

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 9<sup>th</sup> May, 2018

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

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

### PRAYER

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION OF OFFICERS FROM VARIOUS COUNTY ASSEMBLIES

**The Speaker** (Hon. Lusaka): Hon Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting officers from the county assemblies of Taita Taveta, Kilifi, Marsabit, Nandi, Bomet, Mandera, Kisii, West Pokot, Murang'a, Meru, Machakos, Busia, Nyeri and Homa Bay who are currently undertaking the County Legislative Attachment Programme.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.

#### VISITING DELEGATION FROM ST. JOSEPH'S HIGH SCHOOL, TAITA-TAVETA COUNTY

I would also like to acknowledge the presence, in the public gallery this afternoon, of visiting students and teachers from St. Joseph's High School, Taita-Taveta County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.

**PAPER LAID**REPORT OF COB ON NATIONAL GOVERNMENT  
BUDGET IMPLEMENTATION FOR F/Y 2017/2018

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, Wednesday, 9th May, 2018:

Half Year Report of the Controller of Budget on National Government budget implementation for Financial Year 2017/2018.

*(Sen. Dullo laid the document on the Table)*

**STATEMENTS**

## ALLEGED ABUSE OF HUMAN RIGHTS OF PWDS

**The Speaker** (Hon. Lusaka): Could the Chairperson of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration issue a statement on the alleged abuse of Human Rights of Persons with Disabilities?

The Chairperson is not in; we will come to it later.

DELAY IN HANDING OVER OF THE  
LAKE BASIN MALL TO LBDA

Could the Chairperson of the Standing Committee on Devolution and Intergovernmental Relations issue a statement on delay in handing over of the Lake Basin Mall in Kisumu?

The Chairperson is not in; we will come to it later.

STATUS OF THE PHYSICAL DEVELOPMENT PLAN  
FOR SOUTH C ESTATE, NAIROBI CITY COUNTY

Could the Chairperson of the Standing Committee on Roads and Transportation issue a statement on status of the Physical Development Plan for South C Estate in Nairobi?

The Chairperson is not in; we will come to it later.

CONSTRUCTION OF BRIDGES IN  
VARIOUS AREAS OF ISIOLO COUNTY

Could the Chairperson of the Standing Committee on Roads and Transportation issue a statement on the status of construction of bridges in Isiolo County?

The Chairperson is not in; we will come to it later.

COLLAPSE AND CUT-OFF OF A SECTION  
OF NAROK-MAI MAHIU ROAD

Could the Chairperson of the Committee on Roads and Transportation issue a statement on the collapsing and cut-off of a section of the Narok-Mai Mahiu Road due to heavy rains?

The Chairperson is not in; we will come to it later.

DELAY IN UPGRADING THE LAMU–GARSEN ROAD

Could the Chairperson of the Standing Committee on Roads and Transportation issue a statement on delay in upgrading of the Lamu–Garsen Road?

The Chairperson is not in; we will come to it later.

AUCTIONING OF CATTLE OF KENYAN HERDERS  
BY THE TANZANIAN GOVERNMENT

Could the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations issue a statement on the auctioning of 1,325 heads of cattle belonging to Kenyan herders by the Tanzanian Government?

The Chairperson is not in; we will come to it later.

LOANS OWED TO AFC BY FARMERS IN KAJIADO COUNTY

Could the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries issue a statement on loans owed to the Agricultural Finance Corporation (AFC) by farmers in Kajiado County?

I thought I saw the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries. He is not in; we will come to it later.

CONTINGENCY PLANS TO MITIGATE ADVERSE  
EFFECTS OF HEAVY DOWNPOUR ON INFRASTRUCTURE

Could the Chairperson of the Standing Committee on Roads and Transportation to issue a statement on contingency plans to mitigate the adverse effects of the heavy downpour on our infrastructure mainly roads and drainage system?

The Chairperson is not in; we will come to it later.

STATUS OF THE KENYA NATIONAL  
EMPLOYMENT AUTHORITY

Could the Chairperson of the Standing Committee on Labour and Social Welfare issue a statement on the status of the Kenya National Employment Authority?

The Chairperson is not in; we will come to it later.

COMPENSATION FOR PERSONS AFFECTED  
BY OIL SPILLAGE AT THANGE RIVER

Could the Chairperson of the Standing Committee on Land, Environment and Natural Resources issue a statement on the spillage of oil substance in Thange area, Kibwezi East Constituency, in Makueni County?

**Sen. Mwangi:** Mr. Speaker, Sir, this Statement was taken to the Committee on Energy. I have an approval from the Speaker that it should go there for it is supposed to be dealt with by that Committee. In the last parliamentary term, it was being handled by the same Committee.

**The Speaker** (Hon. Lusaka): Have you forwarded it to the Committee on Energy?

**Sen. Mwangi:** Yes, Mr. Speaker, Sir, it was forwarded to the Committee on Energy.

**The Speaker** (Hon. Lusaka): Can we get a response from the Chairperson of the Standing Committee on Energy. Is the Chairperson here?

**Sen. Kihika:** Mr. Speaker, Sir, the Chairperson is not here but I will stand in his place as a Member of the Committee. I will follow up on that. We request for two weeks to get a response to the House.

*(Statement deferred)*

Sen. Mutula Kilonzo Jnr., are you happy with the response?

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I am extremely displeased. The last time the Statement was supposed to be issued, it was not reached and no communication was issued. You gave them a maximum of two weeks at that time. This is one of the worst environmental disasters in this country.

There is no reason why the Committee on Energy has not sought the Statement. This is a follow-up. Could you sanction this Committee? I am surprised that the Senate Majority Whip has no information because it is not enough to just say the Statement will be ready in two weeks. Will it be ready in two weeks because the information has not been issued? It appears to me that the Senate Majority Whip does not know what you are exactly asking.

**The Speaker** (Hon. Lusaka): Sen. Mutula Kilonzo Jnr., you are imputing improper motives. I am sure the Senate Majority Whip knows.

**Sen. Kihika:** Mr. Speaker, Sir, the Senate Minority Whip is out of order. I am sure that I understood the question. I have heard that the request was transferred to the Committee on Energy. We were on recess but now that we are back, we will be able to get that answer to the House within the next two weeks, if that is agreeable with you.

**The Speaker** (Hon. Lusaka): I direct that you issue the Statement next week. If it has just been transferred, it means the response was there.

The Chairperson, Standing Committee on Lands, Environment and Natural Resources should bring a response of the two Statements in one week.

MAINSTREAMING OF LEARNERS WITH DISABILITIES IN  
EDUCATION CURRICULUM

STATUS OF LAND OWNED BY ADC IN LAIKIPIA COUNTY

*(Statements deferred)*

**The Speaker** (Sen. Lusaka): Next Statement!

DUMPING OF ASBESTOS AT NGULU KIKUMBULYU  
WARD IN MAKUENI COUNTY

**Sen. Mwangi:** Mr. Speaker, Sir, I have the answer to the Statement. The Ministry of Environment and Forestry is aware of the existence of the said disposal site for asbestos.

The National Environment Management Authority (NEMA) has licensed the waste of asbestos site in Kikumbulyu Ward, in Kibwezi West sub-county in Makueni County as the disposal site---

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Speaker, Sir.

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

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, is the Chairperson in order to issue a Statement without giving a copy to me?

*(Loud Consultations)*

This question is directed to the Chair. Could I please get the response from the Chair and not from everybody?

**Sen. Mwangi:** Mr. Speaker, Sir, the Statement is supposed to be within this Chamber.

**The Speaker** (Hon. Lusaka): The Statement cannot not walk into the Chamber and just be within.

**Sen. Mwangi:** Mr. Speaker, Sir, I had requested for a copy of the Statement and I was told it is in the Chamber. I am also surprised that the Senator has not gotten his copy of the Statement.

