

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 7th November, 2017

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

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

PRAYER

COMMUNICATIONS FROM THE CHAIR

CONSTITUTION OF HOUSE SELECT COMMITTEES

The Speaker (Hon. Lusaka): Hon. Members, allow me to take this opportunity to welcome you to this Fourth and final part of the First Session of the 12th Parliament. In accordance with the calendar of the Senate adopted by the House on 27th September, 2017 and in line with Standing Order No.27, this last part will terminate on Thursday, 7th December, 2017.

As the business of the Senate resumes, I would like to point out that we need to constitute select Committees. In the absence of select Committees, it makes it hard to execute Senate business, given that consideration of almost all matters that come before the House including Bills, policy papers, petitions, requests for statements and reports from diverse public and international entities require in-depth scrutiny by relevant select committees, which informs debate and ultimately guides decision making by the Senate. It is also in committees where the constitutional requirement to facilitate public participation is fulfilled.

I, therefore, call upon the Senate political leadership to expedite the process of nomination of Senators to serve in the various Committees for consideration by the Senate Business Committee (SBC) and eventual approval by the Senate. In this regard, I direct that the respective lists of nominees be submitted on or before Monday, 20th November, 2017. I am allowing this because I have received a letter from the National Super Alliance (NASA) coalition requesting for more time to conclude their process of nomination.

Hon. Senators, I also appeal to you to make yourself available for the remainder of this Session to dispose of business, especially consideration of Bills which is our core duty as legislators.

I welcome you once again and look forward to a fruitful session.

I thank you.

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The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Speaker, Sir. Thank you for your communication. It must go on record that we, on the Majority side are ready for formation of the committees and I would urge the Minority side to quickly agree. We do not want their internal fights to affect the operations of this House. It is good that you have received a letter from them asking for up to the end of this month. However, in consideration of the business of this House, you have called us to bring this to an end by 20th November, 2017. It is important that this House moves forward and not be held at ransom. I am really surprised that the Minority side, minority as they are, would have any squabbles that would delay the business of this House. However, now that you have agreed, we on the majority side will also comply and wait.

The Speaker (Hon. Lusaka): Okay. Point noted.

DEMISE OF THE GOVERNOR FOR NYERI COUNTY,
DR. PATRICK WAHOME GAKURU

Hon. Senators, it is with a very deep hurt that I have learnt about the demise of the Governor for Nyeri County, Hon. (Dr.) Patrick Wahome Gakuru. His death occurred early this morning following a grisly accident at Kabati along the Murang'a-Thika road. The Governor was on his way coming to Nairobi County.

Information that has reached us indicates that the Hon. Dr. Gakuru, his driver and other staff were rushed to Thika Level 5 Hospital for emergency medical attention but, sadly, the Governor passed on. The driver and other staff who were in the ill-fated vehicle are undergoing treatment.

Hon. Senators, the late Hon. (Dr.) Gakuru was born in 1966 and was elected the third Governor for Nyeri County, following the General Elections of 8th August, 2017. The late Dr. Gakuru was a distinguished academician. He was a lecturer at the University of Nairobi School of Business since 1994, besides running his own consultancies in public policy and management.

In 2004, he obtained a Doctor of Philosophy (PhD) degree in Public Administration from Arizona State University after graduating from Willamette University, Atkinson Graduate School of Management, with a Master of Business Administration Degree in 2001. He also held an MBA degree from the University of Nairobi, which he earned in 1993 after graduating from the same institution with a Bachelor of Commerce degree in 1991.

The late Dr. Gakuru joined elective politics in 2013 where he unsuccessfully vied for the Nyeri County gubernatorial seat and came second. Prior to this, he served as the Director of Marketing, Policy and Advocacy at Equity Bank. He also served as the first Director of Kenya Vision 2030 at the Presidency and Cabinet Affairs Office and, later; the Ministry of State for Planning, National Development and Vision 2030; and also as the Director for Social Sector Development at the National Economic and Social Council, in addition to serving as the head of Strategy Development in the National AIDS Control Council (NACC).

Hon. Senators, the late Dr. Gakuru's academic and technocratic background had put him in a good state to deal with a range of issues affecting Nyeri County. Indeed, Nyeri residents looked up to the late Dr. Gakuru for solutions, especially inspiring

development and changing the fortunes of the ailing coffee and tea sectors in the county. It is unfortunate that the cruel hand of death has snatched one of Kenya's best brains who has worked for the development of this nation and who was eager and ready to take the Nyeri County to greater heights of development.

On behalf of the Senate and my own behalf, I wish to take this opportunity to condole with the family of the late Hon. (Dr.) Gakuru, the good people of Nyeri County and the country at large. May his soul rest in eternal peace. I also take this opportunity to wish his driver and other staff quick recovery. In honour of this great son of Kenya, let us all rise and observe a minute of silence.

(Hon. Senators stood and observed a minute of silence)

I thank you.

Hon. Senators, I will now allow a few minutes for Senators to eulogize the late Dr. Gakuru. If the Senator for Nyeri County was here, he would have led the pack. Since he is not, let us start with the Senate Majority Leader.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I would like to join you and the Senate in passing our utmost condolences and sympathies to the family of Hon. (Dr.) Gakuru. The news of his death came this morning in a very shocking manner. I had an opportunity to visit the family and view the body at Lee Funeral home. I can explain why the Senator for Nyeri County is not here. He, the deputy Governor of Nyeri County and the honourable Cabinet Secretary (CS) Mr. Joseph Mucheru are leading a team of leaders from Nyeri County in planning, programming and reaching out to friends and family after this very shocking news.

Dr. Gakuru was a well-known lecturer in the university, when he served the country in the Vision 2030 and even when he did his consultancies in the matters of the economy. Nyeri County people had chosen a fantastic gentleman, a person of immense character, of education and a track record that would take the people of Nyeri County to greater heights. I have friends and family in Nyeri County and I feel in commensurate with them. I pray that God gives them strength, particularly his family. Sadly, we are even told that the son is now doing exams and he held a meeting over the weekend with the children and his classmates to pray and sadly, he is no more.

On behalf of the Senate, the people of Elgeyo-Marakwet County and myself, I pass my utmost condolences. Again, death is a reminder to all of us that life is so short and that we must always remember the things that are more important to us. I have seen friends, the Senators from the Minority side and many other leaders from across the political divide visit the family and view the body at the Lee Funeral Home. That is a reminder to us that sometimes we fight over nothing and that there are more core and important things to do. Time is running and life requires us to leave a legacy. This is a reminder that life is short as the Bible says. May God gives us the power and ability to count our days and make a meaning out of it so that we can serve humanity and change the world.

As a House which protects devolution, we want to pass our message to the people of Nyeri County that if they need any support in terms of transition and continuing with

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the management of the affairs of the county, the Senate will be there to assist them in advisory opinions, guidance and passing legislation on anything else to ensure that the County moves forward. To his family, his wife and children, we say *pole*. May God help you.

Sen. Seneta: Mr. Speaker, Sir, on behalf of my family and the people of Kajiado County, I take this opportunity to pass my sincere heartfelt condolences to the family of the late Governor Dr. Gakuru. I also want to condole with the family and friends of Nyeri County for the loss of a great leader. It is shocking to lose such an important person; an economist, an academician and a person who had the will of the people to serve Nyeri County. I pray to God to give them strength at this particular time. It is not an easy time, especially for a family with a candidate who is doing his national examination. I pray to God to give him peace of mind so that he excels in his examinations.

Sen. Shiyonga: Mr. Speaker, Sir, I also take this opportunity, with my colleagues in the House, to eulogize the Nyeri County Governor. Again, the cruel hand of death has robbed us of yet another Governor from that county. This is a House that represents the counties and serves to protect the interests of the counties and their governments. When we talk about devolution matters in this House, we always count on Nyeri County.

My family and the people of the former Western Province where I come from, are deeply touched by this sudden death. I express my sincere condolences to the family of the late Governor of Nyeri County and the Senator for Nyeri County who is our colleague here.

I was at Lee Funeral Home today with other colleagues. We were all sad. Yes, we are all prepared for death, but we are not sure of the time. The time for the governor had come. However, his death was so sudden, taking into consideration that he had just started serving his county with dedication. God will guide the people of Nyeri County and give them another leader. This is a double tragedy considering the previous governor also passed on. It is so touching for one county to lose two governors in a span of less than one year.

When I heard the news of the accident, I hoped it was a minor accident where life would be saved. But it was not because the governor passed on. I have been really touched by this tragedy.

Sen. (Eng.) Maina: Mr. Speaker, Sir, I stand to speak on behalf of the people of Nyeri County. This is a very tragic moment for our country. The people of Nyeri County lost their governor this morning who was on the way to one of the FM stations. He was involved in a very strange accident. Unfortunately, he passed on. This House will remember that in a span of less than one year, Nyeri County has lost two governors. You can imagine the impact of this tragic loss on the people of Nyeri County.

The late Dr. Gakuru had just formed his government. We were looking forward to the implementation of the ideals that he cherished highly such as good schools, hospitals, agricultural production and, above all, the unity of our county. He was my friend. We campaigned together under the TNA party in the year 2013. We also campaigned together in the last general election under the Jubilee banner.

At this tragic moment, I ask the people of Nyeri County to remain calm and put their prayers to the Almighty God. God knows best. To the family, we, the leaders of Nyeri County, and the other leaders in this country starting with our President, will do all

that we can to ensure they do well in life. Dr. Gakuru had a young family of children who are still in school and we will take that responsibility.

There is not much that anybody can say at this time. We can never question God. God is always right. He will bless his family, the people of Nyeri and the people of this country. At this moment, we need to reflect. This is because the other day we lost Bishop Korir. Some of us are questioning our spirits. The best thing that we can do is to shun any political difference and come together for the welfare of Nyeri County. We should unite as the people of Nyeri County. Similarly, I call upon the whole country to shun our political differences and move forward together.

Mr. Speaker, Sir, I thank the Government for the way it has reacted to this tragedy. It has pledged to give us all the support and we are extremely grateful for that. We are also grateful for all the condolences that have come through this House. This shows that this is not a matter affecting one side only. It affects all of us. I hope that we, as a House and the country, will move on together. There is nothing more to say other than God knows best. We, as Christians and our Muslim brothers, should know that is the route for all of us. It is at times like this when we realize that we do not know the hour, minute or the second of death. It is in times like this when we realize how true these words are.

Again, I call upon the people of Nyeri County to shun their political differences. Whatever side one is on and whatever competition that there is, should be shunned and we move on together from now onwards. That is the greatest show of gratitude that we can show God and the best thing that we can do for our people. May God bless Nyeri County, Kenya and Dr. Gakuru's family.

The Speaker (Hon. Lusaka): I can see that there are many requests. I request those who will speak to take three minutes each.

Sen. Were: Mr. Speaker, Sir, I also stand to condole with the family of Dr. Wahome Gakuru, the people of Nyeri and Kenyans. Dr. Gakuru is known to many people, not just in politics, but in the academia world. Many people went through his hands when he was a lecturer at the University of Nairobi. They have great words for him.

The Economic Blue Print for western was done by Dr. Gakuru and Hon. Musalia Mudavadi. We thank the people of Nyeri County for having given this country their son, Dr. Gakuru. We, as a country, pray for his soul to rest in peace. We also pray for his family that they may be given strength and comfort during this time. We also pray for his former students who are also affected by his death. To the people of Nyeri County, I say "*poleni sana*".

Sen. Poghio: Mr. Speaker, Sir, I join you and my colleagues, on my own behalf and on behalf of the people of West Pokot County, to register our condolences for the untimely and sad loss of Dr. Gakuru, the Governor of Nyeri County.

I was impressed that in situations like this, our politicians and Members of Parliament (MPs) across the political divide were on hand to condole with the family. This is probably a beginning of a state of bipartisanism that will come to this House. In times when we are faced with situations such as this, we forget our political problems, difficulties and differences and come together. That is a very good show for the nation.

The young gentleman was an academic and, having contributed to our Vision 2030 immensely, he should be given the honour that he deserves. I propose that at this time of mourning, we should try and minimize what is standard political grandstanding and squabbles. We should try and give honour and dignity to this young, upcoming and prominent leader whom we just lost.

Our condolences go to his young family. I pray that God helps the people of Nyeri County, their Senator and the team that is working to make sure that the county deals with this grief. We wish you God's speed and grace. We stand with you during this difficult time. May his soul rest in peace.

Sen. (Rev.) Waqo: Mr. Speaker, Sir, I want to join my colleagues in sending my condolences on behalf of my family and the people of Marsabit County. It is a very sad thing that happened early this morning. When we heard the sad news, we were all shocked and we could not believe it, especially when we know that the Governor has left a very young family. So, I am here to tell the people of Nyeri County, especially the Senator who is with us and other leaders on the ground, that they are in our prayers and we are with you in this journey.

I want to send a special message to the family of the late Gov. (Dr.) Wahome Gakuru, putting into consideration his son, who is now sitting for his exams. It is very touching that God can allow such things to happen; but we cannot argue with him. God is always faithful and he knows why this has happened. So, I would like to tell the people of Nyeri County and the family members of the governor to trust in God because he will always be there for them.

