

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 18<sup>th</sup> April, 2018

### Special Sitting

*(Convened via Kenya Gazette Notice  
No.3544 of 16<sup>th</sup> April, 2018)*

*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

#### CONVENING OF SPECIAL SITTING OF THE SENATE

**The Speaker** (Hon. Lusaka): Hon. Senators, let me take this opportunity to welcome you back for this Special Sitting. Thank you for finding time from your busy schedules to be here today.

Hon. Senators, by a letter Ref. No: Sen/Sml/Vol.1/3 dated 16<sup>th</sup> April, 2018, and pursuant to Standing Order No.30(1), the Senate Majority Leader, supported by the requisite number of Senators, requested the Speaker to convene a Special Sitting of the Senate to consider the following business-

- (a) The County Allocation of Revenue Bill (Senate Bills No. 11 of 2018);
- (b) The Disaster Risk Management Bill (Senate Bills No. 8 of 2018);
- (c) The Office of the County Printer Bill (Senate Bills No. 7 of 2018);
- (d) The Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill (Senate Bills No. 2 of 2018);
- (e) The County Governments (Amendment)(No. 2) Bill (Senate Bills No. 7 of 2017);
- (f) The Food Security Bill (Senate Bills No. 12 of 2017); and
- (g) The National Flag, Emblems and Names (Amendment) Bill (Senate Bills No. 8 of 2017).

Hon. Senators, following consideration of the request from the Senate Majority Leader, I was satisfied that it met the requirements of Standing Order No. 30(2). It is for this reason that I have convened this Special Sitting of the Senate vide *Gazette Notice* No.3544 dated 16<sup>th</sup> April, 2018. As required by Standing Order No.30(5), the *Gazette*

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*Notice* specified the Business to be transacted at this sitting, which is the Business scheduled in today's Order Paper. Indeed, as specified and in accordance with Standing Order No.30(5), the Business listed shall be the only Business before the Senate during this Special Sitting.

Hon. Senators, I would like to reiterate that in accordance with Article 123 of the Constitution and Standing Order No.72, for the Senate to approve the Business scheduled at Orders Numbers 6 to 8, the support of a majority of all delegations – that is 24 delegations – is required. I therefore urge you all to remain in the Chamber until conclusion of the scheduled Business.

#### INVITATION TO ATTEND THE FIFTH ANNUAL DEVOLUTION CONFERENCE

Hon. Senators, having stated that, I also wish to remind us that the Fifth Annual Devolution Conference is scheduled to take place in Kakamega County from 23<sup>rd</sup> to 27<sup>th</sup> April, 2018. The theme of the Conference is '*Sustainable, Productive, Effective and Efficient Governments for Results Delivery.*'

Hon. Senators, the Senate has been fully involved organizing this Conference. Sen. Irungu Kang'ata, Sen. John Nderitu Kinyua, Sen. Rose Nyamunga and Sen. Cleophas Malala have been serving in the Steering Committee of the Conference. I would like to point out that a number of Hon. Senators have also been assigned various roles in this programme. I therefore urge all of us to attend and participate at this Conference.

#### NOTIFICATION OF PRESIDENTIAL ADDRESS TO JOINT SITTING OF PARLIAMENT

Hon. Senators, lastly I would like to notify you that pursuant to Article 132(1)(b) and (c) of the Constitution of Kenya, His Excellency the President of the Republic of Kenya and the Commander-In-Chief of the Kenya Defence Forces, the Hon. Uhuru Kenyatta, CGH, will address the nation on Wednesday, 2<sup>nd</sup> May, 2018, at a Joint Sitting of the Houses of Parliament in the National Assembly Chamber, Parliament Buildings at 2.30 p.m. The Office of the Clerk of the Senate has, in this regard, issued a communication to all Hon. Senators by way of a letter. I will also be issuing a Gazette Notice on this matter. This being a very important national event, I once again, urge each one of you to attend the Joint Sitting.

I thank you.

#### VISITING DELEGATION FROM KAKAMEGA COUNTY ASSEMBLY

Hon Senators, I wish to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting Members of the Ward Development Committee from Kakamega County Assembly. I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

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- (1) Hon. Livingstone Sachela Ambudo, Chairperson;
- (2) Hon. Ben Ombogo, Member;
- (3) Hon. Ann Mulwale, Member;
- (4) Ms. Doreen Sitawa, Committee Clerk; and,
- (5) Mr. David Muema, Communications Department.

On behalf of the Senate and on my own behalf, I welcome you to the Senate and wish you well for the remainder of your stay.

I thank you.

DEMISE OF THE HON. KENNETH STANLEY  
NJINDO MATIBA

Hon Senators, I have another Communication to make. This is with regard to the demise of the hon. Kenneth Stanley Njindo Matiba on Sunday, 15<sup>th</sup> April, 2018, at the Karen Hospital here in Nairobi.

The late hon. Matiba was born on 1<sup>st</sup> June, 1932 in Kahuhia, Murang'a County. After his education at Makerere University, in Uganda, he joined the Civil Service and rose through the ranks to the position of Permanent Secretary before quitting in 1968 to join the private sector. Upon joining the private sector, hon. Matiba worked at the East African Breweries Limited (EABL), where he rose through the ranks to the position of Chairman. He also set up vast family business ventures, key among them being the Alliance Group of Hotels and Resorts.

Hon. Senators, the late hon. Matiba started his political career in 1979, upon winning the election for the then Mbiri Constituency and was appointed Minister for Culture and Social Services in 1983 by former President Daniel T. arap Moi. He also served as a Cabinet Minister in various Government Ministries, including as Minister for Health and also for Transport and Communication, between 1983 and 1988.

Hon. Senators, the late hon. Matiba was among the very key fearless Kenyan politicians who started the fight for the restoration of multiparty democracy in Kenya, where he stood out as an icon in the struggle for Kenya's second liberation. I am sure many of us can attest to the fact that he not only shaped the present democratic scene in this country, but also laid a strong foundation for the Constitution of Kenya, 2010.

Hon. Senators, it will be remembered that the late hon. Matiba ran for the Office of the President of Kenya on a FORD-Asili ticket in the General Elections of December, 1992, and was placed in second position after the then President of the Republic of Kenya. Hon. Matiba then proceeded to serve as the Leader of the Official Opposition in Parliament between 1992 and 1997. It is not in doubt that this country has lost a gallant son and an astute politician whose contribution to the ideals of democracy and good governance will live on. We salute him even in death.

Hon. Senators, on behalf of the Senate and on my own behalf, I convey our heartfelt condolences to his beloved wife, Mama Edith, his children, the entire family and the people of Murang'a County.

Hon. Senators, in honour of the late hon. Kenneth Matiba, let us all rise up and observe a minute of silence.

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

I thank you.

### POINT OF ORDER

#### TRIBUTE TO THE LATE HON. KENNETH STANLEY NJINDO MATIBA

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

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

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, thank you for that very important communication. I join you in celebrating the life of the late hon. Kenneth Matiba. I also want to pass my condolences on behalf of this House to his family – his wife, Edith, children and grandchildren – and the entire nation for the demise of such a great leader.

Some of us who were too young to understand what was happening during the struggle for multiparty politics only knew hon. Kenneth Matiba and Sen. Orengo from the two hands salute. Sen. Orengo and Sen. Wako, from the other side are more qualified to comment more about him than I am. We were meant to understand, during those days, that hon. Matiba was the enemy who wanted to take power from a person from our region. We, therefore, grew up thinking that he was a very bad man. However, when I joined the Law School, I began to appreciate the work that he did in amending the Constitution to provide open doors for greater democratic space.

Mr. Speaker, Sir, hon. Kenneth Matiba is one of the politicians who made great sacrifices in terms of personal life, health, family, business and eventually paid the highest price. Many people who are much younger than me may never appreciate the name of hon. Matiba. That is a shame because it means that our history is not properly documented or taught. It also means that our heroes are not properly celebrated. We cannot continue paying lip service to this kind of important national policy position on our heroes. It is important that we reorient the curriculum of this country to the national discourse, to appreciate those who came before us and did a great job, like hon. Kenneth Matiba.

I want to believe that this House will lead in that process, including the Bill that we passed here that dealt with the Hall of Fame in counties, among others. We must be able to put into perspective and appreciate those who have made the greatest sacrifice in this nation.

I want to wish his family God's grace. May God guide them through this very difficult moment of grief. As a nation, we should rise up to the occasion to do that which is right for humanity and our country.

Thank you, Mr. Speaker, Sir.

**Sen. (Eng.) Maina:** Thank you, Mr. Speaker, Sir. I stand here as a Kenyan, the Senator for Nyeri County and leader in this country to convey my condolences. The late hon. Matiba goes beyond just condolences to the family. He is an icon and hero of

Kenya. He was a special person in that rarely does a man give all that he has worked for, including his health, for a cause as Job did in the Bible.

Whenever I met the late hon. Matiba, even in the state that he was, he was clear-minded about what he wanted Kenya to be. As leaders, we should ask ourselves whether we live according to what he believed in. This country needs to reflect on how we are treating our heroes. I went to Zimbabwe one day and would not sleep in Harare before visiting the Heroes Acre. I got there past 6.00 p.m. when they had closed, but when I told them that I was a Mau Mau veteran from Kenya, they opened for me. That is the spirit we want in this country. We must recognize people not because of big titles or the wealth they have amassed, but for what their spirit stands for and what they have given for this Country. The late hon. Matiba gave his health.

When his story is told by his doctor, Dr. Nesbit, and his lawyer, hon. Paul Muite, it is disheartening and heart-breaking. You ask yourself how we got that low. The late hon. Matiba was not a criminal, but just somebody articulating what he believed in. How did we treat him even after what he was fighting for had been achieved in this country? We have seen auctioneers harass his family and take everything that he sweated for, when the same values he was fighting for had already been achieved. Are we grateful?