*(The Clerks-at-the-table handed a copy of the  
Statement to Sen. Mutula Kilonzo Jnr.)*

**Sen. Mwangi:** Mr. Speaker, Sir, now he has received a copy of the Statement----

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

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

**Sen. Haji:** Mr. Speaker, Sir, I have a dozen Statements here. However, most of the Senators are saying that they have not received their copies. It is not the work of the

Chairperson to give copies of Statements; it is the work of the Senate Secretariat. We need a ruling on this.

**The Speaker** (Hon. Lusaka): That has been the procedure. The secretariat needs to improve on that area because we have heard these complaints.

Sen. Mutula Kilonzo Jnr., now that you have a copy, can he proceed?

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, would you kindly allow me five minutes to flip through? I am a fast reader. Could you skip this order to the next order?

**The Speaker** (Hon. Lusaka): Chairperson, hold on. We will come back to you in a short while.

**Sen. Mwangi:** That is fine, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): The Chairperson, Standing Committee on Energy has to issue a Statement on the Status of coal exploration in Mui Basin.

#### COAL EXPLORATION AT MUI BASIN, KITUI COUNTY

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

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

**Sen. Wambua:** Mr. Speaker, Sir, I request for direction from the Chair on this matter. The Statement on the issue of coal in Mui Basin was delivered to me in March this year. The Chairman of the Committee made a commitment that the following day, he will present a detailed Statement on this matter. As we speak today, the Cabinet Secretary in charge of Energy has already visited the area and a new company has been given the concession to exploit the resource.

On the 15<sup>th</sup> of this month, the County Government of Kitui has called for a stakeholders' meeting on this matter.

Mr. Speaker, Sir, I request your office to give direction on how to proceed with the Chairperson of the Committee on Energy.

**The Speaker** (Hon. Lusaka): The Chair is not in the Chamber. The Senate Deputy Majority Leader, could you undertake to follow up the matter and give us a report by Tuesday, next week?

**Sen. Dullo:** I will do so, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): It is so ruled.

*(Statement deferred)*

The Chairperson, Standing Committee on Lands, Environment and Natural Resources to issue a Statement on human wildlife conflict and livestock predation in Wajir.

#### HUMAN-WILDLIFE CONFLICT AND LIVESTOCK PREDATION IN WAJIR COUNTY

**Sen. Mwangi:** Mr. Speaker, Sir, I had given an answer to this Statement sometime back; on the human-wildlife conflict and livestock predation in Wajir County.

There were a total of 1,168 recorded cases of human-wildlife conflict compensation claims for Wajir County. This was the total number of human-wildlife conflict cases reported from Wajir County in 2008/2017.

I hope that the Senator has a copy of the Statement because the information is clearly tabulated.

In the year 2008, there were 48 cases. In 2009, there were 50 cases. In 2010, there were 130 cases. In 2011, there were 110 cases. In 2012, 51 cases. In 2013, there were 185 cases. In 2014, there were 278 cases. In 2015, there were 169 cases. In 2016, there were 128 cases. In 2017, there were 19 cases. This totals to 1,168 cases.

Mr. Speaker, Sir, a total of 103 deaths, 970 injuries and 100 livestock predation cases were reported in the last 10 years as summarized below.

In 2008, there were 39 cases. In 2009, there were 45 cases,. In 2010, 127 cases. In 2011, 99 cases. In 2012, 41 cases. In 2013, 168 cases. In 2014, 197 cases. In 2015, 132. In 2016, 105 case. In 2017, 17 cases. This totaled to 970 cases and 100 cases for livestock predation.

Mr. Speaker, Sir, these are the payments made and the recommendation from the County Wildlife Conservation and Compensation Committee (CWCCC) on the pending cases. The national Government will pay approximately Kshs588 million in settling all the claims that have been launched for Wajir County from 2008 to 2017.

There is a table showing the estimated lives lost, human injuries and livestock depredation to the Kenya Government from the human-wildlife conflict reported in Wajir County from 2008 to 2017 in Kenya Shillings. The figures are as follows:

2008	-	Kshs2,717,500
2009	-	Kshs2,153,500
2010	-	Kshs5,752,500
2011	-	Kshs6,794,500
2012	-	Kshs3,900,000
2013	-	Kshs13,292,000
2014	-	Kshs264,819,500
2015	-	Kshs171---

*(Loud consultations)*

Mr. Speaker, Sir, protect me from the Senators who are making noise. I am unable to read.

**Sen. Farhiya:** On a point of order, Mr. Speaker, Sir. I thought a ruling was made that if a Senator is away with the permission of the Speaker, then his or her Statement should wait until he or she comes back. If the Senator is away without permission, then the Statement can proceed.

**The Speaker** (Hon. Lusaka): I thought that I ruled otherwise. What you are saying is the exact opposite of what I ruled.

*(Laughter)*

The answer belongs to the House. Let us proceed. Since it is captured in the HANSARD, if there are any issues they will be raised by the Senator who asked for it as a follow up.

Let us proceed.

**Sen. Mwangi:** Thank you, Mr. Speaker, Sir, for protecting me.

2015 - Kshs 171,316,000

2016 - Kshs 695,914,500

2017 - Kshs 21,210,000

The total is Kshs587,879,000.

Mr. Speaker, Sir, water trucking has been carried out, especially during times of severe droughts that occasion wildlife to move from their habitats to human settlements causing conflict. In the Financial Year 2016/2017, Kshs410,000 was allocated by the national Government towards provision of water to wildlife in Wajir County. There have been enhanced foot patrols in human-wildlife conflict hotspots in Wajir East and Wajir West sub-counties, in addition to education and awareness creation programmes through public *barazas*.

The Wildlife Conservation and Management Act, 2013 provides for the establishment of county wildlife conservation and compensation committees comprised of a chairperson appointed by the Cabinet Secretary (CS) through a competitive process; four persons not being public servants nominated by community wildlife associations, a representative of the county government and other relevant technical officers at the county government levels. This committee, with facilitation from the national Government, deliberates on all compensation cases at the county level and recommends payments for the claimants, after which it forwards its recommendations to the Ministry for approval and payment of the claim.

Mr. Speaker, Sir, communities can claim compensation for human death, injuries, livestock loss and damage to crops and properties occasioned by wildlife as stipulated in Section 25(1) and (4) of the Wildlife Conservation and Management Act, 2013. With the approval of the Ministerial compensation committees, all claims recommended by CWCCCs are processed and then approved for payment by the national Treasury.

Claims of human death cases arising from the list of wildlife species given under the Third Schedule of the Act are entitled to a payment of Kshs5 million. Injuries resulting to permanent disability get Kshs3 million, while other injuries are paid up to Kshs2 million depending on the degree of injury as prescribed by a medical doctor. Property destruction, livestock predation and crop damage caused by wildlife species under the Third Schedule are paid according to the extent of the destruction and prevailing market rates in the county.

Out of a total of 1,168 cases of conflict recorded in the period, 566 claims totaling Kshs38,250,000 were paid by the Government. These were claims for human death and injuries only, as property was not covered under the retired Wildlife Act Cap 376, between 2008 and 2013.

A total of 1,316 cases have not been paid as they were deferred or rejected by the then district compensation committees. A total of 586 cases which occurred when the Wildlife Conservation and Management Act, 2013, came into effect have already been deliberated by Wajir County Wildlife Conservation and Compensation Committee (WCWCCC) and are awaiting discussion by the Ministerial Compensation Committee.

Mr. Speaker, Sir, Table 4 gives the number of claims and the total amount. I think the Senator will get this, so that I save the time of the House.

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

Sen. (Prof.) Onger, proceed.

**Sen. (Prof.) Onger:** Mr. Speaker, Sir, while appreciating the answer given by the Chairperson of the Committee on Lands, Environment and Natural Resources, I realise that Sen. (Dr.) Ali raised this matter from the perspective of being a doctor – having been my student – and also having been a medical officer in Wajir County at some stage. There are a lot of marauding hyenas which maul people and destroy their property and livestock, coupled with the lions and the other cases. This seems to be a recurring story.