For the wife and other relatives, we know that this is a very trying moment but they should always remember that God will always be there for them. This is a big loss to the county and the nation, considering the type of a leader that we have lost. This is a leader who has already contributed a lot to the building of this nation. We all know what he has done in his participation in Vision 2030. Personally, I had a lot of hope in him and his leadership for the county of Nyeri.

I am sending my special message to the people so that we can be comforted in the Lord. May his soul rest in peace. Thank you.

Sen. Moi. Thank you, Mr. Speaker, Sir. On my behalf, that of my family and the great people of Baringo County, I would like to give our condolences to the family of Dr. Gakuru and the people of Nyeri County. I would like to ask God to give strength and fortitude to the family at these trying times. Thank you.

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir, for giving me the opportunity to join my colleagues in sending my condolences, that of my family and the wonderful people of Uasin Gishu County to the family of the late Gov. (Dr.) Wahome Gakuru and the great people of Nyeri County. As we condole this great man, we are really saddened more because the people of Nyeri have had to bury two governors within a year. Our prayers are that the living God will give them peace, particularly the young family of Gov. (Dr.) Gakuru during this very sad moment and given his sudden death. We pray that the living God will comfort them with such comfort that they will be able to comfort others in the future.

Mr. Speaker, Sir, when you look at the Vision 2030 document, it tells you who was involved in its production. These were very diligent Kenyans who gave us a road

map of where we should be by the year 2030. Not only that, they also gave us a strategy on how to reach there. Although I never met the late Gov. (Dr.) Gakuru, the fact that I am very conversant with Vision 2030, I get to know who he is through that document.

We hope that the family will find comfort and peace from the living God and that their future will be brightened by God Himself.

With those remarks, I say *pole* to the family.

Sen. Wambua: Thank you, Mr. Speaker, Sir, for giving me the opportunity to join my colleagues in consoling the family of the late Governor of Nyeri County. It is indeed a very sad day, not just for the county of Nyeri, but for this country. So, on my own behalf, that of my family and that of the great people of Kitui County, I say sorry to the family of the late governor and the great people of Nyeri County.

Having said that, Mr. Speaker, Sir, I want to take this opportunity to thank God on my behalf and that of my colleagues on both sides of the Speaker's Chair for this great opportunity that God has given us to serve this country. The things that we fight about and that we fiercely disagree about are things that we can live without. But the things that we cannot live without are things that are given to us for free. Therefore, this country needs us today more than it has ever needed leadership. If the death of our brother and our colleague, the Governor of Nyeri County, is the one that is going to bring us together as a leadership in this country, so as to provide leadership and to do that which is right for this country, then let it be.

Mr. Speaker, Sir, personally, I will stand with and for the people of Nyeri County, to pray that God grants them strength to go through these trying moments.

Sen. Halake: Thank you, Mr. Speaker, Sir. I also stand to condole with the family of the late Gov. (Dr.) Wahome Gakuru. I do not personally know Dr. Gakuru, but from what I have heard from colleagues and from what I have read, we must celebrate his life as one rich in accomplishments in family and friends. So, perhaps even as we grieve the late Dr. Gakuru, we should also look at and celebrate his accomplishments. His loss is, of course, greatest for his family, and we condole with them most sincerely on behalf of myself, my family, the people of Isiolo County and the Senate at large.

I would like to add that every year, between 3,000 and 4,000 Kenyans die on our roads. I am sure that the late Dr. Gakuru, in honour of his memory, would love it if, because of this high-profile death, we, as legislators or as a country do something about these wanton deaths on our roads every year. Many Kenyans whose names are not known – mothers, fathers, sisters, and brothers – leave their families and great careers behind. It is becoming unbearable to see that our roads are taking a toll on the economy and on families. Sometimes, things happen for a reason and I hope that we, as legislators will do our bit to see to it that our roads are safer for our people.

Without belaboring, politicizing or making it go out of the context of mourning the late Dr. Gakuru, I hope that this serves to also help us remember other Kenyans who die on these roads. That his life – which we have seen is rich in accomplishments in family and friends – serves as a reminder to all of us and to the country that deaths on the roads are unacceptably high. If there is anything that can be done, then let us do something about it in his honour.

I pray that the family and the county at large gets the strength to deal with this terrible loss. May his soul rest in peace. Thank you.

Sen. (Dr.) Kabaka: Thank you, Mr. Speaker, Sir. Let me register my condolences on behalf of myself and the people of Machakos County. I have known the deceased when we lectured in the universities. He lectured in The University of Nairobi (UON) while I lectured in Kenyatta University (KU) together with Sen. (Prof.) Kindiki here. The late Governor was a man full of wisdom. We used to have discussions sometime back when we met.

I wish to tell the honourable Senate that I also have some history with the people of Nyeri and that I am not new in Nyeri. I did my A-levels at St Paul's Seminary in Nyeri and my father worked in Outspan Hotel as a senior waiter. I was touched when I heard this morning that our brother, the Governor of Nyeri, had a fatal accident.

A lot has been said of his contribution in the Vision 2030 and I do not need to over-emphasise his importance and the road map. But I always question the mind of God, although we are sometimes told that we should not question Him. But I think God created us as rational beings so that we can think beyond our nose and even question things, and that is not a sin. There are very bad people in this country who have done bad things to the good citizens of the nation and sometime one can question the wisdom why such people do not fly away and leave good people like the deceased.

I have heard the Speaker of Nyeri County, Mr. Kagucia, state this morning – that, together with the late Governor, they wanted to make Nyeri County number one maybe to overtake Machakos County. That is not a far-fetched dream. I am sure that there are other competent men and women who will take over and propel the County of Nyeri to the greatest heights it desires to achieve.

Lastly, I join Sen. Maina in what he said; that something more than the burial of the deceased needs to be done---

The Speaker (Hon. Lusaka): Thank you, Senator.

Proceed, Sen. Wario Golich.

Sen. Wario: Ahsante Bw. Spika. Ningependa kuchukua fursa hii kupeleka risala zangu za rambirambi kutoka kwangu, familia yangu na watu wa Tana River kwa jumla kwa kifo cha Gavana wa Nyeri.

Ningependa kuwapa pole Serikali na watu wa Nyeri. Ningependa pia kumpa pole Seneta wa Nyeri, ambaye tuko naye hapa. Tutasimama na nyinyi wakati huu mgumu amba oGavana wetu ametuacha. Naomba kwamba wakati huu usiwe wa siasa, bali uwe wakati wa kuomboleza na kutuleta sisi sote pamoja. Huu ni wakati wa kupeana moyo kwa watoto wake, familia yake na hasa kwa mtoto wake ambaye ana fanya mtihani wa kitaifa. Tunampa moyo na pole wakati huu mgumu.

Sen. Cheruiyot: Mr. Speaker, Sir, thank you for giving me this opportunity to register my condolences to the people of Nyeri County on behalf of the people of the great County of Kericho. They have gone through an extremely difficult year, politically, given that it is only a few months ago that they laid to rest the late Governor Gachagua. I also pray for the family, especially the student who is sitting for his national examinations, during this extremely difficult time. May God give them the strength and fortitude needed to bear this loss.

In his passing on, we are all reminded, as leaders in this House, that it is never certain when our time will come. Therefore, it is important that we do our best for every minute that we serve as leaders because we do not know when our last rising shall be.

Sen. Kihika: Thank you, Mr. Speaker, Sir. I also rise to join my colleagues in condoling with the family of the late Governor for Nyeri County, Gov. (Dr.) Gakuru who passed on. On my own behalf and that of the great people of Nakuru County I send my condolences to the family and the people of Nyeri County who have gone through a lot in the last one year having also lost the first Governor as well. I wish to encourage them to stay strong. I guess it is God's will that things have gone the way they have done. It is extremely tragic, given how sudden it was. We woke up to the news this morning and feel the dark cloud over the country.

However, as my colleagues have said, it is probably also a time where the country can come together regardless of the political divide and condole with the family of the late Gov. (Dr.) Gakuru as well as the people of Nyeri County. It is also an opportunity to remember the many Kenyans who have lost their lives due to various accidents, be they on land, air or anywhere else, so that Kenyans, and more so the legislators, can do better in passing more legislation if that is what it will take to make sure that we have safer roads.

I say this, keeping in mind that we had a very serious accident last week in Salgaa and I also lost my own team to a helicopter crash. Therefore, many Kenyans have lost their lives through various accidents. We hope and pray that something will be done to make Kenyans safer.

Mr. Speaker, Sir, as I conclude, once again to the people of Nyeri, we stand with you. We hope that the Lord will give comfort and strength to the family of the late Gov. (Dr.) Wahome Gakuru.

Thank you.

Sen. Okello: Thank you, Mr. Speaker, Sir. On behalf of the people of Migori County, I would like to convey our sincere condolences following the untimely demise of the Governor of Nyeri, Gov. (Dr.) Gakuru. I know that it is very painful, particularly because it happened through an accident. However, I would like to appeal to the people of Nyeri County that our God is still there. He will take care of them and the family. From Migori County, we join them in this painful moment of mourning their second Governor.

Thank you.

Sen. (Dr.) Langat: Thank you, Mr. Speaker, Sir. May I also take this opportunity on my own behalf and that of the people of Bomet County to express my sincere condolences to the family of the late Gov. (Dr.) Gakuru and the people of Nyeri County following the sudden death of our brother. He was a great man who has contributed a lot towards the development of this country. It is a challenge to all of us to work hard so that we can be remembered long after we are gone.

The rate of road fatalities in Kenya is still among the highest in the world. Therefore, it is time to pass legislation in this House towards reducing the rate of accidents. It is my prayer that at this point in time, the widow and the family at large will be comforted by the spirit of our Lord Jesus Christ to bear the loss.

Thank you.

Sen. Wamatangi: Thank, you Mr. Speaker, Sir. I also join my colleagues in condoling with the family of the late Gov. (Dr.) Gakuru, the people of Nyeri County and the entire country, including the Council of Governors.

The late Gov. (Dr.) Gakuru will be remembered by this country in many ways; not only as a very sociable and pleasant man, but also as a practical leader who has contributed largely and greatly to this country's development. His record is there for everybody to see. He served as the Director of Vision 2030 and helped to initiate various projects in this country. He will be remembered for his track record and also for what he had intended to transfer to the people of Nyeri County in terms of development.

I also would like to take the opportunity to wish a quick recovery to the three colleagues who were with him in his vehicle, that is, his bodyguard, driver and personal assistant. We wish and pray for their quick recovery. To the people of Nyeri County; there is still God above.

Let me also take this opportunity, since I come from Kiambu County which is slightly part of where the accident occurred, near Kabati, to also appeal to the Ministry of Transport. That particular place is known to be a black spot and so many fatal accidents have occurred there. I personally escaped by a whisker while cruising on that road during a rainy season. Therefore, it is high the time the Ministry took the necessary corrective action to ensure that we do not have any other fatalities.

Mr. Speaker, Sir, lastly, I saw on social media quite a number of images being sent around. I would want to urge Kenyans not to continue sending very graphic images of the accident and the victims, so that we can give the family time to mourn. There are questions that we need to ask the Kenya National Highways Authority (KENHA) and those who do installations on the roads. When two or three accidents occur under similar circumstances, where the side road railings pierce through vehicles, what are they telling us about the safety of those installations?

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, I thank you for the opportunity you have given me to condole with the family of the late Governor for Nyeri. I have taken this opportunity on behalf of my family, Persons with Disabilities (PWDs) in this country, the National Council of People with Disabilities (NCPD) and organisations of PWDs to condole with the family of the late Governor, Dr. Gakuru.

This country has lost a leader. He was already sworn in. He had made a commitment to serve this country but because God decided to take him, we as the people of Kenya have no otherwise but just to accept the painful action that God has taken. As people of Kenya, it might be a very painful action but God has no apologies for whatever he does.

So, I console the people of Nyeri. You are not the only ones in this moment of pain. We are with you. The PWDs are with you in this pain. The whole nation is also with you. I am sure that at this time when you are trying to accept the situation, God will encourage, hold and give you strength to accept the situation.

Mr. Speaker, Sir, when I heard about this death I felt that even as a nation we have lost a scholar and a mentor, but I am sure that God will give us the strength to accept the situation. As I wind up, I suggest that you let us know the time of the mass in good time so that we can all attend it and stand in solidarity with all Kenyans to condole with the family of one of us who has departed to be with the Lord.

Mr. Speaker, Sir, once again I thank you for this opportunity you have accorded me to condole with the people of Kenya concerning the death of Dr. Gakuru.

Sen. Kinyua: Asante sana, Bw. Spika, kwa kunipa fursa hii. Kwanza kabisa natuma risala zangu za rambirambi, za familia yangu na watu wa Laikipia kwa watu wa Nyeri kwa kumpoteza Gavana wao. Nilimjua kwa sababu ni jirani wetu. Alikuwa amejitolea mhanga. Kwanza, alikuwa amesema angeunganisha Kaunti ya Nyeri kwa sababu ilikuwa na mgawanyiko. Alikuwa ameweza jambo hili kwa sababu kwa muda ule alikuwa Gavana, nilizungumza na watu wa Nyeri. Walisema kuwa ni mtu aliyefanya vizuri.