The late hon. Matiba falls short of what one would call a saint through his acts of liberating this country. Some of us are enjoying the freedom and all the benefits, but do we remember him? It is not just him; a time has come that this country should create a special place for our heroes. At one time it was proposed that it should be at Uhuru Gardens. I wish we could actualize it. We should have a heroes' corner where our later generations can go and see who fought for what. This should be from the days of Mau Mau to the times of pushing for Independence, during the time of the Kapenguria Six, and lately to the times of the late hon. Matiba, the late hon. Jaramogi Oginga and others.

Let us not be partisan on a matter like this. The late hon. Matiba will be mourned by many others. I do not want to judge them. God will judge them, but he was a great man who should be put in the annals of history of this country by the generations that will come.

Thank you, Mr. Speaker, Sir.

**The Senate Minority Leader** (Sen. Orengo): Thank you, very much Mr. Speaker, Sir, for those remarks you have made about the passing on of a very great man. If I was to speak about the late hon. Matiba, I would take even a whole week. However, I will not do that since probably there will be another occasion.

Kenya has lost one of its greatest sons, not only in terms of character but what he has done for this nation. I knew about the late hon. Matiba first in my life when I was at Alliance High School. At that time the greats of that school would be told about him in the school halls by the headmaster or the teachers. In many conversations the late hon. Matiba, even at that time, was regarded as one of the best that had come out of Alliance High School. I am saying this knowing that my seniors at the school, Sen. Wako and Sen. (Eng.) Maina, are here.

I want to say the following without any fear of contradiction. In Kenya we are very good at praising people when they die. In fact, any time there is unity in the country is when somebody dies. Everybody talks the same language. However, when that person

in alive---. The late hon. Matiba died just last week. If you were to find out what people said about him even a year ago, you would be shocked.

Mr. Speaker, Sir, in our national ethos and political culture, we must begin to appreciate people while they are alive. I can tell you that the late hon. Matiba was one of the people who were not tribalist right from his days in school, in the Public Service, the way he managed football and rose in Government, including becoming a Cabinet Minister.

I remember when we were backbenchers and he was a Minister, he would call us with hon. Koigi wa Wamwere and many others and say: "You are not saying enough about what is going on in the Government. You should speak louder." He was saying that not because he was against that Government, but wanted the right thing to be done.

What do we do in these circumstances? I think something different must happen with the death of the late hon. Matiba. The other day when Winnie Mandela also died, similar views were expressed about what people do after the death of a great person, which they could have done earlier. I would say that in the spirit of what is happening in the country today, one of the things that this Government should do - because it is a successor of all the governments - is to have a national apology to the family of the late Matiba over what happened to them. That would be worth more than a billion shillings you would pay to them. The Government should say that what happened was wrong and should not have happened.

Secondly, some of the people who tortured the late hon. Matiba and put him in that situation are still alive and are known today. They are not necessarily people who come from where you would think. They are people from all over. If we check from the prison records on what happened to the late hon. Matiba during detention, I think impunity must be punished and those people made to--- Paying compensation to the late hon. Matiba is not enough.

The people who were responsible of reducing a man, who was an athlete and lived a live I can never live because he never drank alcohol throughout his life---. I remember when we went to his mansion in Tigoni, he had an understanding even with his family that he could not smoke anywhere in the house. He had a smoking room in the family house, which was the only place he was allowed to smoke. Many Africans are not taught the habit of not interfering with other family members.

This is just like the case of the late Msando. I am told the police know who killed him. These people should be punished if we are truly honest about what we are doing and in sending our condolences.

Without taking too much time, I would say that Kenya has lost one of her greatest sons who was appreciated all over the world. We worked with him. I remember when Jaramogi had a lot of problems here; he was being persecuted and taken to court. I was called to London by Mr. Matiba and he looked for the Queen's Counsel to come and represent Mr. Odinga at that time. Despite the fact that there were political differences emerging, he felt he should do something for his brother at that time.

Mr. Speaker, Sir, I am glad that you have appointed tomorrow for the Senate to visit his family. I truly appreciate what you are organising and I hope all the members from both sides of the House will join you in going to see the family tomorrow.

I thank you.

**The Speaker** (Hon. Lusaka): Yes, Sen. Wamatangi.

**Sen. Wamatangi:** Mr. Speaker, Sir, I wish to join you and my colleagues in condoling with the family of the late Kenneth Njindo Matiba. In my condolences, I want to note specifically that if the late Kenneth Matiba was like many of us today, maybe this afternoon he would have been playing golf in either Muthaiga or signing visitor's books.

People would be waiting for him there to receive him and escort him to places. He would have been living a life of luxury. However, because he chose to stand for liberty; for what he believed in, that is why today he is lying in a morgue.

Today I consider myself a big beneficiary of the work and sacrifices made by people and especially the late Kenneth Matiba. A politician like myself who has had to fight all the way up from obscurity to find space in this House to say the words I am saying, would never have found that space. For the work that that man did for this country, we must laud and remember him.

Mr. Speaker, Sir without repeating what some of my colleagues have said here, it is very sad that a man who was the proprietor of a chain of hotels, a man who was a proprietor of top notch schools in this country, spent his last days on a wheelchair waiting for well-wishers to come see him and help him pay his bills.

We know that it is just recently that a court of law awarded Mr. Matiba damages for the suffering he has endured over all these years. I want to remind Members that even if he has died and is going to be buried, he died without enjoying a penny of the award he was given to pay even for his own medical bills.

The question we should be asking ourselves is, even as we are here, that award is still pending. Is it going to be a continuation of the suffering he has endured for the remainder of his family? Will his wife and children queue and follow up in every courtroom and office to secure what had been awarded to him? Can this country rise to its consciousness and say we will not let people suffer like that?

I like what Senator Orengo has said, since, the way I knew Matiba and I remember the results of the election of that year; 1992. When he came from abroad, he came to the airport with his slogans and his party FORD- Asili and went campaigning. The area he got most of the votes was in western Kenya, a signature and indication that he was a man of all the people.

I sincerely join my colleagues, his family and Kenyans in condoling with them. I pray that the good Lord will rest his soul in eternal peace and I vow deeply that the value and work he put, the sacrifices he made will not go down in vain. We shall remember that we should not let ourselves and our country slide back to where we were at that time, to have won that freedom that we have today.

**The Speaker** (Hon. Lusaka): Yes, Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru:** Mr. Speaker, Sir, I rise to give my condolences to one of our greatest heroes in this country, Hon. Kenneth Njindo Matiba. I came into contact with him in the early years. He had just finished Makerere University and I was doing my medicine course. When we came on a vacation actually on an inaugural flight, he was seated in Gill House in charge of higher education. At that time, in 1960 it was a colonial government although we had some very limited democracy at that time.

I remember vividly at one point when some of us were considered as elements who were enemies to the Government of the day; at that stage he warned us that ‘in your soul journey you should be careful, otherwise you are earmarked for being picked by the colonial government because you are considered to be a communist’. Yet he was in that same government as many other senior officers in charge of higher education and had the courtesy to tell us of the impending trouble before us. We used that with great wisdom.

My second encounter is when the Hon. Matiba rose to the occasion. He was a lover of sports and he became the Minister for Culture and Sports at the time when we were hosting the All Africa Games in this country in 1987. He picked me with the late Job Omino as one of the people to direct the games of 1987, because he realised that he had so much love for sports and athletics and particularly, football.

My other encounter is at the time of the second liberation. All these years he used to refer to me as Sam and I would call him Ken. He was a man of impeccable character, integrity and stood for the principles espoused at that stage. His passing on is a vivid reminder of what we, as Kenyans, must be when history is recorded. Our history has been very cruel in the sense that the heroes who have fought for the liberation and for the kind of life that we enjoy today are forgotten in the other deep end of the divide.

As Senate, when we pay this tribute we must bring into perspective the kind of heroes and heroines we have had in this nation so that they are put appropriately in the books of history. I hope that the Senate in our visit tomorrow should be a tacit recognition that this is one man who has fought for this nation. He has given it all. All that you can give is your own health.

As a doctor, when I look at his condition and how he has suffered, it reminds me that we thank God for the favour that he has given him that now he has rested, his family should not suffer any more pains whatsoever. He was a great man who had a tremendous memory. I urge the Government to do whatever is needed to be done in terms of reparation for the past, present and future without much delay so that Matiba’s family lives in comfort, even after this period of mourning.

**Sen. Kihika:** Thank you, Mr. Speaker, Sir. I would like to join my colleagues in sending my condolences to the family of Hon. Kenneth Matiba. As a young girl in 1992, I remember very vividly how my family was pro Matiba. I was very awake to politics by then. In fact, it was the year I became interested in politics. To me, Hon. Matiba stood out as a very courageous leader. This is something good to emulate. His life was ultimately sacrificed for all of us here today.

This was a man who had built a vast empire in the hotel industry and top tier schools in the country. However, it was unfortunate to see his property being auctioned because of bad politics and Government’s intimidation against this hero. I also join others in saying that we should not always just stand up only when one passes away and talk about how great they were and then move on to our mundane lives and forget about them until another hero dies.

We, as Kenyans, it is time we started recognizing our heroes and their contribution to this country. We must have a place in history for them for posterity. Three generations from now should be able to read and know about such great heroes of Kenya. As I talk about Matiba, we know there are many heroes and heroines like the late Prof. Wangari

Mathai and others. However, there is not much we, as a country, have done to remember them.

Hon. Matiba's health deteriorated as a result of unfair incarceration. As such, we must be bold enough, not to just say we are sorry to see him go, but also apologise for the past regimes that may have contributed to what eventually happened to him. We cannot bury our heads in the sand about what happened in the past. Moving forward, I would like to see a bold country. As long as we pretend that, that history did not happen, then it is bound to keep repeating itself.

Again, I would like to send my deepest condolences to his wife, Edith and the family. He was a great hero who paid with his life for multipartism in this country. I am, probably, occupying this space because of his fight for multiparty democracy. That is why now we have NASA, ODM, Jubilee Coalition, WDM-K and other political parties on the table. So, fare thee well Kenneth Matiba.