What are the most effective methods put in place by the wildlife and conservation department to reduce the human carnage because it is a recurring feature, year in, year out? Livestock is the only mainstay of their livelihoods in Wajir County.

**The Speaker** (Hon. Lusaka): before you respond, Mr. Chairman, there is Sen. Dullo.

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I appreciate the response given by the Chairman, but I really want to add to what Sen. (Prof.) Onger has said. This issue of wildlife-human conflict compensation is a matter that is affecting many counties, especially where I come from. To make the matter worse, the County Wildlife Conservation and Compensation Committees are not even sitting to deliberate on those matters. We have thousands and thousands of cases pending before them, but they are not addressing them because they have not been paid their honoraria.

Mr. Speaker, Sir, there are some people who have lost their lives and were the main bread earners for their families. To date, even five or ten years down the line, the families have not been compensated. I humbly request the Chair to ask the Chairman to summon the Cabinet Secretary (CS), Ministry of Tourism and Wildlife to appear before the Committee of the whole House to answer these questions. Many families are suffering and those who are facing those challenges are still not being compensated. There is no solution to date.

If those Committees are not operational, I do not know what answers we are being given here.

**The Speaker** (Hon. Lusaka): Mr. Chairman, I hope that you are noting the issues being raised. Let us have Sen. Seneta.

**Sen. Seneta:** Thank you, Mr. Speaker, Sir, for giving me a chance to also appreciate the response given by the Chairman, concerning human-wildlife conflict. This is an issue that affects many of our counties and it concerns many of us here. For example, some time back, the Senator for Taita Taveta whom I am not seeing here sought a statement concerning the same. Kajiado County is the most affected by human-wildlife conflict. It is a pity the Chairman says there are many cases of deaths and injuries that have not been compensated. Could he tell us when our people will be compensated in all our counties?

He says the Government has allocated a sum of Ksh410 million for construction of dams in Wajir County to mitigate against human-wildlife conflict. I would like to know what measures they are putting in place to control human-wildlife in Kajiado and in other counties.

Mr. Speaker, Sir, I also urge the Chairman to share with us his written response so that when the CS is summoned here, will be in a position to raise our concerns with him.

Mr. Speaker, Sir, if you allow me, on behalf of my colleague who is not here, I would like to take this opportunity to welcome the delegation from Taita Taveta to the Senate. Their Senator is a member of the Senate Committee on Energy. *Karibuni sana.*

**Sen. Haji:** Mr. Speaker, Sir, the question of compensation for human-wildlife related incidents has taken a very long time. Our people are not being compensated and yet we encourage tourism in this country because we have wildlife. However, wildlife is killing our people. I agree with Sen. Dullo that there is need for us to summon the CS and the director of Kenya Wildlife Service to come and explain what they are doing about compensation.

Secondly, I can understand the value of hyenas in Maasai Mara and Amboseli game reserves. However, what value do they have in Wajir, Garissa and Mandera, besides killing people? No tourist is going there. I will appeal to our people to take spears and kill all the hyenas. We shall do so, if they do not act swiftly.

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

**Sen. Khaniri:** Mr. Speaker, Sir, I want to, first of all, thank you for the opportunity and join my colleagues in hailing the Chairman for the elaborate response that he has given to the House.

However, as noted by the good professor, Sen. (Prof.) Ongeru, cases of human-wildlife conflict are on the increase. I served as an Assistant Minister in the Ministry of Tourism and Wildlife. I know that year in, year out, the cases of wildlife-human conflicts are increasing. While I was there, we had initiated a programme to fence off all our game reserves and parks. I want to know from him how far the programme of fencing off has gone, so that we can reduce these cases. The Government seems to be spending so much money in compensating people and even that compensation is not enough. A compensation of Kshs400,000 for loss of life is a big joke.

Mr. Speaker, Sir, you heard the good Chairman, Senate Committee on Security, Sen. Haji, saying that he will mobilise his people to take spears and kill wildlife.

**Sen. Seneta:** hyenas.

**Sen. Khaniri:** Mr. Speaker, Sir, hyenas are wildlife.

*(Laughter)*

Mr. Speaker, Sir, this is not the spirit of the Government and conservation. I want you to compel him to withdraw those remarks because they are against the Government policy and conservation policies of this Government in which he serves.

**Sen. Kinyua:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute. I can feel Sen. Haji because the same thing is happening in my county. People are being killed left, right and centre by these wild animals. The best we get is that they bring a lot of foreign exchange to this country. One, our livestock is eaten by leopards and lions. Our crops are destroyed every day by these wild animals. The worst thing is that the compensation is negligible and it takes many years to get before it is paid.

I support what Sen. Dullo said; that we want the CS concerned and the Principal Secretary (PS) to come here and give us reasons why this is happening. I support Sen. Haji. I hear him, but I do not support that we start killing animals.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, first of all, I understand where Sen. Haji, Senator of county No.007, is coming from. A very rare hyena was found in a place in Mbooni but before it was found it had already killed 400 livestock. Just one! What they did not know is that there is another one that is hiding and continuing to do the same. This matter must be taken seriously.

Secondly, compensation, even for obvious deaths of human beings has taken long since 2014. The contradiction is this; if a person is found in the park, they are fined Kshs200,000 on the spot or go to jail but if your animals are killed or crops are destroyed, the Government tells you to wait for over 10 years. This matter is so serious. The Committee must first of all, interrogate the allocation that we give to this Ministry in terms of compensation.

Lastly, there is an issue I want to bring to your attention because my county has a park. Every county is supposed to receive five per cent of the benefits of the park from the Government. That is the only way that the residents can protect themselves and get the benefit of having all these wildlife in their regions.

Mr. Speaker, Sir, other than asking the Chairman to do what I know he would not do - this is one of those instances where he will not - the Cabinet Secretary should be summoned because this issue is serious. The President signed a law on wildlife conservation which says that once a person is killed by wildlife they are paid Kshs5 million. They have not paid anyone since 2014.

**The Speaker** (Hon.) Lusaka): Hon. Senators, given the serious concerns raised on the Floor of the House by Senators, I direct the Committee on Lands, Environment and Natural Resources to write to the Cabinet Secretary concerned and his team to appear before the Committee in two weeks' time and invite all Senators to attend that Committee sitting because of the seriousness of the matter.

*(Applause)*

Let us have the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations to issue a statement on the shooting of residents by police in Luanda Market.

SHOOTING OF RESIDENTS IN LUANDA MARKET,  
VIHIGA COUNTY

**Sen. Haji:** Mr. Speaker, Sir, I wish to state as follows:-

The Government is aware that on 19<sup>th</sup> February, 2018, at around 3.00 p.m. two protesters and five others were injured at Luanda in Vihiga County.

On 19<sup>th</sup> February, 2018, inmates were being escorted from Siaya Law Courts to Kodiaga Prison under the command of Chief Inspector Immanuel Butek. The inmates and the prison askaris were blocked on the highway by rioters numbering about 500. They wanted the askaris to release those who had been arrested.

The rioters started pelting the bus and in the process the officer in charge fired some bullets which injured Wellington Ngota, Jackson Ateyu and also a prison officer was injured in the process.

Mr. Speaker, Sir, this shooting is being investigated at the Luanda Police Station under inquiry file No.1/2018. This file was opened and action will be taken against those who are culpable.

Further, I confirm that the police have adequate rubber bullets in their stores. However, the inmates being escorted were dangerous criminals who are normally escorted by armed officers.

**Sen. Khaniri:** Mr. Speaker, Sir, this is the most absurd answer I have heard from this senior. If you may recall, his Vice Chair came with this answer and we sent him away because in the answer, he is insisting that two people were shot. I brought evidence of four people who were shot; their names, where they were treated and I tabled that information here. The Chairman is still insisting in his reply that only two people were shot. Can he tell us about these other two?