Anatambulika pia nchini kwa sababu alichangia sana wakati wa kutengeneza *Vision 2030*. Alihusika pakuu. Kwa hivyo ni mtu ambaye amechangia katika nchi hii yetu ya Kenya.

Pia nasema pole kwa watu wa Nyeri na hasa familia yake na mtoto wake ambaye anafanya mtihani wake wa kidato cha nne. Haya mambo yanapotokea yanatusumbua sana hasa wakati ambao nyoyo za watu wa Nyeri hazijatulia kwa sababu tayari walikuwa wamempoteza Gavana wao wa hapo awali, Bw. Gachagua. Tena Gavana mwingine ameaga. Kwa hivyo tunapaswa kujiweka katika Bwana. Tumtegemee Mwenyezi Mungu. Nina imani na hakika ya kwamba tukimwomba Mwenyezi Mungu mambo haya yataendelea kuwa sawasawa na hatutakuwa na hii shida tena.

Lakini kwa watu wanaohusika, mambo ya barabara yaangaliwe kwa sababu ajali zimekuwa zikitokea sana katika barabara zetu. Wakati mwingine shida hutokea kwa sababu ya mashimo yaliyo barabarani. Dereva anagonga shimo halafu gari linakosa mwelekeo. Kwa hivyo hili jambo linapaswa kuangaliwa.

Mwisho nawaambia watu wa Nyeri na Kenya nzima pole kwa sababu ya kupatwa na hilo pigo la kumpoteza Gavana wetu. Marehemu Gavana Gakuru alale mahali pema peponi.

Sen. Mwangi: Thank you, Mr. Speaker, Sir, for giving me this opportunity. On behalf of my family and the people of Nyandarua, I register my condolences with the family of Dr. Wahome Gakuru and the people of Nyeri. I knew Dr. Wahome Gakuru. I have mingled with him. He was a very brilliant man. He was prepared to serve this country but just before doing so, the worst happened.

He was a man who would have been a very great person in this country. He shared the *Vision 2030*. It was not easy to share it. We are talking of a young man of 49 years of age. This country has lost somebody that we would live to regret. It is unfortunate that we did not have any part to play. When it happens, we say God knows the purpose. When we heard this morning that he had an accident, we were shocked because he was coming to work in Nairobi. When this happened, it was a big shock.

Mr. Speaker, Sir, I pray to God that he keeps him well in heaven.

Sen. Wako: Thank you, Mr. Speaker, Sir; thank you for giving me this opportunity to join my colleagues in paying tribute to Dr. Gakuru. I may not have known him as much as some of my colleagues have known him but I can say for sure that when I was the Attorney General of the Republic, he was on the board of *Vision 2030* and I was a member too. We worked very closely. I came to admire his commitment to things development, skills and knowledge of things economical. I knew that in this man, we had a person and a Kenyan who, given any position in the Republic of Kenya, would move this county forward.

Therefore, when he was elected Governor, he was one of the Governors whom I put down in my note book that I was going to observe because I knew he was a governor who would be an example to other governors on how to govern a county. Sure enough from what I have heard, he had begun very well in bringing the county assembly together. In fact, the county speaker spoke of him in very glowing terms; something which of course, we as Senate would know that the previous Governor did not have very good rapport with the county assembly at that time, but this one had begun well. He had a rapport with the county assembly and the people.

For somebody who got 72 per cent of the votes cast in an election, it means that person is popular. The people of Nyeri were expecting a lot from him. This morning I could see that a number of them were too shocked even to talk on television when they heard the news of the passing away of Dr. Gakuru.

Mr. Speaker, Sir, I wish to convey to the people of Nyeri my condolences but more so I ask the Almighty God to be with the family of the late Dr. Gakuru and in particular to the son who was supposed to be sitting his exams.

(Sen. Wako's microphone went off)

The Speaker (Hon. Lusaka): Thank you, Senator.

(Sen. Wako spoke off record)

Order, Sen. Wako.

Sen. Chebeni: Thank you, Mr. Speaker, Sir. I want to take this opportunity to pass my condolences to the family of the late Dr. Wahome and also to the people of Nyeri County. I just tell them not to lean on their own understanding, but to trust in God during this trying moment.

Sen. (Dr.) Milgo: Thank you very much, Mr. Speaker, Sir. I also rise to condole with the family of the Nyeri County Governor, Dr. Wahome. I personally had not known Dr. Wahome, but it so happened that I got to know about him yesterday in the media when he was leading a pack of eight governors to revive the Laikipia-Isiolo railway. I said, this is a great man, and he spoke with passion on how that railway line was going to reduce poverty in that region.

We have lost a great leader. From the description that has gone out, this country has lost a leader, especially, at such a time when he was still going to offer services to this country. I only want to challenge the people of Nyeri County to keep his fire burning by following in his vision. May God rest his soul in eternal peace and to his wife, *pole* for that great happening.

Sen. (Prof.) Ekal: Thank you, Mr. Speaker, Sir, for giving me the chance to send my condolences to the family of Dr. Gakuru. As much as I did not know Dr. Gakuru in person, whenever things like these happen to anybody, it is quite painful. We have all had those experiences. So, it is in order that on behalf of our Governor, Josephat Koli Nanok and the Turkana County people that our condolences go to this family and to the nation of Kenya. People can kind of mourn knowing that life on this earth is very short and things like these happen to all of us.

Sen. Olekina: Thank you, Mr. Speaker, Sir. On behalf of the people of Narok County, I wish to express my condolences to the people of Nyeri County. My deepest sympathy goes to you, the people of Nyeri County. May God give them the peace that you seek. I know they have been through a lot over the last seven months having lost their first governor. May my condolences bring them comfort and may my prayers ease the pain of this loss.

Finally, I offer you my deepest thought, prayers as well as well wishes during these dark times. May you rise again. The people of Narok County are with you in prayers.

Sen. Kwamboka: Thank you, Mr. Speaker Sir. On behalf of my family and the Nairobians, I take this opportunity to condole with the family. What I can tell the Nyeri County people is; *poleni*, it shall be well. We are together in prayers.

The Speaker (Hon. Lusaka): Next order.

PETITION

ALLEGED HISTORICAL INJUSTICES SUFFERED BY THE TALAI CLAN

The Speaker (Hon. Lusaka): Honourable Senators,

1. Pursuant to Standing Orders Nos. 223(a) and 224 (2) (b), I hereby report to the Senate that a petition has been submitted through the Clerk by the Governor of Nandi County, the Hon. Stephen K. Sang, regarding alleged historical injustices suffered by the members of the Talai Clan of Nandi County.

2. Honourable Senators, the salient issues raised in the said petition are:

(i) THAT, members of the Talai Clan of Nandi County suffered grave injustices at the hands of the colonial administration in Kenya. This included abuse of human and civil rights, murder, forcible transfer of population, confiscation and destruction of property, including land, livestock and farm produce.

(ii) THAT, one of the key injustices committed against the Talai Clan, was the beheading of Koitalel arap Samoei, the leader of the Talai Clan and Nandi sub-Tribe whose head is held in a British museum and yet to be repatriated back for a decent burial among his people.

(iii) THAT, the other members of the Clan were forcibly dispersed and banished to regions of the country where they faced hostility and their freedom of movement as well as other human and civil rights were greatly restricted; and ,

(iv) THAT, subsequent governments since independence have failed to address or resolve the injustices suffered by members of the Talai Clan which continue to persist.

3. The petitioner, therefore, prays that the Senate investigates this matter and makes appropriate recommendation to address the injustices. Among the prayers made by the petitioner are that the Senate:

(a) recommends the identification of the Talai Clan as a specific people or group as a marginalized community pursuant to Article 260 of the Constitution

(b) recommends the Independent Electoral and Boundaries Commission (IEBC) create a special ward to ensure that the clan is represented at the Nandi County Assembly as was the case in the defunct council of Nandi; and

(c) recommends that the National Land Commission (NLC) and the Kenya National Commission on Human Rights (KNCHR) carry out investigations on the plight of the Talai Clan and offer appropriate redress for the injustices suffered.

Pursuant to Standing Order No. 225, I shall now allow comments, observations or clarifications in relation to the petition for not more than thirty minutes.

Sen. Wako: Sorry, Mr. Speaker Sir. I just wanted some guidance from you. I remember this petition very well. Pursuant to the matter being debated here, the Committee, I together with Sen. Stephen Sang went, visited and saw these people. It was a very challenging visit. What are we doing now? What I was expecting was a report of our visit to be endorsed by the Senate and not to redo the whole thing again. I just wanted to find out the procedures.

The Speaker (Hon. Lusaka): I think, Sen. Wako, the matter lapsed with that Parliament. This being a new Parliament, we are not aware of what took place in that Parliament. That is why it is starting a fresh.

Sen. Wako: Mr. Speaker, Sir, I know the matter lapsed with the Parliament, but surely, do we have to redo the whole thing again? Do we need to make another visit when we had already visited? By the way, I am quite sure, without any fear of contradiction that as a result of that visit, I know in that visit, one of the Land Rovers of the Leader of Majority was used. I climbed on it and appealed to the people to vote for Sen. Sang in the forthcoming election. They voted for him and Sen. Sang came to Busia about two, three weeks ago and thanked me in front of my people for having campaigned for him for election as governor.

I would want a clarification from you on whether we should really restart the whole thing again since both the Committee and the report are there. There has to be something. Does it mean that when things lapse we start all over again when the Motion has been exhausted? We went there, were well received, met the people and came out with certain recommendations which we were going to make. Why start all over again?

Sen. Cheruiyot: Mr. Speaker, Sir, I was following on the earlier ruling; that you were going to allow a few minutes for comments on the Petition. If that be so, can I continue?

The Speaker (Hon. Lusaka): Proceed.

Sen. Cheruiyot: Thank you Mr. Speaker, Sir. I want to laud the good thoughts of the Governor for bringing the Petition before this honourable House and raising the various issues and injustices that have been meted on the Talai community.

It will benefit this House to know that as Senator for Kericho, I have a good population of members of this community. On various occasions, I have had sittings with them where they have explained to me the kind of injustices that were meted on them, including forcible eviction from the land that is now occupied by the tea multinationals in Kericho County. It is good to also note that they were not compensated or given land elsewhere in their country.

They were just kicked out of their land and left to fend for themselves and determine where to live. It is because of that, that up to now you cannot physically trace the Talai community and locate them to any particular part of the country.

I feel that the most prudent thing for this House to do is to listen to their pleadings that have been made by the Petitioner and look into ways of compensating them and establishing perhaps a particular place where they will call their residential home for the future generations and for them to be settled there. Maybe they can then pick up the pieces and try to retrace the roots of their family.

Mr. Speaker, Sir, it is a well-documented historical fact that when certain dictators and evil men on this earth wanted to kick out certain segments of the population, one of the things they would do was to disperse them to the various parts of the earth and not give them somewhere to live.

It is extremely important that within the time allocated for the Committee that will be set aside to look into this Petition, it does good recommendations such that if there are any other Kenyans out there who were treated unjustly, they may look up to the Senate and realise that this is a great House where you can run to and find justice.

I support.

Sen. Cherargei: Mr. Speaker, Sir, I think as the incoming Senator of the county where the Petition has come from by my good friend the Governor of Nandi, Governor Sang, I would also be interested although I was following this matter before I was even elected.

Most of these Talai people live in Chesumei Sub County. The President came a few weeks ago to visit the mausoleum of Koitalel arap Samoei whose remains were returned in the year 2002. We still have a lot of issues to raise with the British over that matter. I would also want to see the conclusion of this matter so that as a county we can move forward and ensure that these people are compensated and also look at other historical injustices. This is because most of them were moved from their original lands and later made squatters.

As the Senator of the concerned county, I would be very keen and request the Committee that we give them the necessary support and directions when called upon, to ensure the matter is dealt with expeditiously so that the great people of Talai get an opportunity to have their issues addressed.

The Government has established a centre in remembrance of Koitalel Samoei and his clan. Most of the Talai are also in Kericho County. I support and hope to see expeditious conclusion of this issue so that our people can get the justice that they have desired for so many years.

I support.

The Speaker (Hon. Lusaka): I think that all who wanted to make a contribution have done so. Therefore, pursuant to Standing Order No. 226(1) the Petition should be committed to the relevant standing Committee, in this case, the Standing Committee on Justice, Legal Affairs and Human Rights which is yet to be constituted. Once committees are constituted, the Petition will be committed to the said Committee.

In terms of Standing Orders 226(2), it states:

“Whenever a Petition is committed to a Standing Committee, the Committee shall, in not more than sixty days from the time of reading the prayer, respond to the

petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the Senate and no debate on or in relation to the report shall be allowed, but the Speaker may, allow for comments or observations in relation to the Petition for not more than thirty minutes.”

The period of thirty days shall start running from the date of constitution of the Committee. I thank you.

Next Order.

PAPERS LAID

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Tuesday 7th November, 2017. It is a very long list.