**Sen. Wako:** Thank you, Mr. Speaker, Sir. I want to join my colleagues in paying tribute to Hon. Matiba. I first knew him when I was in Form Two in Alliance High School. I knew him on the day he was appointed as the Permanent Secretary in the Ministry of Education. On that day, he came to Alliance High School and we interacted with him.

As Sen. Orengo said, he left Alliance High School with a good record. As a student, he was disciplined, focused and gave his best in whatever task he was given to do at the school. In fact, the staff of Alliance High School almost worshiped him when he came to the school. They were happy that President Jomo Kenyatta had appointed him to head an important Ministry of Education.

While in Form Two, we continued interacting with him. He would visit the school because his greatest friend was the son of Stephen Smith who was then the Deputy Head Master of Alliance High School since the year 1927. Later on, all his businesses were done in partnership with the son of Stephen Smith.

On one occasion when I was the School Captain and there was a great famine in Kenya, he visited the school. Through interactions, I asked him what we, as students, could do to contribute towards alleviating the great famine. He gave me ideas like missing out on some meals because we did not have money. Under my leadership, we executed that idea. We forfeited the 10.00 a.m. and 4.00 p.m. tea. We also denied ourselves meat on one Sunday. We were able to save a reasonable amount of cash at that time. I was given an appointment with the then Vice President through him to present a cheque in support of alleviating famine in the country.

In yesterday's newspapers, you may have seen a picture of me and the then Vice President, Daniel Toroitich Arap Moi, Hon. Matiba and the Head Master of Alliance High School, Laurie Campbell. That was how it happened.

One of Matiba's children did her pupilage in my law firm Kaplan & Stratton. I was happy about that.

In the year 1991 at the height of the clamour for multiparty democracy, I was appointed as the Attorney General. That clamour had been started by Matiba, Charles Rubia and Jaramogi Oginga Odinga. I am pleased to inform this august Assembly that my relationship with Matiba continued very well during that entire period. There was a

time when the Forum for Restoration of Democracy (FORD) political party, as it was, had some infighting. The Attorney General then had the powers to deregister a society or a political party where it was not clear who the leaders were. To me, it was not clear who the leaders in FORD were because they were fighting. There was a lot of pressure on me to deregister it.

I held discussions with the late Matiba and the late Martin Shikuku who represented one faction. I also held discussions with the late Jaramogi Oginga Odinga with his retinue including James Orengo, Paul Muite and the rest. I told them that I had powers and I could deregister them but I asked them to help me not to deregister them. I asked both of them to register FORD afresh but with the suffix which distinguished the two factions.

They were suspicious that if they did that, I would deregister FORD-Kenya and not register the new party but I promised not to do that. The late Jaramogi Oginga Odinga asked me to register FORD-Kenya which I did immediately. Since the late Matiba had the certificate, he wanted them to continue as FORD-Kenya but when I advised he quickly agreed. He used to call me Amos. He said that they would use “Asili” a Swahili word meaning “original.” In other words, they were the “FORD original” and I registered them.

We continued that way. One time, I attended the KANU Executive Committee meeting because the Attorney-General had the authority to attend. Very early the following morning, the late Matiba was in my office. He said “I respect you very much Amos. You went to Alliance High School whose motto is ‘Strong to Serve’ but why do you continue sitting in those meetings?” I told him that I went there because I was invited. I asked him to invite me during the launch of FORD-Asili. I promised him that I would explain to the party the legislations that were upcoming in Parliament. He was quite happy and we had a cup of tea and then he left. We continued to be in good terms. That is why when the family asked me to do something, I had to do it when he was very sick.

The late Matiba stood for democracy, the rule of law, freedom and hard work. In fact, the Alliance High School motto is *Strong to Serve*. He actually lived that motto because he was there to serve. In whatever undertakings he took, be it in football, climbing mountains and so on, he did it with vigour and gusto. He also encouraged me to climb Mt. Kilimanjaro. He said that I must keep fit. So, I really regarded him as a person to emulate in being strong to serve the people of this country in whatever role you are. To me, the best way we can keep the memory of Matiba is at this point in time.

I want to take this opportunity to refer to the joint letter signed by the President and Hon. Raila which clearly set out a very basic agenda of issues that must be addressed by this country. The late Matiba had very strong beliefs. It is because of those issues that Matiba suffered physically fighting for. They were democracy, the rule of law and inclusivity. Though he was a kikuyu and somebody has said that, he got most of his votes from my area, the former western province which is inhabited by Luhyas. He got votes from Luhyaland because Luhyas are known for democracy and freedom of speech and not being swayed this or that way.

Because of that, I would like to appeal to both the President of Kenya and the president of the people's assembly to roll out the programme they promised to provide a framework in which various issues can be discussed. The longer we wait, the more we shall lose it out. I have seen that happen in Kenya from time to time. Somebody can come up with a good idea but it is lost in the politics of the day and you go back to square one. Come 2022, we shall be back to square one.

I would like to appeal to the two heads to roll out that programme as quickly as possible. The Government should also pay the family of the late Matiba the amount decreed and declared by the court and think of ways in which we can remember Matiba. They can put his stature somewhere or name a road after him.

With those few remarks, I thank you.

**The Speaker** (Hon. Lusaka): Honourable Senators, I request the remaining speakers to limit themselves to three minutes because we also have something serious to discuss.

**Sen. (Rev.) Waqo:** Mr. Speaker, Sir, I also stand to join my colleagues in condoling with the family of the late Hon. Kenneth Matiba. I thank you for allowing us time to give our tributes because giving our special attention to it is important.

The late Matiba served this country. Many of us may not have the personal experience with him but from what we have known, heard and read about him, he is one of the leaders who sacrificed his life and even his family for the sake of this country. It is unfortunate that as a nation, we only celebrate heroes after they are gone. Today we are all speaking about the late Matiba in a positive way when we all know that he and his family suffered for many years. Maybe sometimes they went without food and could not pay their medical bills and none of us bothered. That is a bad habit that we should overcome as Kenyans.

It is important for us as a nation to accept and appreciate our leaders who have sacrificed for this country. During his time, the late Matiba fought for democracy that we all enjoy today. Unfortunately we all forgot him. So, it is in order that we stand with his family at this particular time.

I want to send my condolences to his family and especially his wife Edith because I know what it means for a women to lose her husband and the pain that she is going through at this particular time. The suffering and pain they have gone through when the late *Mheshimiwa* was alive should be avoided. Instead, we should lead the family to a healing session. The two principals have already given support but it will only be in order if we fully apologise as a nation for the offence we committed against the family and see how we can reconcile, so that they feel that Kenyans are with them because the death of the late Matiba is not only a loss to the family but also to the entire nation.

So, it is prudent for us to stand with them. Thank you for inviting us to join you tomorrow so that we can go and condole with the family. Let us see how else the entire nation can support the family so that they can mourn their loved one in a dignified way.

Thank you.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. First, I send my condolences to the family of the late hon. Matiba and his wife for this grave tragedy.

Second, I was listening to the history of the late hon. Matiba on Television and this is a gentleman who most likely we do not understand. Third, it is a mistake if we are going to honour people when they die. I saw this gentleman seated next to me – the Senate Minority Leader – on Television yesterday amongst the people who were up in pick-ups fighting for freedom. Instead of waiting for his death like the late hon. Matiba, Sen. Orenge should be recognized for his fight for democracy. We might not know, but he was tortured and one of his fingers cannot fold. We do not recognize him and he is here. Therefore, as we recognize the people who have departed, it would be nice to start by recognizing the people who are here with us.

There were cases that were filed during the multi-party era, I was then an intern, when Sen. Orenge was fighting together with the former President Kibaki and hon. Matiba. He is still here and he fights for democracy. However, this country has a short memory because most people who fought for Independence or the second liberation will also die poor. In fact, Sen. Orenge was telling me that it is possible that the debtors of the estate of the late hon. Matiba are waiting for the Kshs945 million. The minute it is paid, they will most likely go and attach whatever property that is left of the estate. It is possible because of the problems this gentleman had, his estate has debts. So, it is not enough to pay the Kshs945 million. What do we do with the people who tortured Kenyans? What do we do with the people who are known and incarcerated Kenyans? Is an apology enough?

Mr. Speaker, Sir, the case of the late hon. Tom Mboya is pending; the case of the late hon. (Dr.) Robert Ouka is pending; the case of the late hon. Pio Gama Pinto is pending; and the case of Chris Musando is also pending. Hon. Paul Ngei died on a wheelchair, poor beyond belief. He was bankrupt. In fact, the late hon. Matiba is lucky because he had businesses otherwise, he would have died like hon. Paul Ngei in a wheelchair only for my father to rescue him from a bankruptcy case.

The late Mr. Kisao Munyao who was the only Kenyan who had the audacity to go up Mt. Kenya and hoist our flag on independence day, we had to buy a piece of land for him so as to bury him. He died a pauper while living in Bahati Estate. This is a shameful country. When you think about people like hon. Charles Rubia who were living somewhere in Eastlands, we do not do enough; we forget easily. The people who were fighting with him—except for Sen. Orenge—are now billionaires. They soon forget the people they fought these fights with.

Therefore, as we condole with the family of the late hon. Matiba, the question of truth, justice and reconciliation needs to be factored not only to leaders, but to the Wagalla Massacre and massacres all over the country. It should also include tribal clashes that began in 1992 because of the clamor for multi-party democracy. Also, the stealing of elections that begun in 1992 and the bungled elections by the Electoral Commission of Kenya (ECK) and Independent Electoral and Boundaries Commission (IEBC) and the shenanigans going on even today. Unless we address them, we are paying lip service to the work that the late hon. Matiba did for this nation.

Thank you.

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir, for also giving me this opportunity, with my fellow Senators, to eulogize this particular hero by the name Hon.