Your Vice Chair came up with this answer, I raised the issues I am raising and he said he will revisit the answer and come up with a more comprehensive one. This was four months ago, when they said they had just opened the investigations. This answer was drawn in February. It is still the same answer he is reading to us; that, "we have just opened a file." From February up to now, what has happened? They must have established some truths and facts in this case.

So, you cannot come and read an answer that was drawn in February telling us that you have just opened an inquest into the matter yet it happened four months ago.

Mr. Speaker, Sir, I thought the Chairman would come with a revised answer, considering what has been done up to now. The big question is; why should the police use live bullets on mwananchi? He is insisting that they have enough rubber bullets.

**Sen. Wetangula:** Mr. Speaker, Sir, when this answer was brought here by the distinguished Senator for Nairobi, it was inadequate, insufficient and more facts needed to be brought. My good friend the Chairman has come and read exactly the same answer as it was.

I would like to ask him a question. From his answer, he says there was a riot; wananchi had barricaded the road using *matatus* and stones. Then he says, as a consequence the police shot in the air. If the police shot in the air, can the Chairman tell the House how Wellington got himself shot on his right shoulder and how Jackson got shot on the pelvic? You are shooting in the air! How do you get somebody shot on the pelvic and on the shoulder when you were shooting in the air? This does not add up.

Secondly, could the Chairman assure this House that police using live bullets on *wananchi*, wherever they are and whatever the situation, must be brought to an end in this country. We have lost too many lives through reckless police handling of fire arms.

**The Speaker (Hon.) Lusaka:** Chair, do you want to respond?

**Sen. Haji:** Mr. Speaker, Sir, there is serious dishonesty on the part of my brother, Sen. Khaniri. I gave him this statement to read. If it is true that it was read earlier, he should have pointed this out to me, and then, I would have gone back to find out. Not only that, this statement has appeared so many times on the Order Paper and to cover him---

*(An hon. Senator spoke off record)*

Let me finish.

He failed to ask the question. I would have asked the speaker to withdraw it but I did not do it out of respect. I am not the Vice Chair who read the statement but Haji, the Chairman.

**Sen. Khaniri:** On a point of order, Mr. Speaker, Sir. First, I want to defend myself because he said he read dishonesty in me. It is true and you were in the Chair when Sen. Sakaja who is his Vice Chair came with the same exact answer and you ruled that it was inadequate. So, it is wrong for him to claim that I am dishonest. The Speaker ruled that this answer was inadequate and Sen. Sakaja, your Vice Chair, was asked to come up with a more elaborate answer.

Be that as it may, we have raised questions here but he is not answering any questions but just lamenting. Could he respond to the specific issues that we raised? Sen. Wetangula has raised two issues and I have raised about three issues which he needs to respond to.

**Sen. Malalah:** Mr. Speaker, Sir, I once stood in this House and raised the issue of police brutality. It is high time we handled this matter once and for all. We need to demand for statements and investigation reports from police brutality cases.

I reminded this House that during our “resist” demonstration in Kisumu, we lost baby Pendo, a university students was shot in Meru and a high school student in Kisumu. Therefore, we should not just be limited to the question that Sen. Khaniri asked but expand on them to ensure that the police answer the questions of brutality. We are living in an insecure country. The other day, you saw a prominent leader in this country complaining about his security. You saw brother Francis Atwoli---

**Sen. Dullo:** On a point of order, Mr. Speaker, Sir. Is the Senator for Kakamega in order to request for a statement from another statement? If he wants a fresh statement, he should request. Otherwise, he should limit himself to the current issue on the Floor of the House.

**The Speaker** (Hon. Lusaka): Sen. Malalah, confine yourself to the matter at hand.

**Sen. Malalah:** Mr. Speaker, Sir, matters security cannot be limited to one case. I am just trying to guide the Chair that we are tired of getting answers which are not satisfactory and which will not help sort out the issue of police brutality. Therefore, I would like to urge the Chairperson to go back and do his homework well. We are demanding for that answer. We want to stop the issue of police brutality in Kenya.

**The Speaker** (Hon. Lusaka): Sen. Malalah, you are out of order. You will need to come up with another statement.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I was concerned when Sen. Haji was answering the question because at some point he looked like he was very upset and he was pointing menacingly at Sen. Khaniri. Being a Member of “the committee of the handshake”, could you direct that he cools down his temper and extends his hand as opposed to using his fingers?

**The Speaker** (Hon. Lusaka): Hon. Senator, I want to make a ruling on this matter. It is clear that there is a disconnect between the Chair and his deputy. This answer

was brought here and we referred it back. So, I want you and your Vice Chair to go and update the answer and get fresh information and inform the House on the progress made so far because it is a matter of grave concern, so that you do not come with what was given in February and this is May. I direct that you do that.

**Sen. Haji:** I do not agree with the allegation made by Sen. Wetangula that I said the *askaris* shot in the air. I never said that.

**The Speaker** (Hon. Lusaka): I have already ruled on that matter.

**Sen. Wetangula:** Mr. Speaker, Sir, I did not raise an allegation. I read the statement the Chairman gave to Sen. Khaniri. On Page 2, he says; "On realising the inmates were likely to escape during the fracas, prison officers fired in the air." This is in his statement. Then he goes on to say; "In the process of firing in the air, people were injured on the pelvis and another one on the shoulder." That does not add up.

**Sen. Haji:** What you read in the statement and what I said is different. I never said that they shot in the air.

**The Speaker** (Hon. Lusaka): Order Members. I made a ruling on that matter. Let us proceed to the next statement.

DELAYED COMPENSATION FOR PERSONS DISPLACED  
BY MANOONI DAM PROJECT IN MAKUENI

**Sen. Mwangi:** Mr. Speaker, Sir, I do not have the statement now but I will issue it tomorrow.

**The Speaker** (Hon. Lusaka): That is fine. You will issue it tomorrow.

*(Statement differed)*

**Sen. Olekina:** On a point of order, Mr. Speaker, Sir. The Chairperson of the Committee on Lands, Environment and Natural Resources has got other several statements which have been pending for quite some time. Could he get the answers to those statements so that we dispense them off?

**The Speaker** (Hon. Lusaka): Is what you are asking before the House or are you anticipating that he will not have an answer? I think you need to be patient.

**Sen. Mwangi:** Mr. Speaker, Sir, how can he anticipate things that he does not know? How can he anticipate that I will not issue statements? He should be discussed.

**The Speaker** (Hon. Lusaka): Order Chair! I have already ruled---

*(Sen. Olekina spoke off record)*

**The Speaker** (Hon. Lusaka): Order, Sen. Olekina! Let us deal with the issues that are before the House.

Next!

USE AND MANAGEMENT OF RIPARIAN  
AREAS IN KENYA

**Sen. Mwangi:** Mr. Speaker, Sir, I am going to issue a statement on this one.

Over the years, the Ministry of Environment and Forestry through the National Environment Management Authority (NEMA) has established that there are serious encroachments on the riparian reserves of the rivers within the Nairobi City County and other urban areas in the country. In some occasions, paths of these rivers are deliberately diverted from the natural course. Some portions are reclaimed for informal settlement while other sections are narrowed hampering smooth flow of the river. During heavy rains, there are looming flood disasters within proximity of some paths of the rivers.

The encroachment activities are very well-coordinated and achieved by intentional dumping of excavated materials from various construction sites within the city. The dumping is done to create more land for construction and upcoming informal structures. In other instances, developers deliberately put up structures on riparian reserves in violation of the laws and regulations on the Environmental Impact Assessment (EIA) license conditions.

To address such incidences that would likely lead to severe impacts on the environment and the lives of the urban dwellers, the NEMA and lead agencies have undertaken several interventions as follows.

A multisectoral agency team was formed in 2016 to check on the encroachment of riparian reserves by illegal developers and demolish illegal structures and unsafe buildings. The multi-sectoral team is chaired by the Secretary of the National Building Inspectorate, Nairobi, in the State Department of Housing and Development, and the National Environment Management Authority (NEMA), is a member.