BUDGET REVIEW AND OUTLOOK PAPER

The 2017 Budget Review and outlook Paper for the FY 2018/19 Medium Term Budget

REPORT ON THE STATE OF THE JUDICIARY

The Annual Report on the State of the Judiciary and Administration of Justice for 2015/2016 FY

REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL STATEMENTS OF VARIOUS COUNTY GOVERNMENTS

Report of the Auditor-General on the financial statements of Siaya County Executive for the Year Ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Siaya County Assembly for the Year Ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Kilifi County Executive for the Year Ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Kilifi County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Baringo County Executive for the Year Ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Baringo County Assembly for the Year Ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Makueni County Executive for the Year Ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Makueni County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Kajiado County Executive for the year ended 30 June, 2016

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Report of the Auditor-General on the financial statements of the Kajiado County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Machakos County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Machakos County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Nairobi County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Nairobi County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Homa Bay County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Homa Bay County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Migori County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Migori County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Nyamira County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Nyamira County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Elgeyo Marakwet County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial operations of the Elgeyo Marakwet County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Nandi County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial operations of the Nandi County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Turkana County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial operations of the Turkana County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the West Pokot County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial operations of the West Pokot County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Trans Nzoia County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial operations of the Trans Nzoia County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Nakuru County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Nakuru County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Uasin Gishu County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial operations of the Uasin Gishu County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Samburu County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Samburu County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Kericho County Executive for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Kericho County Assembly for the year ended 30 June, 2016

Report of the Auditor-General on the financial statements of the Taita Taveta County Executive for the year ended 30 June, 2016.

Report of the Auditor-General on the financial operations of the Taita Taveta County Assembly for the year ended 30 June, 2016.

Report of the Auditor-General on the financial statements of the Kwale County Executive for the year ended 30 June, 2016.

Report of the Auditor-General on the financial operations of the Kwale County Assembly for the year ended 30 June, 2016.

Report of the Auditor-General on the financial statements of the Tana River County Executive for the year ended 30 June, 2016.

Report of the Auditor-General on the financial operations of the Tana River County Assembly for the year ended 30 June, 2016.

Report of the Auditor-General on the financial statements of the Mombasa County Executive for the year ended 30 June, 2016.

Report of the Auditor-General on the financial operations of the Mombasa County Assembly for the year ended 30 June, 2016.

Report of the Auditor-General on the financial statements of the Lamu County Executive for the year ended 30 June, 2016.

Report of the Auditor-General on the financial operations of the Lamu County Assembly for the year ended 30 June, 2016.

(The Speaker (Hon. Lusaka) consulting with the Clerk)

Mr. Speaker, Sir, I can see you are in consultation with the Clerk.

The Speaker (Hon. Lusaka): We are in consultation because we need clarity; some are for county assemblies and others for county executives.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir that is why I said the first one and second one is done. Let me repeat.

The Report of the Auditor General on the financial statements of the following county assemblies and county executives for the year ended 30th June, 2016. They are: Siaya, Kilifi, Baringo, Makueni, Kajiado, Machakos, Nairobi, Homabay, Migori,

Nyamira, Elgeyo Marakwet, Nandi, Turkana, West Pokot, Trans Nzoia, Nakuru, Uasin Gishu, Samburu, Kericho, Taita Taveta, Kwale, Tana River, Mombasa and Lamu counties.

(Sen. Murkomen laid the documents on the Table)

The Speaker (Hon. Lusaka): Next order.

STATEMENTS

STATUS OF FEMALE PRISONERS AND CHILDREN HELD IN PRISONS

Sen. Kwamboka: Mr. Speaker, Sir, I rise pursuant to Standing Order 46(2)(b) to seek a statement from the Senate Majority Leader regarding the status of female prisoners and children held in prisons and remand facilities in Kenya. In the statement, he should:-

(i) Provide the statistics on women and children held in prisons and remand facilities countrywide.

(ii) State the capacity of the facility *vis-a-vis* the number of women and children held or detained there in.

(iii) State the number of trained personnel manning these facilities and whether they are sufficient to guarantee the safety and security of the detainees.

(iv) Explain what the Government is doing to ensure women and children detained, held in custody or imprisoned enjoy the rights and the fundamental freedoms in line with Article 51 of the Constitution of Kenya.

(v) Outline the measures that have been put in place to ensure the safety and security of women and children held in correctional facilities.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, you gave a direction today that we need Committees to be in place so that they can interrogate these statements. So, as soon as the Committees are formed, we should commit these questions to the relevant Committee and an answer be brought to the House in two weeks' time.

I am anticipating that after 20th November, 2017, the Committees should be in place so that early December before we go on recess they can bring the answer.

I hope the Hon Senator will be a Member of that particular Committee that will address those questions.

The Speaker (Hon. Lusaka): Next Statement is from Sen. Lelegwe.

ALLEGED SHOOTING OF LIVESTOCK BY SECURITY OFFICERS IN LAIKIPIA COUNTY

Sen. Lelegwe: Mr. Speaker, Sir, pursuant to Standing Order No. 46(2b), I rise to seek a statement from the Senate Majority Leader regarding the shooting and killing of livestock during a security operation in Laikipia County on Wednesday, 1st November, 2017. In the statement, he should:

(1) Explain the circumstances that led to the shooting of livestock at the Maran Dam water point in Ratia Area of Elmoran Division, Laikipia North Sub-County by the rapid deployment personnel who were undertaking security operation in the area

(2) Table the list of the affected livestock owners, indicating the exact number of animals shot and the number that died.

(3) Confirm whether the security officers detained, confiscated and deleted pictures/video clips taken by the media during the operation? If so, give reasons why.

(4) Explain the measures the government is taking to compensate the affected owners of livestock in order to alleviate the suffering of the affected families, given that livestock is their main source of livelihood.

(5) Explain what the government is doing to ensure that the perpetrators of this cruel act are prosecuted.

(6) State why the Government has not developed a policy framework to address the following challenges of conflict and to ensure peaceful coexistence between ranches and non-pastoralists on one hand and pastoralists on the other hand; considering that conflict between pastoralist and their non-pastoralist neighbours over grazing and water has been a long standing and persistent problem in all pastoralist areas in Kenya.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, that is a very important question. It is very alive to all of us.

Again, if you agree with the earlier suggestion I provided in the questions by Sen. Kwamboka, then that should also apply to Sen. Lelegwe. When the Committees will be in place, they will identify the owners of those livestock so that they can come forward to be documented for purposes of compensation. This is because I have seen that issue has raised a serious national discourse on destruction of livestock. However, what is missing in this discourse are the owners of those livestock. When put in place, the committee will deal with this so that we then have a face to it, when we are talking about compensating and dealing with people who lost their livestock.

Mr. Speaker, Sir, if I may; I request Sen. Lelegwe, and that is why when you gave that order, I suspect that it will be important even for the Committee to visit the place and interrogate those issues. Therefore, if we can form the Committees as directed by you in two weeks' time then before we go on recess the answer should be brought.

In the meantime, I commit to also call the office of the Inspector General of Police to start taking action to ensure that further destruction of livestock does not take place and to ensure that the conflict between ranch owners and livestock owners, whether trespassing or not, is mitigated and minimized.

The Speaker (Hon. Lusaka): Is that okay with you, Sen. Lelegwe?

Sen. Lelegwe: Mr. Speaker, Sir, let me put it in this perspective; if the police had invaded the ranches or the Laikipia Conservancies and killed all the livestock there, killed all the cats, dogs and horses, I do not think the Senate Majority Leader would have requested for more time or formation of Committees. It would have been treated as an urgent matter which needs the Government's attention and response.

Now, for us, we cannot wait for the formation of committees. We have seen people who have been impoverished by police officers; who do not discriminate but shoot at will. In the process, they kill all livestock, leaving those Kenyans without

anything to depend on. The Leader of Majority should bring the response to this statement soon enough, if possible, within the next one week; if not, Thursday this week.

Thank you.

The Speaker (Hon. Lusaka): The Leader of Majority, can you respond to that?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, nobody likes killing livestock. That is why I said that what has happened has happened. Therefore, this must lead to investigations on what happened, who did it, how do you punish those who did it and how do you compensate those who lost their livestock. That is part one; part two is to ensure that it does not continue to happen even as we look for solutions to this problem.

In my own inquiries on this issue, I think one of the challenges is to identify the owners of the livestock. I doubt if this question is just a security issue. It would be better if we had a committee to see if it is comprehensive. But if you want an interim answer as to the circumstances under which this happened, I can get that from the Inspector General of police in two weeks. But then the committee can interrogate the other issues like conflict of livestock owners in detail because this is bigger than just the question of immediate security concerns.

The Speaker (Hon. Lusaka): I rule that I give you one week to bring the report by Tuesday next week. Because if you bring it in two weeks, you will still be going back to what you had said earlier. Therefore, you will provide an interim report in a week's time.

Let us have the next statement from Sen. Ledama.

DISPLACEMENT OF SAMBURU PASTORALISTS IN LAIKIPIA COUNTY

Sen. Olekina: Thank you, Mr. Speaker Sir. Pursuant to Standing Order 46(2)(b) I rise to seek a statement – which is really a follow-up on Sen. Lelegwe's statement – from the Leader of Majority regarding the displacement of the Samburu pastoralists in Ratia, Laikipia North Constituency in Laikipia County.

In the statement, the Leader of Majority should state whether the period within which the gazette notice dated 17th March, 2017 by the then Cabinet Secretary for Interior and Coordination of National Government declaring Rumuruti, Olmoron, Kirimom, Ngarua, Marmanet, Mukongondo East and Sengera as disturbed and dangerous areas where possession of any arms was prohibited was ever extended because that was only supposed to last for a maximum of 30 days.

In the statement, the Leader of Majority should also enumerate the number of cows that have been allegedly killed by the police since the area was declared a disturbed and dangerous zone. He should also explain what happened immediately following the shooting of the cows recently. He should also explain whether any herders were arrested by the police from the scene of crime; and what is their status.

Five, what measures did the Inspector General of Police take to preserve the crime area following the killing of over 300 cows last week. Six, confirm whether, as alleged, the herders invaded a private ranch; and if so, whether the ranch owners filed a complaint with the police. Seven, the statement should also state the names of the owners of the said ranch where the cows were killed. He should also table a list of all the disciplined forces

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who were deployed to the area and the specific make up of each discipline, stating the community which they come from and the percentage of each of that community.

Nine, he should state the measures that the Government will take to compensate the herders who lost their cows and specifically, two gentlemen who I visited last week. These are Mr. Lenakakuya, who lost 168 cows and Mr. Lekalasi, who lost 138 cows. How will they be compensated?

Finally, he should explain the measures the Government has put in place to bring an end to the killing of livestock and to foster harmonious living between the community and the ranch owners.

Mr. Speaker Sir, I will request that I proceed to my second statement because it is similar to that.

The Speaker (Hon. Lusaka): Let us have the Leader of Majority respond to that first.

The Leader of Majority (Sen. Murkomen): Mr. Speaker, Sir, that statement will suffer the same fate as the previous one because I think it is the same question. Usually, how it works here is that when a Member asks a question, this would have been a follow up question to it so that they are consolidated to one statement.

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

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

The Temporary Speaker (Sen. (Prof.) Kamar): Please, Sen. Ledama, continue with your second Statement.

Sen. Olekina: Madam Temporary Speaker, before I go to the second Statement, I know that the Leader of Majority has said that this is the same question; it is not. My question is specific to a Gazette Notice dated 17th March, 2017. I have asked specific questions regarding the composition of the forces that were there. They were specific matters that ought to be answered specifically.

Thank you.

The Leader of Majority (Sen. Murkomen): Madam Temporary Speaker, I said they are both related. We can provide the answer in two weeks.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Olekina, is two weeks sufficient?

Sen. Olekina: Madam Temporary Speaker, two weeks is too long. When I visited the area, I realized that the wife to one of the aggrieved persons is currently admitted in hospital. It is good for us to know this, because it cannot wait. So, a much shorter time will actually help.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senator, sometimes you want to look at the practical part of the issue, because the Leader of Majority is insisting on two weeks. Sen. Murkomen, are you able to reduce the time?

The Leader of Majority (Sen. Murkomen): Madam Temporary Speaker, I think that two weeks is reasonable for a comprehensive debate. In fact, the one week that was earlier ordered by the Speaker will take part of the question that deals with livestock, which has already been asked. This will take care of the question the Senator has asked as

supplementary questions. We will answer all of them next week. The rest of the issues of looking forward can be dealt with in two weeks' time.

The Temporary Speaker (Sen. (Prof.) Kamar): Leader of Majority, I thought you were about to say that you can answer both of them, because they are similar.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, we are trying to avoid a tradition where questions are just answered for the sake of it. When they are handled by committees, the interrogation is better. This is only a contingency measure in the absence of a committee and I am doing this to facilitate the continuation of the House in the absence of committees.

We need to wait until proper interrogation is done because some of the questions the Senator has asked such as how to deal with conflict need long-term measures and cannot be answered directly by the Inspector General of Police. We will answer those that are urgent next week and then we will have a comprehensive answer in two weeks' time.