Kenneth Njindo Matiba. I am also proud of him. I must say that in the General Elections of 1992 in a polling station near my home, I voted for him against all the wishes and whims of the people around my place. By the end of the day, I was happy that the results were announced and he got one vote which was mine. So, the agents betrayed him.

This man was a risk-taker who risked his life and health for the sake of this country to rise democratically. Today, we are enjoying a great space of democracy because of such heroes. He was ambitious in the field of business and his profession. In addition, he was a person who could not simply be contended with a position, but we can say that he moved to greater heights. He was a no-nonsense man and patriotic. I have read that almost 90 percent of his businesses are invested in this country, unlike some investors who do not invest here.

It is a great shame that when he became sick, his businesses started to fall. Further, he had also employed many people who are jobless today because his businesses were frustrated due to his political stand. Therefore, the Senate should rise to the occasion and say that this man must be treated as a hero. This should not only apply at this particular time, but must be demonstrated during his burial and thereafter.

Mr. Speaker, Sir, this was a man of many firsts. My daughter was telling me, "What else is remaining for you to be the first, if the late hon. Matiba was the first African Chairman of East African Breweries, the first African Chair of Kenya Football Federation (KFF) and he was the first Minister to resign after becoming dissatisfied by the former regime?" Therefore, this is the time for the former regime to be ashamed for what they did to this particular great hero. With us who are living in the current time, we must learn from the lesson---

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Langat, your time is up.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, sir, for giving me this opportunity to join you and my colleagues in condoling the family of the late hon. Matiba, his wife, Edith Matiba, and children. They are going through a difficult moment at this particular time following his death because of the many issues they are going through. I did not interact with hon. Matiba at a personal level but I read about him in the newspapers and saw him on Television and he was a newsmaker. He was a leader in this country who contributed a lot, especially in the liberation struggle and democracy. He will be remembered for his fight for democracy and that is the reason we are enjoying the fruits today.

The late hon. Matiba was an all-round person. If you look at him in the political field, he fought for democracy. He was keen in the area of education and started a number of schools which benefited many people. He was a shrewd businessman and therefore was able to create quite a number of jobs for the people who were jobless. We know that jobs are not easy to get in this country but he was able to go out of his way and create jobs. The late hon. Matiba led a selfless life. Therefore, we need to celebrate the late hon. Matiba as a hero and remind ourselves the many things that he did for this country. He should be included in the books of history and not to be forgotten.

We need to see how we can celebrate the life of the late Hon. Matiba as a hero and remember the many things that he did for this country. He should not just be forgotten like that; he should go into the books of our history. Apart from doing that as a

country, this should be a wakeup call so that we should always remember the heroes of this country. Many times we do not remember them and the good works they did are buried with them, which should not be the case. The legacy that they have left should always be remembered every now and again by the many generations to come.

Thank you for allowing me to join you in condoling this family.

**Sen. Cheruiyot:** Thank you Mr. Speaker, Sir, for allowing me to join my colleagues in sending condolences to the family of the late Hon. Matiba. As a 'parliamentary millennium' – if I can use that term – in 1992, at the height of his political activities, I was a standard one pupil so I cannot say much about what happened.

*(Laughter)*

If my fellow Senators are surprised by that, they should then question where Sen. Cherargei and Sen. Chebeni were. If I was in class one at that time, they must have been in diapers.

*(Laughter)*

Mr. Speaker, Sir, for us, as a country, it is good to be introspective in moments like this; we need to look back and reflect. What is the lesson that young people of my age can draw from us, as a nation? When they look at the life of the late Hon. Matiba and see how he suffered, despite his contribution to our nation, the big question in their mind is, was it worth it? Was it worth it to risk his life, suffer and live a very difficult life in the latter part of his life; and despite all the contributions and sacrifices, not be recognized?

It is no wonder that many of the young people that now ascend to public offices do not rhyme with the tune that we are trying to push, of putting the country first. They wonder which country we are talking about. They wonder if it is the same country where, if one is to get hurt, there is nothing they will be paid as compensation. They, instead, end up pilfering public resources and doing everything for self and nothing for the country. We need to reflect deeply upon this.

I have seen the amount of the court award given to Hon. Matiba as compensation; it is a very small fraction of what can be considered to be compensation. What is it that somebody can give you for you to say that I am properly paid for a life that was disrupted in the way that Hon. Matiba's life was?

Thank you, Mr. Speaker, Sir.

**Sen. M. Kajwang':** Thank you, Mr. Speaker, Sir. On behalf of the people of Homa Bay County and on my personal behalf, I wish to convey deep condolences to the family of Hon. Kenneth Matiba. In Homa Bay, 60 per cent of the people are below the age of 25 and, so, I speak on behalf of people who probably did not experience the kind of difficulties that the late Hon. Kenneth Matiba, Hon. Rubia, Hon. Jaramogi and other historical figures went through. I speak for a generation that did not experience difficulties but has benefitted from the sacrifices of great men and women. When this generation mourns Hon. Kenneth Matiba, all we can do is say thank you. This is because

of the freedom of speech, movement and expression that we enjoy today even in social media, which is courtesy of certain sacrifices that have been made in the past.

Mr. Speaker, Sir, I want to focus on Hon. Matiba's entrepreneurial journey and spirit. He proved to Kenyans that it is possible to become wealthy, not by taking short cuts, but through diligent application to business. I wish that our counties could focus on creating the next generation of Kenneth Matibas so that they can at least have ten such entrepreneurs per county. When that is done, we will have generated 470 entrepreneurs, who will create more jobs than county governments can create in many years.

Mr. Speaker, Sir, we failed Hon. Matiba in life; and that is true. In 2001, Parliament attempted, through its various Committees, to save Hon. Matiba's properties but it was not possible. Recently, our national award scheme decided that 'githeri man' was more of a hero than people like Hon. Kenneth Matiba and Hon. Rubia. We failed Hon. Kenneth Matiba in life at every single turn. We still have some living heroes; these are people like Timothy Njoya, Hon. Rubia, hon. Koigi wa Wamwere, Hon. Muite and so many others. Let us make sure that we honour them now.

We shall celebrate Hon. Matiba in death and we might name concrete structures after him. I was watching the news on television the other day and someone said that we should name River Mathioya after Hon. Kenneth Matiba. But I wondered what will happen when River Mathioya dries? Will people say that the legacy of Hon. Matiba has run dry? I say this because judging by the way we are cutting trees and messing up the environment, River Mathioya will probably dry up soon. We can name concrete structures and physical things after Hon. Matiba, but the most enduring legacy is for us to remain true to the cause that Hon. Matiba championed in 1992. This is good governance, social, economic and electoral justice in this country.

Thank you, Mr. Speaker, Sir. May his soul rest in peace.

**Sen. Halake:** Thank you, Mr. Speaker, Sir, for allowing me to add my voice and my condolences to that of my fellow Senators and yourself. The historical perspective and the work of Hon. Matiba – may his soul rest in peace – has already been well articulated by people who were there and are more qualified than ourselves to do so. I am, therefore, not going to go there. However, I am going to use his demise to look forward. Of course, the loss of a family member is greatest for his family, and I condole with that family and hope that God will give them strength to deal with their loss. However, fellowship in a country or citizenship also constitutes to an extended family and, therefore, I feel a sort of kinship to the family of Hon. Matiba and would like to condole with them as such as a fellow Kenyan.

Mr. Speaker, Sir, having said that, having not known him that well and having not been part of the history, I would like to look forward and this is what disturbs me. Are we living the spirit of Hon. Kenneth Matiba, which is one of sacrifice, adherence to rule of law and having institutions which respect the rights, freedoms and the Constitution that we are enjoying today? Are we doing that now, even as we look back? I know that a lot of us have talked about reflecting and looking back. However, looking at today as we look at ourselves and introspect, are we living up to the legacy, spirit and values for which he ultimately gave his life?

Are we living up to his legacy of democracy, the rule of law, strong institutions and a strong culture that respects the rule of law, the rights and freedoms of each citizen of this country? Do we see a situation where everybody – even those that were in that regime that we saw articulately baying for Hon. Matiba’s blood--- In fact, most of us who are sitting here were part and parcel of the power behind that regime.

Mr. Speaker, Sir, for us to honour Hon. Matiba, we should uphold the ideals and values for which he died and to protect this country. Sometimes I wonder whether the same things are creeping back to our institutions and our country. Can we honestly and with less hypocrisy, as a country and as this August House, say that we are living up to the values that he---

*(Sen. Halake’s microphone went off)*

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

Proceed, Sen. (Prof.) Ekal.

**Sen. (Prof.) Ekal:** Thank you, Mr. Speaker, Sir, for giving me the chance to also condole with the family of Hon. Matiba. I also join my fellow Senators in voicing our concern and feeling that Hon. Kenneth Matiba should not have gone through the pain he went through in life just because he differed with the forces that were there at the time. It is very important for us, Kenyans, to realise that differing with somebody does not mean that the person becomes a demon or a creature from another space. It is just that human beings are created, born and think differently. Therefore, we have varied thoughts on issues.

So, as Kenyans, for this not to be repeated, we need to learn from history and right the wrongs that have been done before to individuals like Matiba. It is not only on us to condole or to say we are sorry that he has passed on and so on; what needs to be done is something good for the family that the late Mr. Matiba has left behind. That means that whatever Mr. Matiba may have been accused of should be righted. At the same time, something good should be done for the family so that they can take care of their businesses and live a better life than the one Mr. Matiba lived towards the end of his life.

Mr. Speaker, Sir, I hope that Kenyans learn from history. Some of us were not born at the time when Mr. Matiba was there, but we have read a lot about him in books, newspapers and so on. On behalf of the great county of Turkana, I would like to urge that we do something good for the late Mr. Matiba and his family.

Thank you very much.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Cherargei.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir, for this opportunity to be part of the colleague Senators who have passed their deepest condolences to the Matiba family due to the passing on of the great icon of democracy. He also had serious entrepreneurial skills at the time when many people believed that one had to steal to be wealthy.

