disabilities." Therefore, it will actually ensure that the health services, the personnel and even the medicine are accessible. I have been

to other countries where medical prescription is actually done in Braille. How, for example, would a blind person be able to know whether a certain type of medicine has actually expired?

This will also ensure that we create what we call a universal design where, while coming up with a decision, people will actually consider the needs of persons with disabilities. I do not want to use vulgar language but how will you know, for example, something like---. Let me not use that word because I do not want to be told that I am using unparliamentarily language. I presume that I have made the point; that we need medical prescription that is readable.

With those many remarks, I want to thank this House for supporting the Motion. There is nobody who has opposed this Motion. I would urge the relevant Ministries; the Ministry of Labour, East Africa Community and Social Protection under the good leadership of the Cabinet Secretary, Ms. Phyllis Kandie and my good friend Ms. Susan Mochache and also the Ministry of Health under Dr. Cleophas Mailu and the attendant Principal Secretaries (PSs) that they should actually take this matter seriously.

I know that very soon we are going to dispense with the issue of elections and that we will be able to declare Uhuru Muigai Kenyatta the President of the Republic of Kenya.

(Applause)

We would want to have a situation that even those who are boycotting elections, at some point also benefit from improved health services under the leadership of the Jubilee Government.

I support and beg to respond.

The Temporary Speaker (Sen. Kang'ata): Senators, I make reference to Standing Order 73 of this House which provides as follows:

“Voting on a matter other than a Bill -

(1) When the Senate is to vote on any matter other than a Bill, the Speaker shall rule on whether the matter affects or does not affect counties.

(2) The Speaker's ruling under Paragraph (1) shall be made after the conclusion of debate on the matter but before the question is put.

(3) When the Senate votes on a matter that does not affect counties, each Senator has one vote.”

I now rule that this matter does not concern counties and, therefore, each Senator shall have one vote.

Hon. Senators, pursuant to Standing Order No. 73 (1), this is not a matter affecting counties, therefore, I now put the question.

(Question put and agreed to)

ADJOURNMENT

Hon. Senators, there being no other business and the time being 5.06 p.m., the Senate stands adjourned until tomorrow, Wednesday, 11th October, 2017, at 2.30 p.m.

The Senate rose at 5.06 p.m.