The Temporary Speaker (Sen. (Prof.) Kamar): I agree with the Senate Majority Leader. Two weeks will suffice, so that we get something comprehensive.

Sen. Seneta: Madam Temporary Speaker, I wanted to seek clarification from the Senate Majority Leader but he has clarified the issue I had, which is the urgency of the matter. I listened to my two colleagues from Narok and Samburu counties and I want to state that this is a complex matter. Issues of security are always treated as urgent. I do not think the Inspector General of Police needs one or two weeks to answer on issues of security. We are talking about conflict which is an issue of concern to many of us who come from the pastoralists communities.

Therefore, Madam Temporary Speaker, the Senate Majority Leader should take this issue seriously and consider it urgent. He should not even take one week but two days because he just needs a phone call to the Inspector General of Police to give us an answer to some urgent issues that need to be settled.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senator, I was expecting something new because I had already ruled on that. Let us allow the Senate Majority Leader to give us a snap answer in a week and a comprehensive answer in two weeks. By doing that, we will not send them back.

Sen. Seneta: Madam Temporary Speaker, I still feel that one week is long.

The Temporary Speaker (Sen. (Prof.) Kamar): Then it is already too late because I had ruled on that one. Let us move on.

STATUS OF LAND OWNED BY THE ADC
IN LAIKIPIA COUNTY

Sen. Olekina: Madam Temporary Speaker, I rise once again pursuant to Standing Order No.46(2)(b) to seek a statement from the Senate Majority Leader regarding the status of over 63,000 acres of land owned by the Agricultural Development Corporation (ADC) in Laikipia County. In the statement, the Senate Majority Leader should:

- (1) State whether the Government is aware that the Samburu Community has for the past 40 years grazed in a land owned by the ADC, which is about 63,000 acres.
- (2) Confirm the status of the said land and specifically around Mutara area.

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(3) Explain who owns the land adjacent to the ranches which the Samburu Community has occupied since Independence.

(4) Explain what happened to the communities that were last year forcibly evicted from the said public land.

I thank you.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, this will be dealt with in three weeks because there is no urgency.

Sen. Olekina: Madam Temporary Speaker, I do not want to laugh at my dear brother. That is where the Samburu are being killed and that is where their economy is being destroyed. This matter is extremely urgent. How do you explain forcible eviction of a community and killing of all their animals the following day? That is the land they have been living on!

It is important for the Senate Majority Leader to take this matter very seriously. Even though the Samburus and Maasais who live in Laikipia do not have title deeds, that is where they have been calling home. So, it is imperative for the Senate Majority Leader to be a bit serious in terms of the issue of displacement of the people who live in that area. It is also important for us to know who owns the 63,000 acres.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Kinyua, do you have any intervention before we continue?

Sen. Kinyua: Madam Temporary Speaker, I was born in Mutara Ranch and I can tell you who neighbours the ADC Farm. It is on my extreme north and it is owned by somebody called George Kithuko. We also have Kihika Farm which neighbours---

The Temporary Speaker (Sen. (Prof.) Kamar): Order! Sen. Kinyua, you are not the Senate Majority Leader. If you want to assist him, you should do so outside this House.

Let us listen to the Senate Majority Leader.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, Sen. Kinyua could be right but he does not have the supporting documents. So, he should wait until the answer is brought.

Madam Temporary Speaker, I insisted that there is no urgency in this statement because the hon. Senator, in his own admission, said that it has been like that for 40 years. Therefore, I do not think it is now urgent.

Secondly, the hon. Senator said that it is an ADC farm. So, that is a clear admission that there could be some trespass and it is not a question of the pastoralists owning the farm. It is an admission that the farm is owned by the Government and, ordinarily, it should not be occupied by any other person except the Government.

Concerning the urgency, this matter is already being addressed because he has talked about people and animals being killed. The question of ownership of land and the neighbouring property might end up being superfluous unless there is a clear reason why we want to discuss privately owned lands here. There must be a link between a crime and the privately owned land. So, there is no urgency in terms of rushing to investigate the ownership of titles or properties around the place because that is not urgent. What cannot wait is the suffering which I have said will be dealt with in a week's time.

Sen. (Dr.) Kabaka: Madam Temporary Speaker, with due respect to my learned colleague here, I think the Senate Majority Leader is twisting the question. To the best of

my understanding, what Sen. Olekina asked is the manner in which the land adjacent, not the one owned by the ADC, was acquired. I know it may have some legal connotations for the same to be taken to court. I appreciate that he is seated on the side of one of the parties mentioned and I do not know whether he is acting as their advocate to that regard. However, he should take this matter very serious if indeed Kenyans are being butchered.

Not long ago we eulogized our brother who passed on and we emphasised the importance of life as enshrined in the Constitution. So, the Senate Majority Leader needs to be serious.

Sen. Olekina: Madam Temporary Speaker, I think the Senate Majority Leader did not understand my question. I request that he is given a copy. He ended up twisting what I said. There is a serious urgency in this matter. The Samburu people living in that area were forcibly evicted. This happened last year following the gazettement of that area as a dangerous zone. Those people have called that place home.

We talked about historical injustices but this is something which is extremely painful to the Maa-speaking people particularly the pastoralists. The Senate Majority Leader should take this matter very seriously because I do not want to bring up hearsay here. Whether or not the land is owned by the Government, they have been using it during the dry spell to graze their cattle. Now they cannot do that yet that is their ancestral land. Where do you expect them to go? This matter is extremely important.

The Temporary Speaker (Sen. (Prof.) Kamar): The Senate Majority Leader.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, as far as I am concerned, what is urgent is the question of destruction of livestock and lives. For that one, we have agreed that the answer must come next week.

As to who owns this land and the adjacent land, I do not know where the urgency comes in. This is because if we request people at the Ministry of Lands to do a search and interrogate how that person came to own land, find out whether there was a lease agreement between the Agricultural Development Corporation (ADC) and any other person or historical injustice must have been done – how private owners who came there almost 40 years ago acquired the land - that requires time to do a clear and proper investigation.

Madam Temporary Speaker, you have ordered on the question of destruction of life. In fact, I dare say that those who have lost their livestock, if they are listening to me and are in communication with the Senator - just the way he said - they should be recording statements with the police at the moment. Many ordinary citizens, even those who are schooled, always forget that if you want a proper record for purpose of following any violation or deprivation of right, including property, it is good to always have a record of official reporting of a crime that happened or that is purported to have happened.

Therefore, on the question of livestock, life and the status of the people, I promise that I will try to give the answer in a week's time. The question of ownership of property, with all due respect to my colleague, it cannot be urgent at the moment, if it is about 40 years of historical issues and so on. By the admission of my colleague here, he has already said that, that land is under ADC. We will also need to confirm whether that is true. We need to confirm the size of the land and how they acquired it, lease out and manage it. That will require time.

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

Sen. Olekina: Madam Temporary Speaker, just to rest this matter, I just want to reiterate one point. The Maa speaking people have been evicted from where they call home. Whether the land belongs to ADC or someone else has grabbed it in this country, it is something which will determine the future of the Maa community.

The reason I am passionate about this is because I personally visited the people who were affected by the recent killings. For me to see a 60-year old man telling me that he will commit suicide by taking the dip medicine which he uses to wash his cows, it is something very emotive.

Therefore, I would request that the Majority Leader takes this matter seriously. I am going to rest it now, but take it seriously because these people are suffering.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you very much, Sen. Olekina. The Senate Majority Leader has emphasised only the urgency and not the importance. It is a very important issue. Sometimes we should look at the details we require from a statement and something beyond a statement. Therefore, we may want to do what Gov. Sang has done by bringing a petition, so that we deal with the matter thoroughly.

Actually, bringing an answer here that is not thorough may not be helpful to us sometimes.

Hon. Members, we will now move to the second part of Statements, which is, Statements to be issued.

Proceed, Senate Majority Leader.

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

The Senate Leader of Majority (Sen. Murkomen): Madam Temporary Speaker, I have the answer to the question on delay of disbursement of resources to county governments that was raised by Sen. Khaniri. However, as you can see, Sen. Khaniri is not here. Therefore, I can wait to see if he will come because this matter raised a lot of interest on both sides of the House. As we wait, I can give an answer to the question raised by Sen. Olekina.

The Temporary Speaker (Sen. (Prof.) Kamar): That is okay.

CLASHES BETWEEN THE MAASAI AND KIPSIGIS COMMUNITIES IN NAROK COUNTY

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, on the question regarding the alleged clashes between members of the Maa and the Kipsigis Communities in Esoit-Naibor area, Kimintent Ward in Narok County, the Ministry has responded as follows and it is signed by the Cabinet Secretary for Interior and Coordination of National Government, Dr. Fred Matiang'i:-

(1)The Government is not aware of any land dispute between the Maa---
Maybe I should restate the issues as stated here.

At a sitting of the Senate held on 10th October, 2017, Sen. Olekina Ledama requested for a statement regarding the alleged clashes between members of the Maa and the Kipsigis communities in Esoit-Naibor area, Kimintent Ward in Narok County.

The hon. Senator particularly sought to be informed:-

(1) Whether the Government is aware that the land dispute between the Maasai in Esoit-Naibor and Kipsigis in Kirindoni area in Kimintent Ward in Narok County is growing out of hand, leading to loss of lives and property.

(2) The number of persons killed in the last two months as a result of the clashes in the area.

(3) Whether the killings of Mr. Ben Kolian, Mr. Nicholas Ng'etich and four other persons whose bodies were found dumped in Esoit Naibor last week were as a result of the land dispute between the two communities living in the area.

(4) Whether the disarmament exercise that was carried out was successful and why the officers carrying out the disarmament exercise are allegedly from one community.

(5) What the Government is doing to solve the dispute between the two communities and to avert further loss of life and property.

I wish to state as follows:-

The Government is not aware of any land dispute between the Maa and Kipsigis communities in Esoit-Naibor area in Kimintent Ward. However, the Government is aware that the attacks reported in the area in the recent past are as a result of retaliatory attacks between the two communities due to incidents of stock theft.

In addition, it is alleged that the creation of Sosiani Location has escalated the attacks as each community positions itself for the appointment of the Chief.

In the last two months the following persons have been killed due to the ensuing conflict:-

Danuek Kipkurui Martim, 38 years old; Nicholas Kiprotich Ng'etich, 20 years old; Paul Kipkurui Ruto, 21 years old; Anderson Kiplagat Lagat, 25 years old; Paul Kimutai Rono 28 years old; Titus Kipkurui Mitei, 25 years old; David Kiplagat Bett, 40 years old; Paul Kipkurui Langat, 25 years old; Bernard Kipkorir Sang, 25 years old; Stephen Sigei Cheruiyot, 50 years old; Daudi Barng'etuny, 23 years old; and, Ben Kolian, 40 years old.

The Government is not aware that the killing of Ben Kolian, 40 years old, on 23rd September, 2017 by unknown people was due to a land dispute. However, the Government is aware that the deceased was shot dead during a robbery incident by unknown assailants. In what appeared to be a retaliatory attack, Stephen Sigei Cheruiyot, aged 50 years, was shot dead in his house on 15th October, 2017. The two deceased men were of the same social status in their communities and were respected opinion leaders. Investigations into the incidents are ongoing with the aim of bringing the culprits to book.

Madam Temporary Speaker, to address the conflict between the two communities, several peace building meetings have been organised and attended by politicians, church leaders, peace committees, together with security officers during which the people were sensitised to enhance peaceful co-existence.

Similarly, a security operation comprising of Regular Police, General Service Unit (GSU), Administration Police (APs) and Directorate of Criminal Investigation

(DCI) officers is ongoing. This has led to the recovery of four AK 47 riffles and several rounds of ammunition, bows, arrows and quivers. Thirty suspects have already been arrested and arraigned before courts for various offences.

Thank you, Madam Temporary Speaker. The Statement has just been delivered. I did not have time to share it with the Senator but it is brief and straight forward. As I said on that day, we have lost too many lives. Sen. Cheruiyot, who is here, and I managed to attend the funeral of about 12 people who were killed.

Sen. Olekina: Madam Temporary Speaker, I appreciate him for bringing the Statement though those are not the facts on the ground. If we continue running around, we are going to suffer. I am surprised that the Cabinet Secretary (CS) of the Ministry of Interior and Coordination of National Government said that he is not aware that the problems there are due to land issues. I do not have the facts with me here. However, being from Narok County, having been raised there and being the Senator, I know that there is a huge tension between the Kipsigis and the Maasai communities in that area. I am known to the deceased. The father was being forced to sell land. He did not sell the land and they continued asking. This important information---

(Sen. Murkomen spoke off record)

You have to press the button.

The Temporary Speaker (Sen. (Prof.) Kamar): He has pressed it now.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I think that when an answer has been provided, the only thing that we can do is to ask follow up questions, if there is need. Unsubstantiated statements are not follow-up questions.

Is it in order for the Senator to berate us with facts that are not before this House instead of follow-up questions?

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. I was actually waiting to see where his comments were going to. Otherwise, I had noted that he seemed to be straying from the original question.