As we celebrate his life, we need to note that he has done a lot to ensure that the country has opened up for democracy and that there are more opportunities in tonnes.

That is why we are in an era where anybody can say anything in this country. Therefore, we are grateful for that.

I want to agree with most of my colleagues that it has reached a time in this country when we need to reward more deserving Kenyans. We need to set parameters that will ensure that we reward Kenyans who deserve, for instance, who have sacrificed their lives for the sake of the country, instead of rewarding people like 'Githeri man' and the rest. We rewarded those kinds of people yet someone like Matiba has not been recognised as one of the heroes of this country.

Going forward, even as we lay this icon of democracy to rest, we must also ensure that his estate is protected. If there is anything or any form that the state owes him, his family should be compensated so that as they mourn, they can still ensure that their businesses are up and running.

I heard Sen. (Prof.) Ekal saying that he was not yet born at the time when Matiba was active in politics. Fortunately, at that time when they were fighting for democratic space, I was enjoying my toddler years. Therefore, I might not have experienced the politics by then, but we can enjoy the fruits of what he did at this time. He also fought for the constitutional reforms and many other aspects of the governance system in this country.

On behalf of the great people of Nandi County, I would like to say that we are praying for the family and we will continue to condole with them. We wish them well even as they continue in preparation of sending the hero of democracy to rest.

Thank you.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Faki.

**Sen. Faki:** Asante sana, Bwana Spika kwa kunipa fursa hii kujiunga na Wakenya wengine na wakaazi wa Murang'a kuomboleza kifo cha hayati Matiba.

Sisi watu wa Pwani, tulimtambua Matiba kama mwekezaji mkubwa katika biashara ya utalii katika eneo la Pwani. Vile vile, alikuwa rafiki mkubwa wa Pwani kwa sababu wakati alipokuwa akiwaania kiti cha Kenya Football Federation (KFF) kama mwenyekiti, Pwani ndio ilimuunga mkono wa kwanza ndiyo nchi nzima ikafuata badaaye. Kwa hivyo, tunamtambua hayati Matiba kama kiongozi ambaye alikuwa akiwapa kipaumbele Wakenya ambao hawakubahatika kijamii, aidha kimasomo, kibiashara na katika hali zingine za kijamii.

Kifo cha Matiba pia kinatukumbusha wale wengine ambao walitangulia kufa kama vile marehemu Salim Ahmed Bamahriz ambao walikuwa pamoja naye katika chama cha Forum for the Restoration of Democracy (FORD) Asili wakipigania uhuru wa pili wa nchi ya Kenya.

Kwa sasa, sisi kama Wakenya, jambo la kusikitisha ni kwamba bado tunayapata yale mambo ambayo Matiba alipigania katika nchi yetu ya Kenya. Kwa mfano, mambo kama kura kuibiwa na watu kuuawa kiholela wakidai haki zao bado yanaendelea kufanyika katika nchi ya Kenya. Haya ni kinyume cha yale malengo ambayo Matiba na wenzake walipigania wakati tulipopigania uhuru wa pili. Kwa hivyo, bado tuna safari ndefu sana ya kupigania haki yetu katika nchi hii kuhakikisha kwamba tumepata uhuru kwa Wakenya, hasa wale wadogo ambao hawakubahatika kuwa na fursa za kibiashara ama za elimu kama wale wengine ambao wako katika mamlaka.

Kwa hivyo, Bwana Spika, tunapoendelea kuomboleza, tunaomba kwamba sisi kama Wakenya, hasa viongozi ambao wako sasa, ni lazima tuangalie ile njia ambayo tumetoka na tujue makosa yalifanyika na vile tunaoweza kuyaepuka kwa siku za mbele. Tunapaswa kufanya hii hasa kwa wakati huu ambapo kuna msukosuko katika taasisi ya *Independent Electoral and Boundaries Commission (IEBC)*. Tunafaa kuanza mwanzo mpya kuhakikisha kwamba nchi yetu ya Kenya imewekwa katika msimamo ambao utakuwa na matumaini kwa Wakenya wanaokuja siku za usoni.

Asante sana, Bwana Spika.

**The Speaker** (Hon. Lusaka): Finally, Sen. Kang'ata.

**Sen. Kang'ata:** Mr. Speaker, Sir, if you do not mind, I request that you add me some few minutes so that I can adequately eulogise Mr. Matiba.

First and foremost, I would like to say that I was raised in a place called Murang'a Town but I hail from a place called Kahuya Gathinja. Incidentally, that is where Stanley Njindo Matiba comes from. So, he was my village mate by virtue of the fact that we come from the same place.

Matiba became prominent because of several things: One, he did something that was quite unthinkable in our region. He defeated a person called Kiano who was a very prominent Minister between 1963 and 1979. No one ever thought Kiano could be defeated because, first, he had a stature of becoming a president and secondly, he was the first person to get a PhD in this country. Therefore, for a person to defeat Kiano, it was history in the making.

When Matiba came to Kiharu Constituency, he was able to do that revolution in 1979 that made him to become a household name. For those who can recall those days, when I was not yet born, by then Kiharu Constituency was called Mbiri Constituency and it was always being serialised in the newspapers. After he won that seat, Matiba again won the same seat in 1983 and 1988. He again did another unthinkable thing; he resigned from the Government of Moi and decided to venture into private things.

Apart from that, Matiba also had a very unique history by virtue of having been a Permanent Secretary (PS) at the age of 31 years old. That was about 1961, 1963 or 1964. He decided not to be a PS to accumulate wealth and resigned to venture in private business. He then became the chairperson of the East African Breweries Limited (EABL) at a very tender age. He was able to accumulate a lot of wealth and became a rich man.

When he decided, in 1989, to start agitation for multipartyism, it was quite a unique experience. This was because there were so many other people who wanted to concentrate on their private endeavours, but Matiba on his own motion said "no, let me fight for multipartyism." I was told that when he called the press conference at Chester House, there was a senior politician by then from our region, who I will not mention, who was to accompany him. He agreed with Matiba to meet at Chester House to announce how they were going to fight the government only for Matiba to find himself alone at Chester House with the media.

So, he made that announcement, he was then arrested and you all know the history that followed. However, because of being taken into detention, his personal health suffered and his businesses started to deteriorate. Unlike other rich people who always

invest in things like land, the late Hon. Matiba invested in businesses and offered employment. He was a forward-looking person.

I was in Standard Five in 1991 and whenever I heard the name of the late Hon. Matiba, I would get butterflies in the stomach. We were so passionate about him. He was the only leader I could lay down my life for. I always felt a lot of passion whenever I heard his name.

I recall one day when I came home from primary school and heard some music that was being sung in his praise, I started to cry. When the late Hon. Matiba is mentioned, the people from Murang'a County feel like crying. Our county has produced several notable people, for example, the late Hon. Michuki and the late Hon. J.J Kamotho but none equals the late Hon. Matiba because of his sacrifices and what he did for this country. Up to now, the people of Murang'a County always ask us whether we are able to fill the shoes of Hon. Matiba and my reply has always been a consistent; "no". His shoes are hollow. We have to keep them aside and acknowledge that he was a great man, whom from where I sit, cannot be replaced.

What is the new generation doing to make sure that the late Hon. Matiba's name does not go down in vain? One, we urge the Government to hasten the Kshs1 billion compensation which the court declared, be paid to his family. Of course, it is not sufficient. We know that the late Hon. Matiba's investments were quite vast but that will go a long way to assist the family.

Two, we are also telling our people that we must always forgive and that *yaliyopita si ndwele*. However, we know that a child of a leopard always pinches like a leopard. Therefore, I will not mention some of the people who are trying to vie for the presidential position because they have their associates in this House. However, I will tell them that they will get zero votes from our county because we know what the original leopard did to a son whom we really loved.

With those few remarks, I rest my case.

**The Speaker** (Hon. Lusaka): Thank you so much, Senators, for the messages of condolence to the family. I gave it a lot of time because of the kind of person that we are talking about.

We move on to the next Order.

## BILLS

### *First Readings*

THE COUNTY ALLOCATION OF REVENUE BILL  
(SENATE BILLS NO. 11 OF 2018)

THE DISASTER RISK MANAGEMENT BILL  
(SENATE BILLS NO. 8 OF 2018)

THE OFFICE OF THE COUNTY PRINTER BILL  
(SENATE BILLS NO. 7 OF 2018)

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THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND  
DESIGNATED STATE OFFICERS) (AMENDMENT)  
BILL (SENATE BILLS NO. 2 OF 2018)

*(Orders for First Readings read-Read the First Time  
and ordered to be referred to the relevant Senate Committees)*

*Second Reading*

THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2)  
BILL (SENATE BILLS NO. 7 OF 2017)

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. I beg to move:-

That the County Governments (Amendment) No.2 Bill (Senate Bills No.7 of 2017) be now read a Second Time.

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

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

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, what was remaining in the Food Security Bill was a reply. I had consulted with Sen. Mutula Kilonzo Jnr., considering that this Bill will be debated for some time. I request that you allow me to reply to the Food Security Bill so that we can then continue with the Bill by Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I had asked the same question. In the Order Paper it reads: 'Resumption of debate for The Food Security Bill'. However, you have the discretion under Standing Order No. 40, to rule that the Mover replies so that I can move the other Bill.

**The Speaker** (Hon. Lusaka): For the convenience of the House, we move to Order No. 7.

*Second Reading*

THE FOOD SECURITY BILL  
(SENATE BILLS NO. 12 OF 2017)

*(Sen. Murkomen on 22.3.2018)*

*(Resumption of Debate interrupted on 28.3.2018)*

**The Senate Majority Leader** (Sen. Murkomen): Thank you, Mr. Speaker, Sir. I suspect that we were at the stage where I was supposed to reply. Is there any other person that was to contribute?

**The Speaker** (Hon. Lusaka): The other person who was to contribute is not here.

Proceed, Senate Majority Leader.