Since its inception, the team has audited 4,901 buildings countrywide according to its January, 2018 Report. Some of the developments have encroached on the riparian reserve and have been earmarked for demolition. NEMA has spearheaded the development of national harmonized riparian reserves for various water bodies in Kenya.

NEMA has continued to license new developments and given them a condition requiring that a minimum riparian reserve of 6 metres and a minimum of 30 metres is allowed for development near rivers based on the highest record flood flow. NEMA Environmental Inspectors periodically conduct on-site inspections to ensure compliance with the set standards, guidelines and license conditions.

I wish to confirm that the Government has several laws on the protection and management of riparian reserves including Environmental Management and Coordination Act, Cap 387 (EMCA), the Environmental Management and Co-ordination (Water Quality) Regulations, 2006, the Water Act 2002, the Surveys Act, Cap 299, the Agriculture Act, Cap 318, the Physical Planning Act, Cap 286 and the Water Resources Management Rules, 2007. The various legislations on riparian zone protection are executed by different Ministries, departments and authorities.

The legislations have varying provisions as indicated in the table.

*(Sen. Mwangi referred to a specific document)*

This has jeopardized enforcement of these laws and, therefore, caused encroachment into wetlands and riparian areas. Legislation, EMCA, Water Quality Regulation and the executing department which is NEMA, has recommended a minimum of Kshs6 million and a maximum of Kshs30 million from the highest water mark. Agriculture Act, Cap 318, Land Usage Rules, 1965---

**The Speaker** (Hon. Lusaka): Can you summarise what you have?

**Sen. Mwangi:** Ministry of Agriculture, Livestock and Fisheries---. I will give a copy of the Statement to the Senator who requested for the Statement.

**The Speaker** (Hon. Lusaka): Thank you, Senator. Could we hear from Sen. (Prof.) Ongeru?

**Sen. (Prof.) Ongeru:** Mr. Speaker, Sir, I appreciate the answer given by the Chairperson of the Committee on Land, Environment and Natural Resources, Sen. Mwangi Githiomi. One of the biggest problems that we are encountering today is the on-site management of the riparian land. There was a time when the Government came up with the valley bottoms development and skewed up the policy. It threw away the caution on the question of management of the riparian land.

Consequently, there was an invasion because they thought that it was a good thing to plant vegetables and other items within the riparian land. Unfortunately, you will notice that several riparian lands in many other areas have eucalyptus trees planted on them. This has caused water shortages in many places. What is the Government doing? I appreciate the new laws that have been put in place but what is the Government doing now in order to re-educate the people to appreciate and understand that riparian areas are very important for our ecosystem and water preservation and conservation?

Does the population also know that they are good for clean water? Nairobi River has been polluted once again after the late Michuki did an enormous job in trying to reclaim the riparian levels. Part of the climate change that we are witnessing today and the floods is because we have denuded our riparian lands and the hilltops which are now bare.

What is the Government doing to educate the people because sometimes people are not to blame for what they are doing today. At one time, they were told that this is the best way to go and suddenly, there is a change of law. What are we doing to re-educate the masses that the riparian lands are very important for the survival of our ecosystems?

**The Speaker** (Hon. Lusaka): Chairperson, do you want to respond?

**Sen. Mwangi:** Mr. Speaker, Sir, the question asked by Sen. (Prof.) Ongeru was not in the Statement. However, we shall make an effort to give him an answer in a short while.

**The Speaker** (Hon. Lusaka): You can enrich the answer because he has raised very pertinent issues.

*(Statement deferred)*

**COMMUNICATION FROM THE CHAIR****ELECTION OF DEPUTY SENATE MINORITY LEADER;  
SEN. CLEOPHAS WAKHUNGU MALALAH**

Hon. Senators, I have a communication to make.

Pursuant to Standing Order No. 20, I have received a letter dated 8<sup>th</sup> May, 2018, from the Minority Party, communicating the decision of the party in which Sen. Malalah, Senator for Kakamega County, has been elected the Senate Deputy Minority Leader. I will read the letter.

“The above matter refers.

After deliberations, the NASA Senate Members elected, by consensus, Sen. Malalah to serve as the Senate Deputy Minority Leader. Please, find attached a list of the Members present at the meeting held on 8<sup>th</sup> May, 2018, and Minutes of the same”.

It is signed by Sen. Mutula Kilonzo Jnr., the Senate Minority Whip and Sen. Were, the Senate Deputy Minority Whip. The minutes of the meeting during which the decision was made are attached, as I have said. Consequently, I hereby confirm Sen. Malalah, to have been duly elected as the Senate Deputy Minority Leader.

I thank you.

The time for Statements as agreed is over, we will move to the next order.