Sen. Olekina, if you have any questions to ask, this is your time.

Sen. Olekina: Madam Temporary Speaker, I think the follow up question should be whether the Ministry of Interior and Coordination of National Government in Nairobi is in touch with the Ministry of Interior and Coordination of National Government in Narok. The most important thing is for them to provide us with facts and not just information.

The Temporary Speaker (Sen. (Prof.) Kamar): Could we hear from the Senate Majority Leader?

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, as far as the Ministry is concerned, those are incontrovertible facts until one brings different evidence that leads to a different answer.

Being a leader and my colleague, Sen. Olekina, being here, I reiterated this when he asked the question. As we are waiting for an answer from the Ministry of Interior and Coordination of National Government as to what is being done, I want to emphasize just as the CS enumerated, that the role of the leadership, which includes ourselves, is very

critical. It would be dangerous for us, leaders, particularly for someone like Sen. Olekina, who is in a privileged position to lead a cosmopolitan county, to discuss residents from one part of the county vis a vis the other. This is because conflicts are exuberated by perceptions.

Whereas the CS has said that this is what they want to do, are there other underlying issues that the Senator knows? I think that it is incumbent upon him and the other leaders to dig into those issues and look for ways of building peace. They should work with what he called the Ministry of Interior and Coordination of National Government in his county for them to find a solution as we even move forward. I say this as someone who visited the place and understands the tension that is there. I was there when the two businessmen were killed, which led to the killing of the 12 people. Nobody wants any life to be lost and no life is more important than the other. These are lives too many. That is what I am urging the Senator.

The Temporary Speaker (Sen. (Prof.) Kamar): Are you seeking further clarification?

Sen. Olekina: Yes Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): I had given you chance. You have not asked a follow up question. I am giving you the last chance since nobody has shown interest in this matter.

Sen. Olekina: Thank you, Madam Temporary Speaker. I am shocked that the Senate Majority Leader can mislead this House and the public that I am only speaking on behalf of one community. Yes, I might have said that I was elected by one community but in my question, I focused on the two communities that are living in that area. I did not single out one community. It is important for the Senate Majority Leader not to mislead the public that I am only focused and concerned about my community. I am concerned about the peace of the people who live in that area and the two communities.

If you read my statement, you will see that I particularly noted two people. One from the Maasai Community and the other one from the Kipsigis Community. You should correct that.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Members, you should address the Speaker. You do not address one another in this House. I am here for that purpose.

Could we have the next Statement?

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

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, we have the question on the security of the former Prime Minister and the former Vice President in the Order Paper. It has been handed over to me right now. It is brief and it should not be difficult for my colleague to follow as we answer together.

The question to be informed was on:-

1) The security entitlement for the former Prime Minister and the former Vice President as required by the law.

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2) The circumstance that led to the withdrawal of the security detail attached to both leaders.

3) Whether the withdrawal of security officers is an intimidation of candidates for presidential elections that were slated for 26th October, 2017.

4) Whether the Government is aware that this action puts the life of the two leaders in danger.

5) Whether the security officers attached to the two leaders will be reinstated considering that the leaders were actively involved in the campaigns for the presidential elections.

Madam Temporary Speaker, the Minister wishes to state as follows:-

1) The Retirement Benefits Act No. 8 of 2015 on the Deputy President and the Designate State Officers Section 6(g) and 7(g) read with the second and third schedule states that the former Prime Minister and the Vice President are entitled to retirement benefits which include, among others, armed security guards which shall be provided on request by the entitled person. However, the Act does not specify the number of officers to be attached.

2) The redeployment of the security officers was normal for security rationalization and re-organization of all officers on VIP security duties. The Government is not aware that the redeployment of the officers jeopardized the security of the former Prime Minister and the former Vice President.

3) Further, the redeployment was not meant to intimidate their candidature. Through a continuous security assessment exercise, the Government ensured adequate security detail for all candidates who participated in both the Presidential election of 8th August, 2017 and the repeat Presidential election on 26th October, 2017.

4) Deployment of security details is subject to consideration of prioritization of security needs available and the human resource and emerging security threats. In the case of the two leaders, they had not reported any emerging security threat before, during and after the presidential elections. The current strength is considered to be sufficient based on rational assessment by the Office of the Inspector General, various personnel constraints and the current security situation in the country.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Olekina, do you have further questions?

Sen. Olekina: Madam Temporary Speaker, I do not have further questions. I just need copies of those Statements.

The Temporary Speaker (Sen. (Prof.) Kamar): That is your right. You will be given the Statements.

Could we move to the next Statement?

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I need your guidance as to whether we should continue with the question on the disbursement of funds of county governments.

Madam Temporary Speaker, I would like to proceed and give the answer on the question on the disbursement of funds to county governments. If we do not have an answer now it will be overtaken by events. I am saying that, well aware that I signed a Bill today which aims to correct the anomalies that were there and which delayed the

disbursement of funds. That Bill may be ready tomorrow for First Reading in this House and perhaps we will dispose of it on Thursday.

So, if I do not answer this question, it might be overtaken by events. Since the Hon. Senator is not here, it may not be necessary to continue doing a follow up on the same.

The Temporary Speaker (Sen. (Prof.) Kamar): The Hon. Leader of Majority, there is still one Statement on the University of Nairobi. You can proceed with that and then we will decide on Statement (a), finally.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, unfortunately, the question on the University of Nairobi is not ready. Remember all those other questions were to the same Ministry and they are working on that. We will try to see if we can avail it tomorrow.

The Temporary Speaker (Sen. (Prof.) Kamar): There is another one on the strike of nurses.

The Senate Majority Leader (Sen. Murkomen): Thank you, Madam Temporary Speaker. Unfortunately again, we do not have the Statement. However, we have good news so far; that the nurses have gone back to work. We might need to continue getting the answer so that we can debate how to ensure that the kind of situation we were in cannot repeat itself.

This question was asked in the House, although I was not there. It required about 48 entities to respond. On one part was the national Government and on the other was 47 county governments or Council of Governors on behalf of county governments. However, we will continue doing the follow-up.

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Hon. Senators. There is a Statement that was supposed to be issued by the Leader of Majority on the alleged delay in the disbursement of funds to county governments. Our tradition has been that the Member should be here.

However, when a question or a statement has been given, it becomes the property of the House. So, the Member does not necessarily have to be here. The Leader of Majority has given us a hint that it will not be of any benefit if it goes beyond today. For that reason, I would like to allow the Leader of Majority to make that Statement for the benefit of the Members who are here.

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

The Senate Majority Leader (Sen. Murkomen): Thank you, Madam Temporary Speaker. I would like to respond to question one.

This letter is signed by the Principal Secretary, Treasury, Dr. Kamau Thugge. It reads as follows:-

(a) Explain the reasons for failure by the Cabinet Secretary for the National Treasury to gazette disbursement schedule for counties in time.

Please note that the Cabinet Secretary for the National Treasury has been unable to gazette the Schedule of Cash Disbursement to County Governments for Financial Year

2017/18 because we have noted variances between the county allocations in the Schedule and those approved in the County Allocation of Revenue Act (CARA) of 2017.

The variances relate to the allocations in Column D, Column E and Column G of the Third Schedule of the CARA of 2017. The allocations under Column E were understated by Kshs 1,250,000,000 while allocations under column G were understated by Kshs 419,638,872. On the other hand, allocations under column D were overstated by an amount equivalent to the sum of the shortfalls under column E and G.

In our view, the misalignment between the Disbursement Schedule and the CARA of 2017 could potentially pose some challenge. For example, the funds flow modalities as well as accounting responsibilities for the conditional allocations under column D of the Third Schedule of CARA 2017 differ from that for conditional allocations under columns E and G. These allocations are also governed by financing agreements entered into by the development partners and the National Government. It is, therefore, important that the conditional allocations are reflected in the correct columns of the Third Schedule of CARA 2017 because different frameworks for managing the allocations apply to each of the columns.

Please note that we also sought the legal opinion of the office of the Attorney General on how to proceed with finalizing the Schedule for placement in the Kenya Gazette. The office of the Attorney General has come back to us vide letter of Ref. No. AG/CONF/5/38 VOL. 1/130 dated 17th October 2017 and copied to you, with a recommendation that the Disbursement Schedule and the Third Schedule of the CARA of 2017 must be aligned. The office of the Attorney General advised us to align the two and forward to the Senate for approval prior to publication.

Upon receipt of the legal advice from the Attorney General, the National Treasury prepared the necessary amendments to CARA of 2017 and Disbursement Schedule. The proposed amendments to CARA of 2017 were forwarded to the Senate for consideration and approvals vide our letter Ref. No. IGFR/CD/01 (23) 24th October 2017.

(b) Explain the reason for the late disbursement of funds to counties for the month of August and September which have not been disbursed to date.

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

It should be noted that the Disbursement Schedule is yet to be approved and placed in the Kenya Gazette in the manner contemplated under Section 17 of the Public Finance Management Act of 2012.

Please note that even as we await the consideration and approval of the proposed amendments to CARA of Parliament, 2017, the National Treasury continues to release funds to county governments, taking into account county governments' bank balances at the Central Bank of Kenya (CBK). Please note that the Article 201(d) requires that public money be used in a prudent and responsible way.

In our view, prudent use of public money entails release of funds when county governments are ready to use the funds. Holding cash balances at the Central Bank of Kenya (CBK) does not reflect prudent use of public money. It is for this reason that the National Treasury, in releasing funds to county governments takes into account county government balances at the CBK. We have attached table 1 which shows the status of cash disbursements to county governments.

In light of the fact the National treasury continues to fund county governments with low balances at the CBK, we do not expect any county government to experience financial distress.

Madam Temporary Speaker, a schedule has been attached which indicates balances of amounts that are in county governments' accounts. I will read a few counties for the record:

(1) Baringo	-	Kshs472,932,000.00
(2) Bomet	-	Kshs613,060,000.00
(3) Bungoma	-	Kshs408,002,000.00
(4) Busia	-	Kshs253,680,000.00
(5) Elgeyo Marakwet	-	Kshs308,576,832.00
(6) Embu	-	Kshs550,500,000.00
(7) Garissa	-	Kshs587,088,000.00
(8) Homa Bay	-	Kshs339,750,000.00
(9) West Pokot	-	Kshs569,723,000.00

Madam Temporary Speaker, since the numbers are too tiny I cannot read all of them. However, the schedule will be made available for Members to check their counties and see whether their county governments are demanding more cash to be disbursed and whether they face a problem. That is the end of the Statement.

Senators, if you may allow me to say this, my colleagues should be available tomorrow and Thursday for us to debate and pass the amendments and consequently correct the anomalies that were sought to be corrected by this request.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Leader of Majority for that statement.

Next order.

BILLS

First Readings

THE URBAN AREAS AND CITIES (AMENDMENT) BILL
(SENATE BILL NO.4 OF 2017)

THE IRRIGATION BILL
(SENATE BILL NO.5 OF 2017)

*(Order for First Readings read – Read the First
Time and ordered to be referred to the relevant
Departmental Committees)*

MOTION**DEVELOPMENT OF EFFECTIVE WASTE MANAGEMENT
AND DISPOSAL REGULATIONS**

Sen. Kihika: Madam Temporary Speaker, I beg to move the following Motion:-

THAT, aware that cities, towns and urban areas in Kenya are increasingly getting overpopulated leading to overstretching of services and amenities; concerned that improper management of waste has become a major cause of pollution of neighborhoods, water sources and other natural resources leading to rise of environment-related diseases which cause many deaths; further concerned that in most urban areas, waste is dumped in an uncontrolled manner posing a great challenge to the wellbeing of urban dwellers, particularly those living near dumpsites; acknowledging that the problem continues to rise despite the efforts made to mitigate the problem through various statutory bodies, private entities and communities; the Senate calls upon the National Government to take immediate steps to develop effective waste management regulations and put in place proper disposal facilities, including for harmful waste and that this be done in consultation with all key stakeholders.

Madam Temporary Speaker, as we proceed, I will discuss a few of some of the prevailing challenges that will be cured by this Motion. The extent and nature of the waste management problem starts with the collection ratio. The proportion of the solid waste generated that is collected is very low nationally.

According to a survey that was conducted by the National Environment Management Authority (NEMA) in 2014, urban authorities within our counties have very low garbage collection rates. Of the over 15,000 tonnes of waste generated in Nairobi daily, for example, 80 per cent of which is food waste is not promptly collected. As mentioned, this is then estimated to be very low – as low as 45 per cent in Nairobi. It reduces as one goes to other urban areas. Non-collection then leads to large amounts of garbage sticking out at corners and other unpleasant places within offices, the streets, market areas, public parks, our neighbourhoods and generally everywhere across the counties. The heaps of garbage are normally then seen at corners and open spaces within the estates. This is not only in Nairobi but in most urban areas in Kenya. This is what has brought attention to the need for the regulations.

In the low income areas such as the slums and other unplanned settlements, for example, in Nairobi County about 55 per cent of the population lives in these low income areas. They receive completely zero per cent waste collection services. These areas could include Eastlands in Nairobi, Dandora, Kibera, Kawangware, Mukuru Kayaba and Mukuru kwa Njenga not to mention Githunguri slums along the Ruaka bypass.