**The Senate Majority Leader** (Sen. Murkomen): Thank you, Mr. Speaker, Sir.

First of all, I want to thank everybody for very incisive contributions on the Food Security Bill. This is a Bill that is anchored in Article 43 of the Constitution on the social economic rights. It is an important Bill because the right to adequate, quality and quantity food is important.

As a Senate, we have a responsibility to ensure that Article 43 of the Constitution on social economic rights does not sit pretty in the Constitution without being implemented. We should provide a structure of governance that can facilitate it. Everybody in this House agrees that it is important that this Bill is made into law.

The question which we agreed the Committee on Agriculture, Livestock and Fisheries must look at before we get into Third Reading, is whether we need another parastatal under this Act as proposed here to carry out the responsibilities in the Act. We need to think through the role of the National Drought Management Authority (NDMA) and other bodies working on matters of food security and see whether we can amalgamate their responsibilities under one entity. That will be guided by the Committee on Agriculture, Livestock and Fisheries. I believe they will do robust public participation to facilitate a proper discussion.

We do not also want a situation where the State trading enterprises are growing to a level where they cannot be managed. There is no need to create another body with nine board members and a Chief Executive Officer (CEO) and spend more money on overheads and recurrent expenditure at the expense of proper development.

Mr. Speaker, Sir, once this Bill is passed, it will obligate the State to do the things that are provided for under it, for example, to report on the status of food security in the country. It will also ensure that matters related to distribution and supply of food to needy communities and areas, are not only dealt with by the national Government, but also by county governments. We have been sent here to be the solution and not complainants.

That is what I have been telling my colleagues. Sometimes we go to a public rally in the villages and towns and the only thing we do is to complain. Even where we are the solution to the problem, we just complain. It is easy to make a name by complaining, but difficult to work hard and ensure that we are delivering on the promises we made to our people. As hon. MPs, let us also do something instead of complaining year in, year out.

Those of us who come from maize growing areas, let us do something to alleviate the plight of our farmers. If we are dealing with cartels that are in the agricultural sector, let us ensure that we are facilitating the process of reporting and ensuring that information is given to Government officers so that we deal with them. I am speaking with a lot of authority because I supplied maize last time to the National Cereals and Produce Board (NCPB).

I am among those farmers who have not been paid. I called the NCPB Director and the Cabinet Secretary (CS) and they told me this is the first time in our history, farmers have not been paid for maize worth Kshs7 billion. When you look at the audit and try to find out where exactly these farmers are coming from, you will be shocked to learn that we do not have maize worth Kshs7 billion from farmers in the Republic of Kenya.

Mr. Speaker, Sir, I am waiting for my payment from NCPB. Sometimes people think that because we are in position of privilege, we can misuse it to get paid before others. I know there was a payment that was done in January this year, but unfortunately, I was not paid. I also met the Cabinet Secretary (CS), Treasury, with whom we come from the same area. He told me he was still waiting for his payment. I can feel the pain of the farmers who are also still waiting to be paid. We must deal with the root cause of this problem. We must deal with cartels who are messing up the maize sector in this country.

Secondly, we must diversify in agriculture. I am not an expert, but the dependency on maize alone must come to an end. When I calculate what I get from my farms, what I put in and the waiting for one year, there is no profit in maize farming at all. Farmers are suffering. The maize farming is just to ensure that the land is not idle and that money is circulating. Perhaps the main responsibility of county governments in terms of agricultural extension, training and changing trends, might be to teach our people that farming maize alone is not beneficial to them.

I had a very long discussion with another senior Government official who is a farmer. He told me he abandoned maize for avocado farming. He told me that from one avocado tree, he makes Kshs30,000 every three months. For anybody in maize farming to make Kshs30,000 alone in one acre after one year, you have to work so hard. Look at the Kshs60,000 that someone gets from one avocado tree; how much money would our farmers have made?

I would rather in one acre, let people make Kshs1 million or Kshs3 million in a year. It is better to even buy maize cheaply from other people in other regions and let our farmers to diversify. We must make agriculture a true employer that will change lives of people. At the moment, the maize farming in this country is unsustainable, especially in Trans Nzoia County where you and I come from. With farms getting smaller, we must start diversification.

Lastly, Mr. Speaker, Sir, if you want to deal with food insecurity, we must change our menu. I do not want to be misquoted like Amb. Robinson Githae. When he was a CS, he advised his people to include rats in their menu. The reality is that we cannot continue depending on maize forever and expect to solve food insecurity in this country. We must accept to eat beans, rice and other foods like in the People's Republic of China. This is a country of 1.5 billion people. If they were only depending on one food crop like maize, they would die of hunger. They eat all kinds of food from the sea, land and air. It is important that all of us, as a nation, accept to introduce different types of food in order to deal with food insecurity. Maize and beans cannot grow all over the country. They only grow in some regions. We must make agriculture very competitive.

From the conversation that I had with the person who told me about avocados, I realised that it has just been a mess wasting land for nothing. If young people can be introduced to avocados, passion fruits and all kinds of horticultural crops, they will be able to make a lot of money from agriculture. Agriculture can be a great employer and sort out unemployment issues across the country, if we move from maize farming to better and more competitive crops.

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

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

Madam Temporary Speaker, I beg to reply. Pursuant to Standing Order No.55(3), I request you to defer putting the question to a later date.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you. So, we defer putting of the question to next time. So, ordered.

*(Putting of the question on the Bill deferred)*

Next Order.

*Second Reading*

THE COUNTY GOVERNMENTS (AMENDMENT)  
(No.2) BILL (SENATE BILLS NO.7 OF 2017)

**Sen. Mutula Kilonzo Jnr.:** Thank you, Madam Temporary Speaker. I beg to move that The County Governments (Amendment) (No.2) Bill (Senate Bills No.7 of 2017) be now read a Second Time.

The amendment that I have proposed on this Bill is pretty straight forward. However, it is important that I give the background of it. We had a very unfortunate incident in the last Session, where the Makueni County Government invoked the provisions of Article 92 for the suspension of that County Government. After the Petition was approved by the President, it was sent to the Senate for purposes of setting up the Commission that was to investigate the incident in Makueni County. However, even after the collection of all the signatures, the process and the public funds were spent, the Report of the Commission was sent to the President who exercised discretion to disagree with it.

Madam Temporary Speaker, I had read a copy of the Report and other than the question of the suspension of Makueni County Government, there were several issues about Bills; the relationship between the county governments, what we would call Intra-Government Dispute Resolution Mechanism; and the question of budgets.

Madam Temporary Speaker, despite all these good recommendations made by my senior, Mr. Mohamed Nyaoga, and his Commission, that Report never found its way into the Senate. I rose on a point of order and requested that the Executive do submit the Report. I asked the then Speaker, Hon. Ekwee Ethuro, to issue directions on the tabling of that Report. Despite the directions given by the then Speaker of the Senate, that Report never found its way to the Senate, possibly because there was no method of enforcing the direction of the Speaker to compel the President to submit the Report to us to consider what would have been very good recommendations on how to deal with disputes like these, where the county assemblies and county governors have refused to agree.

Madam Temporary Speaker, shortly thereafter, the County Assembly of Murang'a impeached Governor Mwangi Wa Iria on the same grounds of the budget. The County Assembly of Nyeri proceeded to impeach Governor Gachagua at the time. Again, most of it was on the basis of the same problems that were at Makueni County.

Madam Temporary Speaker, my colleague, Sen. Irungu Kang'ata has now proposed a Bill on ward equalization which is attempting to ensure that the development budget of every county is spread out equally amongst all wards. The mischief in the Bill is that governors are exercising some discretion which they do not have in developing wards which they like or do not like, to the extent that although there is the process of collecting views on budget making, the development budget, County Integrated Development Plan (CIPD), eventually, when this is translated into the CIPD or the County Strategy Paper Annual Development Plan, it has emerged that governors are exercising discretion.

These same problems over which the Nyaoga Commission identified and even proposed legislation are now back to the Senate. Through the guidance of this senior lawyer, Mr. Mohamed Nyaoga, who was the chairman, those proposals were made. Therefore, the intention that I have made in amending the law in the County Governments Act, should this issue arise again. We cannot say that it will not arise whether in this or another session. The provision to suspend a county government is in the law. Unless we amend the Constitution to remove it entirely, it is already in the law. So, it is in our best interest to try and find a method of dealing with the issues that come to the Senate.

There is a further mischief, Madam Temporary Speaker. The law requires, under Article 192(4) of the Constitution, that where a suspension is proposed by the Commission like the one that was led Mr. Mohamed Nyaoga, the Senate may at any time terminate the suspension. There is no parameter in law and in the County Governments Act to explain how the Senate can terminate the suspension, why the Senate can terminate the suspension, and how it will do it.

Madam Temporary Speaker, I have proposed amendments to find an entire method when do we receive the report, who sits in the Committee; what does the Committee do to return to the Senate; and how do we suspend the suspension. We have even proposed that in the case of a suspension of a county government, this Senate, through its Committee on Devolution and Intergovernmental Relations or any other Committee, can reconcile the two warring factions –that is the county assembly and the county government. We can provide a mediation process so that the suspension is clear.

Madam Temporary Speaker, Clause 2 of the Bill proposes to add Clause 7 which is; that the Commission shall inquire into the matters before the expiry of three months and submit recommendations to the President.

In new subsection 8, it states:-

“Where the Commission does not recommend the suspension of a county government, the President shall, within seven days of receipt of the report of the Commission under subsection (7) submit to the Speaker of the Senate-

- (a) the report and the recommendations of the Commission; and
- (b) the petition for suspension of the county government.”

In new subsection 9, it states:-

“Where the Commission recommends the suspension of the county government, the President shall, within seven days of receipt of the report of the Commission under subsection (7), submit to the Speaker of the Senate-

This is the portion that is of great importance

Where the suspension is provided, the President shall submit a memorandum stating--- In the case of Makueni County, there is no parameter under Article 192 of the Constitution as to the satisfaction of the President.