CANCER SITUATION IN MARSABIT COUNTY

USE OF EXCESSIVE FORCE/POLICE BRUTALITY  
DURING RAID AT UON

COMPENSATION TO PERSONS DISPLACED  
BY THE SGR PROJECT

CONSTRUCTION OF APARTMENT BLOCK ON THE  
NAIROBI RIVER BANK ALONG RIVERSIDE

INVASION BY ILLEGAL SETTLERS/ILLEGAL  
SUB-DIVISION OF KALRO LAND

DIVISION OF REVENUE OBTAINED FROM  
MINING IN TAITA-TAVETA COUNTY

LICENSING OF LIQUOR AND CO-ORDINATION  
OF LIQUOR RELATED LAWS

REGISTRATION AND PROVISION OF FACILITIES IN  
PRIMARY AND SECONDARY SCHOOLS

ALLEGED OUTSTANDING LAND DISPUTE BETWEEN

TAITA SISAL ESTATE AND THE LOCAL COMMUNITY

TITANIUM MINING IN KWALE COUNTY  
BY VARIOUS MINING COMPANIES

DEROGATORY SONG AGAINST THE  
KAMBA COMMUNITY

STATUS OF COMMUNITY RANCHES IN  
TAITA-TAVETA COUNTY

ENCROACHMENT ON PRIVATE LAND AT IKANGA,  
TAITA-TAVETA COUNTY BY KAA

DISAPPEARANCE OF PATIENT LEMELOISHONKO  
FROM COPTIC HOSPITAL

EMPLOYMENT REQUIREMENTS FOR FRESH GRADUATES

KDF OPERATIONS IN LAMU COUNTY

MANAGEMENT OF KPA

YOUTH UNEMPLOYMENT IN KENYA

BENEFITS OF THE STANDARD GAUGE RAILWAY

MUSHROOMING OF SCHOOLS IN RESIDENTIAL  
ESTATES IN NAIROBI COUNTY

ALLEGED DEBT OWED TO THE NAIROBI CITY COUNTY  
GOVERNMENT BY THE NATIONAL GOVERNMENT

ISSUANCE OF TITLE DEEDS TO RESIDENTS OF  
KIBAGARE VILLAGE, KITISURU WARD,  
WESTLANDS CONSTITUENCY

COMPENSATION FOR VICTIMS 2017 POST ELECTIONS CHAOS

STATUS OF LAND BELONGING TO THE DEFUNCT LIVESTOCK  
DEPARTMENT IN KAJIADO EAST CONSTITUENCY

PROVISION OF WATER SERVICES TO ISIOLO COUNTY

PROVISION OF ELECTRICITY TO SELECTED

AREAS IN ISIOLO COUNTY

STATE OF ETHIOPIAN REFUGEES IN KENYA

MANAGEMENT OF PUBLIC HEALTH SERVICES  
IN LAMU COUNTY

DELAY IN CONSTRUCTION OF ROADS IN HIGHWAY

SECURITY RISK AREAS IN ISIOLO COUNTY

CITIZENSHIP STATUS OF MR. MIGUNA MIGUNA

AWARD OF CONSTRUCTION CONTRACTS  
TO FOREIGN COMPANIES

STATUS OF NHC PROJECT IN WOTE, MAKUENI COUNTY

MANAGEMENT AND OPERATIONS  
OF TSAVO NATIONAL PARK

IMPLEMENTATION OF THE TWO-THIRDS  
GENDER RULE IN COUNTIES

HARASSMENT OF OPPOSITION LEADERS

RAMPANT ROAD ACCIDENTS ON THE  
NAKURU-ELDORET HIGHWAY

DELAYED COMPENSATION FOR PERSONS DISPLACED  
BY THE CONSTRUCTION OF MULIMA DAM

IMPLEMENTATION STATUS OF THE  
FISHERIES DEVELOPMENT AND MANAGEMENT ACT

SEVERE DROUGHT IN ISIOLO COUNTY

CLAN CLASHES AND TERROR ATTACKS  
IN WAJIR COUNTY

RAID BY ARMED BANDITS IN SUYIAN AREA,  
SAMBURU NORTH CONSTITUENCY

STATE OF TOURISM IN MALINDI, KILIFI COUNTY

## TRANSFER OF TEACHERS FROM NORTHERN KENYA

ALLEGED DISCOVERY OF GAS  
IN KIPETO VILLAGE IN KAJIADO COUNTY

All the Statements that have been listed but have not been heard today are deferred, including the satisfactory answer that will be given by the Chairperson of the Committee on Land, Environment and Natural Resources.

*(Statements deferred)*

**MOTION**

## THANKS FOR THE PRESIDENTIAL ADDRESS

THAT, pursuant to Standing Order 24(6), the thanks of the Senate be recorded for the exposition of public policy contained in the Address of the President delivered on Wednesday, 2<sup>nd</sup> May 2018 and further the Senate notes the following reports submitted by H.E The President in fulfillment of Articles 132(1)(c) and 240(7) of the Constitution, laid on the Table of the House on Tuesday, 8<sup>th</sup> May, 2018-

- (i) Report on the measures taken and the progress achieved in the realization of national values;
- (ii) Report on progress made in fulfillment of the internal obligations of the Republic; and,
- (iii) Report on the state of security.

*(Sen. Dullo on 8.5.2018)*

*(Resumption of Debate interrupted on 8.5.2018)*

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Milgo, you have seven minutes carried over. You can continue.

**Sen. (Dr.) Milgo:** Thank you Mr. Speaker, Sir. I had an opportunity yesterday to comment on the President's Address. I was making a comment on the food security and I mentioned that issues of food security in the country are important. For our country to be food secure, more stringent measures should be undertaken to ensure that those concerned are advised on where, when and how different types of foods can be grown.

It is sad that there is a lot of rain that is causing havoc and we are told that the dams are empty and that there is nothing being undertaken to ensure that the water is conserved for irrigation when there are no rains. If this continues, you will realize that we will continuously be a country without sufficient food. We ought to have extension officers to train the farmers at the lower levels for them to grow the right crops at the right places and by so doing, the issue of food security can be said to have been achieved.

Secondly, the issue of security in our country was expounded by the President. We are grateful that a lot of effort has been put in place. We encourage those who are concerned to ensure that they put a lot of surveillance at the borders. There are still pockets of insecurity in certain areas and it is our prayer that our neighboring countries such as Somalia and Sudan will have peace. The refugees from these countries have been affecting our country because they create a porous border.

In addition to that, the President's Speech also dwelt on the 'handshake'. However, people have taken the issue of the 'handshake' to mean adding another level of management, in this case, sharing the Cabinet or having a referendum. I believe the handshake was to bring unity and ensure that there is peace in our country which will enable us invite investors and at the same time spur the economy.

A referendum will simply amend the Constitution of Kenya 2010 which we are not yet done with. Therefore, issues of referendum cannot be put on the table right now. They should not talk about creating another level of Government when the taxpayers are complaining about the huge taxes that they pay to support the Government that is in place.

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

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

Madam Temporary Speaker, finally, I wish to add to what one speaker said yesterday on the issue of the two-third gender rule. The Head of State spoke well but he forgot the 52 per cent of the population of Kenya; the women. We have a lot of women out there that are qualified, able and equal to the task. We pray that the President will get this information and remember the women and deliver to them the two-thirds gender rule before he accomplishes his last term. We will be forever grateful for that kind of reward. Otherwise, I am sure that all the women have participated well.

Recently, there was a move in Rwanda which is doing better than Kenya. Kenya leads in the region in terms of many issues, but it is lagging behind in terms of implementing the two-thirds gender rule. In Rwanda, 64 per cent of women are in the Legislature and in leadership positions in many of their institutions. We pray that our country will benchmark with those practices. Rwanda's economy is also growing fast which means that women are able to bring great ideas on the table.

Mr. Temporary Speaker, Sir, with those remarks, I commend the great Speech that our President gave. It was one of a kind.

I support.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Members, I request that we pay attention to the important contributions and to the Chair. Kindly consult in low voices.

**Sen. Wetangula:** Thank you, Madam Temporary Speaker, for giving me an opportunity to offer my critique on this Presidential Address. I was not fortunate to be present when the Address was made. I was elsewhere attending important matters.

I have gone through the statement carefully. First, I appreciate the President for making a Speech that has a semblance of facts and truths. In his Speech, he has acknowledged the difficulties this country has gone through, especially election related difficulties. What he fell short of is after acknowledging that politics and elections have posed a serious challenge to our national cohesion, unity and peace, he fails to address the difficulties that the Independent Electoral and Boundaries Commission (IEBC) has visited on this country.

It is because of the incompetence, corruption and laxity of IEBC in the conduct of elections that this country nearly went to civil war in 2008. We cannot blame the current President for this. It is exactly for the same reason that this country was on the brink of collapse in 2013. It was again repeated in 2017. I expected the President, as he reaches out to his opponents to bring peace and tranquility, to have committed himself that part of his legacy is to leave this country with an IEBC that is akin to Ceaser's wife; beyond suspicion and blemish.

Madam Temporary Speaker, we cannot be going to elections every time and immediately, we have 100 petitions in court at whatever level. It is an indictment on the manner in which the elections have been conducted. Whether it is Members of County Assemblies (MCAs), Members of Parliament (MPs) or presidential candidates complaining, it tells a story that the management of our electoral process and systems has a flow that we need to address.

As we speak, you can hear people shouting from the roof-top about the country going into a referendum. The same people shouting are the ones who have been saying that IEBC is incompetent to deliver any elections. How will the current IEBC deliver a referendum if they are incompetent to deliver any election? The referendum is an election. I suggest that we change our attitude. Let us not look for things that suits us for the moment.

Let us focus on how to reform IEBC like our sister country Ghana, where the presidential election is held and the winner has a margin of 23,000 votes only and nobody casts a stone, goes to the streets, calls the other names or shouts. Everybody accepts the results because they have been conducted in a free, fair, democratic and acceptable manner. We cannot say the same for our country. Many Members here are sitting on the edge because they are not sure whether tables can be turned against them. We cannot go to elections where winners are declared losers and losers are declared winners and then we are told, shake hands, accept and move on.

*(Laughter)*

Madam Temporary Speaker, I laud the President for opening Kenya's borders to our neighbours. However, I want to encourage him to adopt the old diplomatic etiquette of reciprocity. My good friend, Sen. Mahamud, has been an ambassador before and he knows that reciprocity requires that whatever you are doing for another, they must also do it to you. As we speak, Kenyans still have difficulties going to some of the East

African Community (EAC) countries to work. This opening up is more advantageous to Kenya than any other country because in Africa today, according to the United Nations Development Programme (UNDP), we have the strongest human resource development than any other country.

By opening up borders, Visa free entry and no work permits, Kenyans will be able to go out there and work. As I speak, we have 12 million Kenyan youth who are eligible to work with no jobs to do. This opening up will accommodate our teachers, nurses, engineers, mechanics, fitters and welders to go to our neighbouring countries and engage in economic activities that will help them earn a living and also turn the wheels of the economies of those countries. If you go to South Sudan today, we have close to 12,000 Kenyan teachers teaching in various institutions there – primary and secondary schools and so on.