Also in other counties outside Nairobi, areas like Landless in Thika and Kiandutu are a stark reality of this problem in Kiambu County. In Nakuru County, for example, we have the Kwa Rhoda, Bondeni, Free Area, Kaptembwo, Kivumbini and middle class Estates such as London and Section 58. They suffer from lack of garbage collection

services. There is also Dunga Beach area, Nyalenda, Nyamasaria and even Mamboleo Estates in Kisumu just to mention a few. In Kakamega County, we have the Muslim Estate which falls in this category.

So, this represents a marked inequality in the geographical service distribution in waste management in urban areas in the country. The high end estates present a marked distinction of prompt collection of their waste as seen in, for example, Muthaiga, Westlands, Karen, Loresho, Lower Kabete and all these in Nairobi City County. In Nakuru, for example, we have Milimani Estate, Kisumu the same as well as Lake View Estates which have garbage collection. We have an issue of the unbalanced service in waste management. The regulations will then help cure this issue as they would give mandate to specific entities to do the same across the board.

There is also widespread indiscriminate dumping in illegal dumpsites and waste pickers litter the city with unusable waste materials without control. The need to map, mark the boundaries and define entries and exit of dumpsites cannot be understated. If these dumpsites are landfills, abandoned quarries or designated acquired sites, they must be clearly set out so that they can be in areas where human settlement is not that close to avoid the waste related ailments and hazards. So, regulations will qualify dumpsites and the management of such sites.

In the city of Nairobi there is only one official dumpsite that is owned and operated by the Nairobi City County. However, it is full and also located in the densely populated parts of the city. That is about 7.5 kilometres away from the Central Business District (CBD) along a road with very heavy traffic. The problem is that the waste pickers and dealers control these dumpsites, forcing the Nairobi City County and private companies to bribe them to access the dumpsites. This is according to a report that was conducted by the United Nations.

Kiambu County has no designated dumpsite. It only has landfills that serve for combustion of waste. The combustion of waste is more harmful, especially medical waste that would rather have incinerators at particular points. Ownership of dumpsites has proven to be a big issue due to the social economic and environmental impacts that are resultant and derived from these sites by various stakeholders. So, the need to have regulations guiding not only the ownership but also the exploitation of these resources by respective stakeholders then becomes very paramount.

Most of these urban areas lack transfer facilities where they may move the dumpsites. This has been the case for Dandora in Nairobi, Kihoto in Nakuru, and Kibarani in Mombasa, among others, in our urban areas. The *Vision 2030* envisaged land banking to reserve land for future use. These regulations then need to include this aspect as far as getting a solution for this waste management. As a result of these disposal problems, almost all enterprises tend to use uncontrolled and unhygienic landfills as the predominant mode of disposal. To cut costs, many generators of solid waste have now taken to combustion at the site which then causes air pollution. The bulk of this waste contains plastics which, when burnt, generate carcinogenic Vinyl Chloride Monomers (VCM) and dioxins.

The generators and private waste collection firms, in order to avoid costs, dump in illegal places since an effective monitoring systems is lacking across most of our counties and the country at large. The need for a sorting policy and practice is imperative for

effective handling of waste in urban areas. Resultant chronic breathing and hazardous ailments will be cured through these regulations.

As countries develop and populations increase, we have had stagnated or inadequate management of waste which has led to a lot of diseases, environmental degradation and ultimate impact on livelihoods. So, accumulated waste deposits are an indication of obviously the societal lifestyles, waste management practices and production technology. Various sectors of the economy generate different kinds of waste. For example, we have the wood, mechanical, chemical, medical, electrical, marine and textile industries. Manufacturing factory production areas also have a lot of waste generators. So, these regulations should comprehensively address these from production, transport to disposal of these wastes.

Sound environmental management, therefore, will entail use of waste reduction technologies in production, sustainable product designs, resource efficiency and waste prevention. This will also lead to the reusing of products where possible, recovering value from products as improper management of waste poses a threat to climate change and eventually to the achievement of sustainable development.

Waste being one of the contributors of greenhouse gases, it affects the climate. It is for this reason that we, as a country, should develop sustainable waste management technologies and initiatives to curb this growing global challenge.

Madam Temporary Speaker, in order to ensure a clean and healthy environment for all, Our 2010 Constitution provides under Article 42, the fundamental right to a clean and healthy environment. Articles 69 and 70 also underscore the need for a clean and sustainable environment. Part 2 of the Fourth Schedule of the Constitution of Kenya also explicitly provides that county governments shall be responsible for refuse removal, refuse dumps and solid waste disposal.

Although elimination of waste, entirely, may not be feasible, systematic application of the modern waste management systems should be explored and implemented. This is what is happening with the phased-out process on plastics which I think is a great development for our country and a big step towards waste management. It already has resulted in positive results in our parks such as the Nairobi National Park, City Park, Karura Forest, Lake Naivasha as well as in the Mara Game Reserve. We are beginning to see a little bit of positive change.

Waste management, however, poses the greatest challenge in Lamu County, especially in the Lamu Island where dumping in the sea is presenting a problem to fishermen and many other users of the sea in transport and research. We have also seen this become a big problem for the marine life as it becomes a threat to the marine life that we have in the sea.

The challenge of waste management affects every person and institution in society. There exists a National Solid Waste Management Strategy 2014 that needs to be strengthened through the regulations by the national Government that this Motion is seeking to do. This strategy cannot be undertaken without a collective approach to waste challenges and the involvement of a broad range of stakeholders in their implementation.

Madam Temporary Speaker, the remedy is the regulation on waste management in urban areas. Whereas the National Solid Waste Management Strategy seeks to establish a common platform for action between stakeholders to systematically improve

waste management in the country, only regulations will spell out in detail this collaboration. Currently, we have existing legal frameworks that may address this matter of waste management. They include the Constitution of Kenya 2010, the National Solid Waste Management Strategy developed by the National Environment Management Authority (NEMA) in 2014, the Urban Area and Cities Act of 2011, the Environment and Coordination Act of 1999, Waste Management Regulation of 2006 and the County Government Act of 2012. With the regulations, we can actually also get benefits from waste management. Waste is not something that should just be discarded or disposed of with no regard for future use. It can be valuable resource if addressed correctly through policy and practice.

With rational and consistent waste management practices, there is an opportunity to reap a range of benefits. There is an economic benefit. They will improve the economic efficiency through the means of resource use. Treatment and disposal and creating markets for the recycled product can lead to efficient practices in the production and consumptions of products and materials resulting in valuable materials being recovered for reuse and the potential for new jobs and new business opportunities.

There is also a social benefit. By reducing adverse impacts on health by proper waste management practices, one of the resulting consequences is a more appealing settlement. Better social advantages can lead to new sources of employment and potentially also lifting communities out of poverty. That is common in the developing poorer countries and cities which Kenya is struggling to move out from.

There is also environmental benefit. This will be reducing or eliminating adverse impact on the environment through reducing, reusing, recycling and minimising resource extraction which can provide improved air and water quality and help in the reduction of greenhouse gas emissions.

Intergenerational equity is one of the other benefits. Effective waste management practices can provide subsequent generations a more robust economy, a fairer and more inclusive society and a cleaner environment

As a developing country, we face a lot of challenges in this waste management. In our cities or counties, we have experienced exhausted waste collection services and inadequately managed and uncontrolled dumpsites. The problems are getting worse. The problem with governance complicates the situation that only clear-cut regulations will address. As we proceed and come up with regulation that will help the country at large then it will be a big benefit to the country and we shall put a lot of these challenges behind us.

We also have a lot of challenges along the lack of understanding of different factors that contribute to the hierarchy of waste management, effect the treatment of waste and such problems facing our country as urbanization and changing life styles take root.

Waste management or waste disposal is one of the activities and actions that will be required to manage the waste from its inception to its final disposal. This will include among other things collection, transport, treatment and disposal of waste together with monitoring and regulations. It will also encompass the legal and regulatory framework that relates to waste management, encompassing guidance or recycling.

Essentially, waste management is intended to reduce the adverse effects of waste on health and environment or aesthetics. We also know that waste management practices are not necessarily uniform across the regions, be they urban or rural areas; across different sectors such as residential or industrial; or even among countries, which could be developing or developed nations.

Throughout most of history, the amount of waste generated by humans has always been insignificant due to low population density and low societal levels of the exploitation of natural resources. However, in Kenya, as in the rest of the world, our 45 million plus population needs urgent waste management measures due to the exploding population in the country. As we have moved around the country, we have seen that a lot of our urban streets have become choked with filth due to the lack of waste clearance regulations which will help in un-clogging the streets and making our areas healthy for habitation. Only focused regulations will sort out this mess.

Thinking green and sustainability; when you think green you think of a world where there are so many clean alternative ways to produce power that the threat of exhausting our natural resources then is forever put to rest. This is a world where reduce, re-use and recycle becomes the catch phrase of every family and company in Kenya and where companies take a leadership position in investing in cleaner technologies so that our air pollution becomes a thing of the past.

Hon. Senators, I move this motion well aware of our growing population and rapid urbanisation in our counties as more rural-urban migration is being witnessed. This is due to a very young population which is bulging in the middle. Our government set the first step to manage urbanisation when it initially set up the ministry of Metropolitan Development, which now has six counties around the capital City of Nairobi. Success and benefits of a rapidly urbanising country such as Kenya is at risk of choking from the waste of the very social-economic growth, hence the call through this Motion for proper frameworks in the form of regulations by the national government in managing urban waste.

With those many remarks, I beg to move this Motion and request Sen. Seneta from Kajiado County to second it.

Sen. Seneta: Thank you, Madam Temporary Speaker. I rise to second this important Motion on the issue of waste management. I congratulate Sen. Kihika for having thought hard on the situation of our urban areas and cities. I think this is a timely Motion that we need to support as a country in order to bring order in our urban areas to a situation where our people can enjoy their lives.

I beg to second.

(Question Proposed)

Sen. (Dr.) Milgo: Thank you very much, Madam Temporary Speaker. I rise to support this Motion because of a number of reasons. One, that proper waste management would provide or lead to a clean environment that every one of us would like to live in. Maybe ahead of time, I want to thank Sen. Kihika for bringing such a Motion.

Poor waste management could end up affecting both human and animal lives in the following ways. One, in terms of human beings, it would lead to diseases such as

cholera, respiratory and other bacterial related diseases. Apart from that, poor waste management would also affect animals which, of course, in the long run would affect human beings especially when we feed on animal products.

Secondly, I support this Motion because of the fact that we are complaining a lot about unemployment in our country, yet through proper waste management, we can engage our youth to take part in cleaning the environment and even converting some of the waste to re-usable products.

I beg support. Thank you.

Sen. Halake: Madam Temporary Speaker, I also rise to add my voice in support of this Motion. I cannot think of a more topical Motion at this time in the history of our country. Sen. Kihika has so articulately explained that we have a huge population that is churning out huge amounts of garbage and other waste products which if not well managed, then it will become a major issue.

At the same time, waste management can be an economic enabler if well managed. There are countries like Sweden which are actually importing waste because they have managed their waste so well that they have nothing on the streets. And because waste can be energy; waste can be work for youth and a lot of things that are economically empowering, they are importing waste. So, there is so much opportunity in this; opportunity to rid ourselves of disease and other bad aspects of mismanagement of our waste; but also opportunities for economic empowerment through creation of jobs through conversion of waste into clean energy and the rest of it. So, I think this is not only topical, but it is about time that our counties, cities, urban as well as our rural areas looked at waste from different angles, both for mitigating the risks of the waste but also for seizing the opportunities that good waste management can provide to this country.

I think this Motion is very timely, beneficial to the country and it is about time that, as a country, we looked at how we can support initiatives of this nature and convert them to opportunities for ourselves.

Kenya is a signatory to a lot of international sustainability conventions including Twenty-Second Conference of the Parties (COP22), which is the Paris Agreement on Sustainable Development. So, every country ought to start thinking about how they are going to cut their carbon emissions and other footprints. As Sen. Kihika explained, this is a major contributor to the cutting of emissions for our country. Therefore, as a conservationist I think this is an amazing Motion that should be supported. Sen. Kihika can count on my support and that of other Senators to make sure that the implementation is well supported as well.

Thank you, madam temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Yes, Sen. (Prof.) Ekal.

Sen. (Prof) Ekal: I also rise to congratulate Sen. Kihika for moving this Motion which is long overdue. Kenya as a country should have developed these methods of controlling waste a long time ago. It is unfortunate that when you walk around the cities and towns you come across heaps of garbage. This begs the question: What are the managers of our cities and towns thinking about?

Kenyans need to be educated that we have a beautiful country and we should keep it so. If we just go dumping garbage on the streets what will we leave for our grandchildren? We will leave them to deal with heaps of garbage everywhere. The

economic aspect of garbage has already been highlighted and it is something that needs exploration in Kenya. In fact, we do not need to explore because this has already been done by other countries; we simply have to import the technology and make our waste useful for us.