Article 192 (2) of the Constitution reads:-

“A county government shall not be suspended under Clause (1) (b) unless the independent commission of inquiry has investigated the allegations against the county government, the President is satisfied that the allegations are justified and the Senate has authorised the suspension.”

Madam Temporary Speaker, the contradiction in law is that the petition that forms the Commission is approved by the President. The grounds of suspension are contained in the petition. When the Commission approves the suspension, the President is given yet another role of satisfying himself about the suspension if approved. It provides a contradiction to the extent he has become a jury to himself without proving or showing to what extent he is satisfied.

So, the proposal under new subsection (9) is that a memorandum stating whether or not the President is satisfied that justifiable grounds exist for suspension, the report and the petition, we have added that the President will submit a memorandum to the Senate where the recommendations for suspension are done.

In new subsection 10, it states:-

“Where the President in the memorandum under subsection (9) (a), is satisfied that justifiable grounds exist for suspension of a county government, the Speaker of the Senate shall refer the documents received under subsection (9) to the relevant committee of the Senate for consideration.”

So, a committee is then formed.

In new subsection (11), the committee reports within ten days. This is the similar period like the one for impeachment of governor.

In new subsection (12), the authorisation by the Senate under subsection (11) shall be by a resolution under Article 123 of the Constitution which is 24 signatures.

In new subsection 13, upon authorisation of the suspension by the President, the county government shall stand suspended for not more than 90 days.

Madam Temporary Speaker, in Makueni County, we came very close to an election of a governor, deputy governor and everybody else. Whether the process was political or not, that process ended with an anti-climax. Other than what was happening in Makueni County, and what went to the President, nobody was able to interrogate that process yet it spent taxpayers' money.

Therefore in new subsections (13) and (14), the process of submitting that documentation is now provided for in a clear method.

In new subsection (14), where the Commission does not recommend a suspension or where the President is not satisfied on grounds existing for suspension, the Senate may

consider any other recommendations of the Commission not related to whether or not the county government should be suspended and make a determination. This is what is going to cure the problem of Makueni County. It is yet another ingenious way of making this a little clearer.

Under Clause 129, the Senate now has a process of who sits in the Committee. In this one, you have determination of suspension. In the Constitution, Clause 4, there is a suspension of the suspension and the termination of the suspension. Section 129 of the County Governments Act is not very clear on how this process is to be done and who is going to do it. Therefore, the clauses that we have provided here are just to provide clarity, and we have quoted Article 192(4) of the Constitution and how it will be moved.

Madam Temporary Speaker, in the current law, assuming we were to terminate the suspension of Makueni County; there is no process in the Standing Orders and the County Governments Act as to who moves the Senate. This is not clear. Therefore, Clause 2 is the proposal to include a process, which is that any Member can move a Motion for termination. It will be given by notice under Clauses 3 and 4. There will be a report in the case where the suspension is given under Clause 5.

In considering the said termination under Subsection 3, of course the Senate shall invite the Interim County Management Board which is appointed immediately after the suspension is approved. This Board is done by the President and composed of various persons, both at county and at National level. A motion under Subsection 3 shall be moved by tabling the report of the Committee, which I have already alluded to, and the voting, which is in Clause 7.

A motion to terminate must be approved by a majority of the county delegations. As per Article 123 of the Constitution on decisions of the Senate, we do not want this matter of either terminating or suspending a county or terminating the suspension of a county to be treated any lighter than any other decision we make here under the Constitution. Once the suspension is terminated under Clause 4 of the same Section, the Interim County Management Board shall stand dissolved. The governor, deputy governor, members of the executive and the speaker shall resume their functions.

The law is such that once the suspension is done, everybody goes home, gets a half salary to await their fate, which is in the hands of the President and the Senate only, assuming that the Senate agrees to terminate the suspension under Article 192(4) and (5).

Madam Temporary Speaker, the amendments here are straightforward and simple to provide a much neater method. I am praying that the 46 counties, other than Makueni, do not go through the process that we had to go through as the County Government of Makueni. This is because the stigma of the suspension of Makueni County Government – where the citizens appeared as if they were quarrelling with the people they elected – was extremely untidy. We were in the news for the wrong reasons and for a long time. We are now in the news for good reasons and we are going to be there for a long time. So I do not wish this on anybody else or any other county.

Madam Temporary Speaker, it would be dereliction of duty for us to imagine that nobody is going to invoke this law and we do not know what is going to happen. I have already seen quarrels between county governments, members of the county government, county assemblies; you will never know. Therefore, this clarity will help counties so that

we do not make this easy for anybody. Neither do we want the President to exercise what appears to be very less fair discretion; it has no bounds. The president can accept the petition but can refuse the suspension. That sort of limits our role as the protectors of counties who should have the final word on matters concerning county governments.

Madam Temporary Speaker, I beg to move and ask Sen. Were to second. Thank you.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you hon. Senator.

Proceed, Sen. Were.

**Sen. Were:** Thank you, Madam Temporary Speaker. I rise to second the County Governments (Amendment)(No.2) Bill (Senate Bills No.7 of 2017). The amendments to this Bill have been presented well by Sen. Mutula Kilonzo Jnr. Having been the Senator for Makueni County when it became the first county to experience this, he is well placed to bring these amendments with best experiences.

Madam Temporary Speaker, the amendments are important because they are bringing in the role of the Senate in the processing of the termination of a county government or in the processing of its suspension. This is whereby both the petition and the report will be submitted to the Senate for deliberation, because it will be submitted to the relevant Committees to discuss further. The amendments also deal with a lacuna in the law and, therefore, provide clarity by taking care of it.

The recommendations from the commission of inquiry that will have been established by the President to determine the suspension or termination of a county government will also give the Senate an opportunity to come up with further policies or legislative proposals to help improve our interactions or oversight on county governments.

I, therefore, second this Bill with those remarks.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** Sen. (Prof.) Kamar: Thank you.

Proceed, Sen. Linturi.

**Sen. Linturi:** Madam Temporary Speaker, you have not proposed the question.

*(Laughter)*

*(Question proposed)*

**The Temporary Speaker** Sen. (Prof.) Kamar: Proceed, Senate Minority Leader.

**The Senate Minority Leader** (Sen. Orengo): Thank you very much, Madam Temporary Speaker. I wish to support this Bill and thank the Senator for Makueni County, Sen. Mutula Kilonzo Jnr., for being very fastidious, first in terms of the amount of work he produces in this Senate in terms of Bills and other Business that he constantly presents before the Senate. Additionally, I thank him for having a hawk eye in relation to areas in the law that are not clear, have gaps and may have a lacuna that needs to be addressed.

This is something that we are not doing well enough because as it emerges in the execution of the law, many times you find that problems are experienced not because the

law is not there, but how to execute it becomes extremely difficult. This Bill is an attempt to address problems that may arise in the President and the Senate dealing with matters arising under the relevant section of the Constitution that authorises suspension of a county government. They are making it clearer how and when powers donated by the Constitution or by the County Governments Act may be exercised.

Madam Temporary Speaker, the most important thing that I want to comment on is to appreciate the fact that normally when the President appoints a commission; it would attain or have the powers of a commission of inquiry. A commission of inquiry is normally a very important mechanism for dealing with problems that may arise in the country where there is no clear way ahead on how to deal with it. It gives the public an opening to take part in discussions or resolution of the problems. The powers that are donated to a commission of inquiry are very similar to those donated to judicial organs in terms of dealing with evidence, calling witnesses and even in punishing those who do not obey the summons that it sends.

Therefore, Commissions established under the provisions of the Constitution and the County Governments Act are extremely important. The way their reports are dealt with is equally important. The Senate would look like basically a rubberstamp; that when the President is justified and the Senate resolves, then willy-nilly, we have to deal with the problem the way it comes.

However, the more important point is consideration of the report of the commission. Whether it is found that the county should be suspended, the Senate should have an opportunity to discuss all the matters that come up during the hearing of that commission and whatever recommendations it may have made in support or against suspension. This is because, ultimately, it is the Senate that has to deal with matters affecting counties.

If in circumstances where there is justification for the President to appoint a commission, it means that whether or not the county is suspended is part of the question, equally important as a question to be addressed, is the reason the commission is instituted in the first place. That can only be addressed by the Senate having opportunity to talk with the material produced by the commission, whether or not it supports the recommendation for suspension or otherwise.

Taking the case of Makueni County, there were a lot of things said, some of which we thought were justified. They were there in the public domain and we, as the Senate, did not get an opportunity as an arm of Government to look into those recommendations. We read it just like any other member of the public, but there was no legal or legislative process to look at what was paining Makueni County at that time.

The question involving Makueni was even more important in that the process was triggered by the executive in Makueni County, which had a contest with the assembly. Two organs of government in Makueni had a battle, and battle lines were drawn. For weeks it was fought out in the public and in the whole country because people wanted to know what had happened and, yet, at the end of the day, the President is the only person who was able to look at the material. The Senate never got the opportunity, yet we are supposed to be addressing issues that affect counties, which include the executive and the county assemblies.

Madam Temporary Speaker, I must congratulate the Senator for Makueni because if we thought we did not have work, there is a lot of work here being created. There could be circumstances where we could actually use a recommendation as an executing mechanism for suspension even without consideration of what has turned out in the enquiry of the report. However, under this proposed legislation it will be part of our duty to deal with the report. It says quite clearly that the report should go before a committee, again, to try and deal with this matter in detail.

It may be a cancerous problem which can even create a bigger problem, yet in those circumstances at that particular point in time, it may not lead to a suspension. However, it is a problem which should be dealt with. This is extremely important and I thank the Senator for seeing it fit that such recommendation should not just hang in the air; that after they are made they are just found somewhere in some archive for someone to probably write a thesis later, without the Senate having an input.