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

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

One other thing that I want to speak to is the issue of the ongoing floods in the country. In the last two or three months, we have had enough rain in this country to harvest enough water for Kenya to live on even if we did not have rain in the next two years. However, how are we using the water? It has turned out to be the worst nightmare for this country. Tana River County, for example, is 75 per cent flooded and people have no high ground to move to. Water is coming from the highlands in central Kenya and many other parts of the country.

If you go to western Kenya, Budalang'i is now getting flooded. The other day I drove to Bungoma County where River Nzoia is almost bursting its banks and going over the bridge at Webuye. All this water can be harvested, stored and used in future. This can be done without the obscenities that we are seeing of dams costing Kshs15 billion, Kshs17 billion or even Kshs35 billion. A dam or water pan is simply creating an embankment and stopping the river from flowing, and storing water. How does it cost Kshs17 billion or Kshs20 billion and we have everybody bending backwards, cheering their voices hoarse about things that are not adding up in this country?

Mr. Deputy Speaker, Sir, the Government has committed itself to what they call the Last Mile Connectivity Project; giving electricity to citizens and it ought to be at an affordable price. However, if you look at the billing of Kenya Power Company today, it is a monstrous fraud and theft being committed on electricity users. I was talking to some constituent the other day who has been paying bills of about Kshs5,000 to Kshs6,000 per month. A few months ago, he received a bill of Kshs180,000. When he complained, they came and disconnected from the pole. I encourage Kenya Power Company to be user friendly and make sure there is honest billing and income going to them from the use of electricity.

One other thing, if you look at your electricity bill, you will see that Kenya Power Company has changed the billing numbers of customers. I have received more than 10 or 15 customers who have come to show me their old bills and numbers and they are now receiving their bills with new numbers. They have not been informed why they are

getting new serial numbers from Kenya Power. The new serial numbers are coming with double or three times the bills they have been paying. This is not helping the ideals of the President in giving Kenyans Power through the Last Mile Connectivity Project and making sure that Kenyans enjoy a good life with cheap electricity.

Food production in this country is a big issue. We have a Bill on this Floor about food and storage. If you look around the country, Kenyans have been made to believe or think that anytime there is a shortage of maize, there is no food in the country. We have a lot of food rotting by the roadside in many parts of the country. Go to Kisii, Bungoma, Kakamega, Nyeri and Karatina and you will find bananas, potatoes and so on. Women carry huge bananas in the morning and in the evening, because they cannot carry them up the hills to go back home, they give them away for free. We want to have a blueprint on how to process our food produced in the country – maize included, of course – but we have sweet potatoes, Irish potatoes and cassava.

Mr. Deputy Speaker, Sir, you will be surprised to know that in Africa, today, more people live on cassava than maize, and we grow a lot of cassava in this country. It can be processed and dried with rudimentary technology. You can conserve your cassava using sunshine; you do not need anything else. You can then use it three, four or five years down the line. We need a deliberate policy on diversifying the foods that Kenyans live on, the manner in which we grow, add value, store and help farmers to export such foods to earn income.

Security is a big challenge. I see the President saying that security in the country has improved tremendously. I do not know if he lives in this country. Security remains a major challenge to Kenyans. Yesterday but one, eight Kenyan soldiers were blown up to pieces by Somali bandits. We have said over and over and I repeat; that our mission to Somalia has long outlived its usefulness. We need to find a different mechanism of assisting Somalia to stabilize.

Bring our boys and girls in uniform back home and let them defend the integrity of our frontier and border from our side, and prevent these bandits from entering our country and attacking schools and hospitals. Now, they have outgrown attacking civilians; they are now targeting the military and the police. If the military and police are under attack, you know the famous legal maxim; who will watch the watchers. That is the big question; who will watch the watchers? If the watchman is unsafe, how can those being watched be safe? That is the big question that we need to address.

As I end, let me support the opening up of African trade by having an African trading block that the President talks about in this Statement. Africa today, with 1.2 billion people and over 60 per cent of the natural resources of the world, has a share of only five per cent of international trade. That is the share of Africa. Small countries like Korea have a bigger share of the international trade than the whole of Africa put together. Small countries like Singapore have a bigger share of international trade than half of Africa.

Now that we are opening up Africa to trade with each other, it is incumbent upon us, as legislators, to start legislating inter-Africa free-trade-friendly laws, so that somebody coming from Uganda to cross the border and sell something in Kenya is not continuously harassed and treated like a smuggler. The word “smuggling” seems to have lost meaning. These days, anybody who crosses Namanga to Tanzania is a smuggler. If

you cross from Moyale to Ethiopia, you are a smuggler, yet the leadership of the continent is trying to bring people together. What is wrong if a Ugandan has grown more maize than we have and can cross to Kenya and sell his maize and vice versa? That is what free---

*(Sen. Wetangula's microphone went off)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): One minute, Sen. Wetangula.

**Sen. Wetangula:** Thank you, Mr. Deputy Speaker, Sir, for that additional one minute. I encourage that the free trade in Africa should be accompanied by deliberate and serious investments in energy; energy in the connection. The Inga Dam in the Congo that can produce 97,000 megawatts of power is still waiting for Africans to put money together and go and harness clean energy and supply it to turn round our economies. We want to industrialise, but how can Kenya industrialise with a capacity of less than 2,300 megawatts of power? We must have enough power to turn around the economy of Africa. This is something that Africans must do together. We must not wait for Europeans, Chinese and other foreigners to do things for us that we can easily do.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to support the statement.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Wetangula. Sen. Wario, use the dispatch box.

**Sen. Wario:** Asante, Bw. Naibu Spika, kwa kunipa nafasi hii ili niangazie mambo machache katika hotuba ya Mhe. Rais Uhuru Muigai Kenyatta. Ninaiunga mkono kwa sababu ililenga kuunganisha wananchi wetu wa tabaka mbalimbali; maskini na matajiri na wale ambao wana milengo tofauti ya kisiasa. Jambo la kufurahisha muno tuliiona viongozi wetu wakisalimiana kuashiria umoja wetu. Kwa hivyo, ninamuunga mkono kwa dhati katika jitihada zake za kuwaunganisha Wanakenya wote bila ubaguzi wowote

Pia ningependa kumuunga mkono Rais wetu katika maswala yake manne makuu ya kimaendeleo aliyoyaangazia katika hotuba yake. Wakati huu tunayafanyia kazi maswala haya manne makuu ili tuweze kuwa na maendeleo katika nchi yetu.

Ninamuunga mkono katika vita vyake dhidi ya ya ufisadi ambavyo aliviangazia vizuri katika hotuba. Alisema yuko tayari kupigana na ufisadi hapa nchini.

Hata hivyo, nina masikitiko mengi kwa vile hakuzungumzia maswala mengi ambayo niliyatarajia ayataje katika hotuba hiyo. Kwa mfano, swala la mafuriko ni swala nyeti wakati huu hapa nchini, hasa Kaunti ya Tana River. Ninapozungumza sasa hivi, zaidi ya vijiji 30 vimezama huko Kaunti ya Tana River. Shule kadhaa hazijafunguliwa mpaka leo hii. Watu wametoka katika sehemu zao za makazi na kwenda kuishi kwingine. Mali imeharibika. Mimea kama vile mahindi, maharagwe, na kadhalika yamesombwa na maji.

Watu wa Tana River wamo hatarini ya kupata magonjwa yanayotokana na maji machafu. Maji haya yanatiririka kutoka sehemu mbalimbali za nchi. Kwa hivyo, mimi kama Seneta wa Kaunti ya Tana River ambako kuna mafuriko mengi, nilitarajia Mhe. Rais Uhuru kulizungumzia swala hili na kulitangaza kama janga la kitaifa na juhudi zaidi zifanywe ili kuwasaidia watu wetu. Ni lazima tuliangazia janga hili kwa undani zaidi.