Dumping garbage in the ocean, like I heard Sen. Kihika say, is a terrible idea. When you dump garbage in the Ocean you destroy the marine life and transfer diseases to people. There are people who love to eat fish and other marine food. Such people can actually get sick as a result of the garbage that we dump into the sea. Therefore, we should keep our oceans, seas and lakes clean by taking care of the waste that we produce.

I beg to support this Motion.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Cherargei.

Sen. Cherargei: Thank you, Madam Temporary Speaker. From the outset I want to congratulate Sen. Kihika for moving the Motion. The issue of waste management in this country has been an eyesore for a very long. This has been a challenge in Nairobi and most of our upcoming urban settings.

The problem in this country is that we have not found a solution with regard to waste management. If this Motion is implemented it will create more opportunities. We expect most counties to take advantage of this and partner with private entities, youth groups, people living with disability and other enterprises, so that they can use create opportunities and also keep the environment clean.

Since the ban on plastic bags, at least most parts of our country are now clean. Being a signatory to some of the international statutes, conventions and treaties, Kenya should create an environment that is not only good for us, but even for posterity. We should give our future generations the best we can by ensuring that our environment is also clean.

I hope that Sen. Kihika will have a model to ensure partnership with the county assemblies across the 47 counties to put in place measures to ensure proper waste management. This will safeguard even the plants and animals in general.

I support the Motion by Sen. Kihika.

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

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

Sen. (Prof) Kamar: Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to contribute to this important Motion. From the outset I wish to thank Sen. Kihika for moving this Motion. I agree with the Senator for Turkana that it is long overdue.

Mr. Temporary Speaker, Sir, the environment is a very important part of life in every society. As populations grow urban areas grow and with urban areas growing we have a lot of material flowing into those areas. I happen to be an environmentalist myself, and specifically a soil scientist. I have been involved in a United Nations (UN) body called the International Resource Panel (IRP) that has been talking about resource flows and movement of resources from one sector to the other. Urban areas and towns have become the worst hit as far as environmental issues are concerned.

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Diseases that emerge from unmanaged environment have really affected our towns and cities. As I listened to Sen. Kihika, I was happy that she was able to pick on the real issues. It is very easy to develop a town into a garbage town. It is very easy to have a neighborhood that is completely full of garbage and yet, in our own Constitution every Kenyan is entitled to a good environment. As Kenyans, it is very clear that every Kenyan is entitled to clean air and a clean environment. It, therefore, means that the tax that Kenyans pay should translate into providing a clean environment for the Kenyans to live in.

The unfortunate situation that we are in as a country is the fact that the poorer population creates a slum for themselves. If nobody pays attention we can create a lot of slums even within the City of Nairobi. Even as we debate this important Motion, it is important that we bear in mind that as populations move towards cities, our cities should be planned in such a manner that we have areas for garbage recycling. We are very happy now that the issue of managing plastic papers has been resolved. We are glad that we have reached that level where we can say no to plastics in Kenya.

However, there is also a lot of other garbage that can create a terrible environment, including smell which a nuisance. At the same time, there is garbage that could actually be recycled into fertilizer, but it is being left idle in places, resulting into many diseases that affect our population.

Today, we heard the Urban Areas and Cities Bill being read a First Time. Therefore, it is important that as we think of our cities and towns, we think of planning. This is because most of the affected areas are never planned for anything. If we do not plan properly, then any place can be a dumping site.

I also hope that even as we call upon the national Government to take immediate steps to develop effective waste management regulations, these regulations must spell out penalties for people who dump outside designated places. I am glad that the Senator who brought this Motion comes from Nakuru. It is a pity that as you exit Nakuru on your way to Eldoret, people have created dumping sites. All you see are flying papers and plastics. I believe these people dump waste at night because they cannot dare do so during the day when everybody is seeing them.

We are facing the same challenge in Eldoret Town in Uasin Gishu County. There is a dumping ground that was started in the days of the late Minister for Environment, Hon. Michuki. I was his assistant then. Even though we created that area, we still find people dumping at night. Business people transport their garbage in the middle of the night. If they find a spot where they are not seen, they dump it by the roadside. It is important that when we formulate these regulations, business people be compelled to say where and when they dump their garbage.

The other thing I hope the regulation will do is to sort out the garbage. The problem that we have now after the use of plastic was regulated, is glass that is mixed with organic waste. When you mix the two, it is only the organic waste that rots and can be recycled into fertilizer. However, the glass within it, causes a lot of damage.

We have not yet finished the issue of our street children and street families. These people are affected and their health is wanting. The Constitution says every Kenyan has a right to good health. So, for us to be able to implement that part of the Constitution, it is important that we ensure that this is implemented by way of utilizing our tax to spread

out the protection for our people's health. Therefore, I agree with the Mover of this Motion, that this step to develop effective waste management regulations is urgent.

With those remarks, I beg to second.

Sen. (Rev) Waqo: Thank you, Mr. Speaker, Sir. I stand to support this Motion and congratulate Sen. Susan Kihika for bringing it to our attention because waste management is affecting all of us. Thank you for doing this on our behalf. We all represent different counties and we know the effect of this waste on our different counties in terms of human beings and livestock of the pastoralist communities. I remember the polythene paper from my early childhood when we used to lose a lot of cattle to it. Once you slaughter them, you will find that what killed them was not any other disease, but the polythene paper. This waste has affected us and made the pastoralist community poorer.

I want to support this Motion because Kenya's population is growing very fast. For example, we know that about 70 per cent to 75 per cent of Kenyans are between 30 – 35 years of age. You can imagine in the next few years the number of children who will be born and the growth of this population. That means that we will all be affected and our grandchildren will be negatively affected by this.

I support this Motion because of the negative effect garbage has on our society. If we want to help our society today and prepare them for the future, the best we can do is to encourage the Ministry concerned to take this into consideration and all the counties to take this seriously so that we can change our environment.

If you visit any home today and see a compound that is not well kept, we tend to blame the mother. We say: "Look at this woman, she is not even able to take care of her family." You can imagine the suffering the children go through because of sickness and the different diseases that they keep on catching. If you visit some parts of Kenya like Mombasa, you would not want to drive through the town. In Eastleigh, you would not want to visit it again. The case is the same in some parts of our Capital City. The first time I visited Kibra, I was not able to eat for two days.

Mr. Temporary Speaker, Sir, the best gift that we can give as Senators today is to pass this Motion and support it as much as we can so that we can create a better environment for the generation that will come after us.

I support this Motion.

The Temporary Speaker (Sen. Kang'ata): Sen Wambua, the Floor is yours.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I do not know why I am not appearing. I want to, first of all, congratulate my colleague, Sen. Kihika, for a well thought out Motion.

In support of the Motion, it should never be lost on any one of us that Kenya is the host nation for the United Nations Environment Programme (UNEP); a distinction bestowed on us because the world looks at us, as a people, and a country, that is able to take care of her own environment. We all know the politics around the position of UNEP in Nairobi. The battle is on from the countries in the west to relocate the UNEP headquarters from Nairobi. The more we destroy our environment through improper disposal of waste, the more ammunition we give to people who argue that we are not fit to host UNEP.

Secondly, I would urge that it may be important that once this Motion is tabled and the details are available to us, we expand the scope of this Motion beyond waste

management in cities and towns and do the same in rural settings for two reasons: When cities are choked by waste, the natural reaction is to relocate dumpsites away from cities. As you move away from cities, you get into rural settings. Therefore, rural settings bear the burden of improper waste disposal taking place in cities. It is important to consider waste management and disposal in rural areas.

The second reason is that every household in this country produces waste every day. My estimation is that on a single day our households produce not less than a half a kilogramme of waste. The other day – this is personal – I lost a very precious goose on my farm. When the bird was slaughtered, the workers realised that it had consumed polythene paper. If we control and properly manage waste disposal both within our cities, rural settings and households, Kenya will be a better place for all of us.

Mr. Temporary Speaker, Sir, lastly this Motion is very important for me and the people of Kitui County. The other day, some people went and dumped asbestos, which is very poisonous, in a water catchment area in Kitui County. We had to fight a long battle in courts to make sure that the waste is removed before the onset of rains because if that happened, there would be seepage and contamination of water downstream.

As I speak to you, today in my rural town called Kabati, the effluent from the slaughter house terminates inside a church compound. Next to that slaughter house, the town dwellers have decided that it will also be their dumpsite; a situation that has made it very difficult for worshipers of Sunday to go to church and worship their God. If we had proper regulations and policies on waste management and disposal, I am very sure we would not be talking about that kind of negligence.

Mr. Temporary Speaker, Sir, once again I support. If the Motion is tabled, I will be glad to make an input to enrich it. I thank you.

The Temporary Speaker (Sen. Kang'ata): I can see another request from Sen. Mwangi.

Sen. Mwangi: Mr. Temporary Speaker, Sir, thank you for giving me this opportunity to contribute to the Motion. I want to thank Sen. Kihika for bringing this Motion to this House. It is long overdue. It is not demanding too much to tell the Government that they should do something about waste management. We should have secluded places where we can dump our waste.

Devolution has brought a lot of development in the countryside. There are pit latrines in in Kibera which is in Nairobi and also in the major towns. Today, there are many towns in Kenya, the so-called county headquarters, which do not have sewerage systems. People living in such areas can contract diseases from the waste if there are no proper sewerage systems.

The Government should take it upon itself to ensure that the health of our people is taken care of. It is the responsibility of the Government to ensure that this is done. As I said before, we are not demanding too much. What we are asking for is to have a sewerage system in every town. We should have secluded areas purposely for the waste. This will make us avoid a lot of problems. We should not have waste dumped in Nakuru Town where Sen. Kihika comes from. I also do not expect to see waste dumped in Nairobi.

When you walk around Nairobi, you will find waste dumped everywhere by people and that is degrading. The Government has not taken enough caution because you

will find that there are no sewerage systems even in big estates. It will not be a surprise to find pit latrines in estates such as Karen and Lavington because there are no sewerage systems.

I call upon the Government to ensure that this is done. That is why I thank Sen. Kihika for bringing this Motion because it is important. There is no need of resisting an issue that is obviously useful to Kenyans in big towns like Kisumu, Nairobi and Mombasa. The towns that were perceived small are no longer small because people develop them every day because of the availability of resources, courtesy of devolution.

Mr. Temporary Speaker, Sir, we should be having such Motions. I thank you and beg to support.

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

Sen. Kihika: Mr. Temporary Speaker, Sir, I thank you for this opportunity that you have given me to reply. I want to take the opportunity to really thank my colleagues for the contributions that they have made towards this Motion. When I hear you speak, I get it now that it is an issue that definitely affects every county.

As the population is really growing across the counties, we have a big issue with the waste management. I was happy to hear the other suggestions that my colleagues have pointed out that will be helpful when the national Government comes up with the regulations for this waste management, should the Motion pass. I am hoping that they will go ahead and do that since it is a health issue and it seems to be a crisis across the board.

I will give you a personal example. When I first decided to bring the Motion which was actually a few weeks before we went on recess, I did not have much knowledge on what I was to speak on. In the last two weeks or so, as most of you know, I have been dealing with a very terrible tragic accident of a helicopter crash into Lake Nakuru.

As I woke up every day and waited by the lake for, initially the rescue and then later the recovery, I was shocked to learn that about 60 per cent of the sewage in Nakuru County actually goes into the lake. I never knew that, that was really what we are looking at. Through research and a lot of homework, I am really surprised at how much we are killing or destroying our environment.

I have also learnt in the course of all these that even, for example, in Lake Naivasha which is also in Nakuru County, we have a lot of the flower farmers putting a lot of very dangerous waste into the lake and this is a lake that has fresh water. We have fishermen and a lot of fish and basically life is going on there.

When you have a lot of very bio-hazardous and other very bad waste going in there with no regulations and without much penalty as my colleague here, Sen. (Prof.) Kamar, has pointed out, it is something that we really need to look into so that those who violate these regulations or laws can be held to account. We should make the penalties so high so that a company will not dispose of its waste into the lake.

The county government should then be held accountable and should come up with a sewage system or a way to dispose of sewage other than putting or channeling it into the lakes. Those are some of the things that have come up and I believe that together with your support, colleagues, we can really lead our counties into having very friendly environments.

This brings to mind a quote by an American environmental activist, Wendell Berry, who once stated that:

“We do not inherit the earth from our ancestors; we borrow it from our children.”

Since I know we love our children and we love the generations that will come after us, it is imperative upon us that we are able to lead from the front in making sure that waste management is addressed and it is done with speed. This is due to the crisis that we have in the counties as far as waste management is concerned.

Thank you, colleagues. I beg to reply.

The Temporary Speaker (Sen. Kang’ata): Hon. Senators, Standing Order No. 73 is clear that where a matter does not concern counties, a voice vote can be taken. I hereby make a finding that this matter does not affect counties *per se*, therefore, I will call upon every other Senator to be free to vote.

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Sen. Kang’ata): We can rise. Hon. Senators, we have come to the conclusion of the business of the Senate today and it is now time to adjourn. The Senate stands adjourned until tomorrow, Wednesday, 8th November, 2017, at 2.30 p.m.

The Senate rose at 6.05 p.m.