Secondly, I invite Sen. Mutula Kilonzo Jnr. to continue doing this - he is probably the best person in this Senate that could do it for us - because he has got this sense of detail and a lot of time for this kind of thing. We make a lot of laws in the Senate and in Parliament generally and yet, when it comes to implementation, it becomes extremely difficult. When we were to deal with the problem of impeachment in the very first place we were lost. We had to go through a workshop to find out what happens everywhere, although the law was there. This happens in many situations.

I know that Sen. Mutula Kilonzo Jnr. would know this better. A lot of times, what lawyers ask is: When you create a law you must find out how to deal with circumstances where that law does not work. So, you are not just making general provisions. A law may give somebody power, but he does not know how to exercise it. Even making appointments can be very difficult if you are not told how to go through that appointment.

This process, which I think borrows a little bit from what happens in impeachment proceedings once they come before this House, is to be commended. It is good for a report to go before a Committee of the House because you do not know how big the report will be. Not every Member of the Senate may probably have the time and the sense of detail to deal with a report like that.

Sen. Mutula Kilonzo Jnr. has recommended that the matter would be submitted to a committee of the Senate which will be time bound. They will not have all the time that they wish. This is found in terms of termination or suspension by the Senate and in terms of a report being delivered to the Senate. The beginning point is that this Bill is telling us what is to be submitted to the Senate. Even that was not clear too. What does the President submit to the Senate?

I see here, under the new subsection (8) (a), that what would be submitted to the Speaker of the Senate is the report and recommendations of the commission. This is because, essentially, you may find yourself in a situation where the President may submit a one-page report. Will that be good enough? It is made clear in this Bill that we will have the report and the recommendations of the commission.

The second, and even more important, is the petition for the suspension. It is obvious that one should get a petition for the suspension of a county, but it cannot be taken for granted if the law is not clear on this. Once those reports are submitted to the

Speaker of the Senate--- There was a question of a memorandum from the President that is found in the proposed new subsection 9 and the report of the recommendations of the Commission and the petition for the suspension.

These matters look like they are obvious but it is good to have completeness in law so that they are spelt out. Then, the Committee will have 14 days on receipt of the documents to make its recommendations to the Senate. So, time is important and the work of the Committee is time bound and when it finishes its work, the Senate in plenary will be able to deal with the matter as a whole.

Madam Temporary Speaker, we can see the problems that are partly facing the Independent Electoral and Boundaries Commission (IEBC). To try and answer the question of what should be done in such circumstances, we have already spotted a lacuna in the law. As law makers, we should be alive to such challenges. By the way, we should not accuse ourselves that we are not good law makers. In the United States of America and in the United Kingdom when they were discussing the law in relation to Brexit that they had to make the other day, they were able to spot quite a number of gaps in law. So, it is an exercise that is continuous and it is important.

If I may use the Floor of this House, I hope that once you have a law like this, it will be followed to the letter. For example, now a county government cannot be suspended without approval of the Senate. So, it continues to be in office until it is suspended. It is like the current problem where some IEBC Commissioners are still in office and the Inspector General of Police (IG) is withdrawing their security. That is bad practice, he should allow the whole process to be done with until they are all out of office then he can withdraw their security. It is giving the law a bad name; even giving people justifiable reasons to think it is political. So, I am stating something that has some bearing on this Bill because of how the law should be implemented.

I want to tell the Cabinet Secretary for Internal Security together with the IG to apply the law and not to withdraw the security of the commissioners like they did to the opposition leaders in Parliament without justification. Once there is a right which is spelt out in the law, let it be there until a situation exists where it should be withdrawn. That happened even with the opposition leaders. We can now talk of returning their security because there was a “handshake” when they should not have done it; but they did it anyway. That should never happen and I hope that we will strictly apply the rule of law.

The attempt by Sen. Mutula Kilonzo Jnr., is to make sure that the law fully runs its course in a way that is dignified and gives honour to the law, the Constitution and to the spirit of constitutionalism. This is what will make Kenya different when we are together as a country.

Finally, on the question of suspension of the county governments, it is like the “nuclear” option; that everything else cannot work so you have to apply it. I hope that when you apply that “nuclear option” it will be in circumstances that do not have political nuances; that are not dealing with problems of governance but dealing with partisan political battles.

With those remarks, I support this Bill.

Thank you.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, before we proceed, I have a communication to make.

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM STAREHE BOYS CENTRE

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting students from Starehe Boys Centre, Nairobi County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

Thank you.

Sen. Halake Abshiro, you can have the Floor.

**Sen. Halake:** Thank you, Madam Temporary Speaker. I rise to support the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017). This Bill, as it has been well articulated by Senator Orengo gives effect to our mandate as Senators of protecting, improving and streamlining county governments. Therefore, it is an important Bill that we, as Senators, should focus on and take seriously. It clarifies many things for us. As you know, the County Governments Act of 2012 was enacted before devolution and, therefore, by now a lot of the provisions of this Act are obsolete. I want to congratulate Sen. Mutula Kilonzo Jnr. for reviewing it.

One of the things that I have noticed as an area of gap for us as a House is review of existing laws and legislations. We are perhaps doing quite well with new laws and legislations, but review of existing laws and legislations is where there are a lot of gaps. Sen. Mutula Kilonzo Jnr., has done well to make sure that the County Governments Act of 2012 has been reviewed, made more current, relevant and streamlined. It is more aligned to the provisions of our Constitution and the mandate of the Senate in Article 96.

The Bill clarifies the commencement of the sittings of the county assemblies which has been under a provisional arrangement. It puts in place a legal framework for the establishment of the office of the Deputy Speaker of the county assembly. There was a gap there. It clarifies the removal of the Speaker of the county assembly. It has also streamlined the process of recall of County Assembly Members (MCAs) as well as their selection.

Madam Temporary Speaker, as you know, any institution is as good as the people it has on board. Therefore, how they come on board and how they vacate office is very important. We have talked a lot about the capacity, structure and systems and process of counties that had been deemed to be below optimal. But what this Bill does is to optimise all these things that have in the past been areas that we needed to improve. Who are better placed to do this than this Senate? Sen. Mutula Kilonzo Jnr. did well to streamline these things.

*(There was technical hitch)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Your time is not over. I think there is a problem with the microphone. Please move to the front because you still have time.

*(Sen. Halake moved to the Dispatch Box)*

**Sen. Halake:** Madam Temporary Speaker, as I was saying, this Bill will review many things to make them more relevant. It will also streamline things to ensure the capacity, processes and systems in counties are optimal for delivery of services at the county level.

This Bill provides for the legal framework for the assumption of office by the governor and deputy governor and appointment of new deputy governor. It will also ensure the independence, professional and promotion of equity in the systems especially in selection and vacation of office. I hope that the Committee will look into the issues of equity or equality to streamline the two-thirds gender rule. Even though this has not been passed, if our systems and processes support the inclusion of women, the youth and persons with disabilities and other vulnerable groups, then this Bill will have done justice.

I am looking at the gaps concerning vacancies and issues of voting as well. Of particular interest to me as a nominated Senator is Article 123 of the Constitution which provides for voting in the Senate by county delegations and that when the Senate votes on a matter that does not affect counties, each Senator then shall have one vote. Clause 12 of this Bill seeks to amend Section 33(7) of the County Governments Act on voting by a majority of all the Members of the Senate to uphold any impeachment and charges to align it with the provisions of the Constitution. So this Bill seeks to align to the provisions of the Constitution regarding any impeachment or vacation of office.

You will notice that Clauses 14 to 17 seek to streamline appointment processes in the counties. The governor will be required to come up with a selection panel when recruiting the county secretary. It also provides for circumstances under which the office of a chief officer becomes vacant. All the processes that governors have been accused of doing single-handed in the past will be streamlined to ensure the process of bringing people on board and how they vacate office is followed.

Clause 21 seeks to introduce a new provision that will set up the framework of promoting equity. I hope that all the vulnerable groups will be taken care of by the Committee. Therefore, this Bill will improve the procedures and processes in the county governments to ensure the realisation of devolution. As a Senate, we have the mandate to protect county governments and protection of county governments definitely means protection of institutions, processes and systems including human resource, revenue and customer service.

I think this Bill is timely and it about our mandate. I am very proud and happy that the Senate is taking its rightful place as a protector and a streamliner of the county governments.

With those few remarks, Madam Temporary Speaker, I beg to support and congratulate the Sponsor of this Bill who is Sen. Mutula Kilonzo Jnr. As the Senate, we

will support it and he can count on us to implement the provisions as stipulated in this Bill. I thank you.

**The Temporary Speaker** (Sen. (Prof.) Kamar.): Sen. Omogeni had placed a request to contribute but he is out of the Chamber.

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

**Sen. Mwaruma:** Thank you, Madam Temporary Speaker, for this opportunity. This is a very important Bill because it is very central and gives our role as Senators being defenders of counties and county governments. However, none of the Members here is interested to contribute. I stand pursuant to Standing Order No.99 to move that the debate be adjourned.

**The Temporary Speaker** (Sen. (Prof.) Kamar.): Any seconder?

**Sen. Kibiru:** Madam Temporary Speaker, I stand to second the adjournment of the debate for the reasons that have been stated by the Hon. Senator for Taita-Taveta, Jones Mwaruma.

**The Temporary Speaker** (Sen. (Prof.) Kamar.): Hon. Senators, having received that request under Standing Order No.99, I now propose the question.

*(Question, that Debate be now adjourned, proposed)*

Since nobody wishes to debate, I will put the question.

*(Question, that Debate be now adjourned, put and agreed to)*

So, the debate is adjourned.

That was Order No.6. We had already cleared Order No.7 and Order No.8 had been deferred earlier. That brings us to the end of business of the day.

### ADJOURNMENT

**The Temporary Speaker** (Sen. (Prof.) Kamar.): Hon. Members, having concluded the business of the day, the Senate therefore stands adjourned until Tuesday, 8<sup>th</sup> May, 2018, at 2.30 p.m. as per our Calendar.

The Senate rose at 5.05 p.m.