Bw. Naibu Spika, vijiji ambavyo vimezama katika Kaunti ya Tana River, hasa maeneo ya Tana Delta ni zaidi ya 30. Watu waliokuwa wanaishi humo wamehamia sehemu zingine. Hali hiyo inatatanisha kabisa. Tunajua kuna shida ambayo inaweza kungojea kesho au kesho kutwa, lakini shida ya Tana River ni mbaya; haiwezi kukongojea jioni, kesho au kesho kutwa. Shida hiyo inafaa kushughulikiwa mara moja. Hi ni kwa sababu watoto wetu hawaendi shule kutokana na mafuriko hayo. Shule chache ambazo zimefungulilwa, wanafunzi hawawezi kufika kwa sababu kuna maji mengi sana ambayo yametenganisha shule na makazi ya watu. Ni vigumu kufika katika vituo vya afya na kupata huduma.

Kwa hivyo, nilikuwa nimetarajia sana hali hiyo iweze kutajwa katika hotuba ya Mhe. Raia. Sisi sote tunajua vile hali ilivyo. Sehemu zote tatu za uwakilishi Bungeni za Kaunti ya Tana River zimeathirika zaidi. Ninaisihi Serikali ishughulikie zaidi sehemu ya Chafa katika Tana Delta na kutangaza janga hili kama la kitaifa.

Bw. Naibu Spika, kwa hayo machache, ninaunga mkono maswala yote katika hotuba hii.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Asante, Seneta. Let us have Sen. Were.

**Sen. Were:** Thank you, Mr. Deputy Speaker, Sir. I welcome the Busia delegation to the Senate, but it looks as if they have left. All the same, they are welcome to the Senate.

I support the speech by the President in the State of the Nation Address on the 2<sup>nd</sup> of May, 2018. I want to pick out a few of the issues that were in that speech that should be of concern to the Senate. One of the things the President raised that was actually a subtitle was the success of devolution. He pointed out the amount sent to the counties and how it has been increasing from year 2014 to date.

In our role as Senate in safeguarding, protecting and oversighting counties and their governments, it would be important that we hasten our focus more on that role. This is more so, now that we know we have the support of the Executive. In the same breadth, we also ask the President that having prioritised devolution and showed his support for it, to also facilitate Senators to perform that role to ensure that devolution works properly.

In the Big Four Agenda that the President also focused on, there are areas in that agenda that should also be a focus of the Senate. For example, access to affordable and universal health care. Health being a fully devolved function of counties, we would expect that Senate is properly facilitated to deal with the oversight on health so that we achieve this for the President and the executive. The other issues of agriculture, food security and environment should be taken as of concern by the Senate.

On misuse of public resources, this is where we come in as the Senate in holding the counties to account for the funds that we authorise to be allocated to them. Diverting public resources to personal use should be discouraged. It is a matter that this Senate should take seriously, especially, through the County Public Accounts and Investments Committee (CPAIC).

I beg to support.

**Sen. Halake:** Mr. Deputy Speaker, Sir, I also rise to support the President's State of the Nation Address that was delivered a few days ago. I am proud. Having listened to

the President directly, this is one speech that is well balanced. I am very proud of it as a legislator and as Kenyan.

Our President started by looking back to look forward. He looked at the journey we have come, including, giving accolades to the Eleventh Parliament and the institutional framework that they have put in place to ensure that we devolve and put Government structures that lay the foundation for our economic and social development.

Mr. Deputy Speaker, Sir, as the first order of business, I am in praise and in support of this speech because the President started with acknowledging and reminding us why we are here and who has brought us to Parliament. The people of Kenya are the reason we are here. This is profound in many ways. We could not start setting goals and discussing interventions and looking at agenda items without first identifying who it is we are doing all these things for.

So, for him to have acknowledged, prioritised and placed at the apex of his strategic direction, the people of this country, and then, other things flowing from it, is at the height of strategic clarity for our President and country. I am impressed. His State of the Nation Address on 2<sup>nd</sup> May, 2018 did just that. It made sure that the people of Kenya are put at the apex of his strategy.

His speech reminded us that going forward, the mission of our nation will be defined by a new and profound awareness and understanding of the needs of our people. Therefore, we cannot start to discuss other things. I am very happy that this is how we proceeded. This speech touched on everything that drives success in any society, its people, institutions, capacity, resources, systems of governance and processes. It reminded us of the importance of our values, most importantly as individuals and as a nation.

Mr. Speaker, Sir, at a time that we are seeing the paternalism of the ruling class growing so mighty, the power groups have grown too arrogant, leaders and politics grown too corrupt, our crime levels are too rampant, our morals too low, taxes too high for services that do not even exist sometimes, this mention of our value system and our principles as a nation is timely and, perhaps, the single most important thing that we should be focusing on above everything else.

We have all seen that a lot of things are not right with our nation. It is not necessarily the socio-economics or manufacturing sector. It is the value system. I am very happy that he reminded us of these things because they lay the foundation for how we do business, achieve and win together.

The President acknowledged the challenges the country is facing in the utilisation of public resources and promised to continue to build preventive tools. While I laud the President for accepting there is a problem, and clearly of course there is; what with all the conspicuous increase in wastage and consumption that we are seeing and why we, of course, support to do our bit in this, I wish to see more action in this as opposed to just mentioning that there is a problem.

How can we do that? Of course, as legislators, we also bear the responsibility to action some of these things, and for the Senate which is the custodian and oversight county governments and our resources; we definitely need strategic action and interventions. We need to go beyond just talking about and acknowledging the existence of these things so that we are seen to be serious and doing something about these things.

Mr. Deputy Speaker, Sir, while the commitment to implement devolution is laudable, we need to increase resources to the counties both from the exchequer and own local diversified revenue streams. Counties need support to identify and develop diversified revenue streams and develop capacity for sustainable development and services to the people. The injection of resources has only one side of the story of service delivery. We need to check that this injection has a trickle-down effect to *Wanjiku*.

Do we have the commensurate human resources to manage our service delivery points in a wide sector and other sectors of priority, as identified in our Big Four agenda? I laud the President. He has touched on everything that is a driver of success. However, we must put our actions where strategies are. We must put our resources. We have done well with regards to the 15 per cent threshold of allocation to counties but we can do more, even not in absolute monetary terms but in capacity and other support mechanisms that would ensure sustainable development in our counties.

Other aspects that could have done better is that the number one driver of waste in public utilisation is decision making; not necessarily the systems. So, what are we doing about the decision making of our leadership; the executive both at national and county levels? That is the number one driver of waste. That could also be the number one turn around point.

So, again, the onus is not just on the President. It is on all of us. As legislators, we are leaders in our own right. We definitely need to look at issues around decision making at different levels; leadership, governance and other aspects that would ensure proper utilisation of resources. Systems do not drive things. It is the people and the decisions that they make.

I congratulate the Government on the cash transfer programme to vulnerable households. This is a dignified way of dealing with vulnerable people. At the same time, we need to make sure we do not create a system that perhaps continues to entrench a culture of handouts which has been created by our politics. While I laud the safety net systems, I hope they are targeted to the most vulnerable and needy and not people that are usually very busy making sure that they grab even from the vulnerable.

Again, we are in agreement and support of the empowerment of the national administration services. We were told that security has been beefed up. I am also a firm believer in collaboration and partnerships for desired impact in security, especially, in security operations with other interventions. We need to make sure our county structures and leadership are also empowered and involved in all aspects of security operations.

For a fact, the national administration services sometimes tend to run a parallel operation system, but how can it be that counties are left out? There are counties that I have visited and have told me in no uncertain terms that things are done separately. How can the security about counties be without the involvement of counties? So, even as we laud this enhanced systems and structures from the national Government, the counties must be involved. They should not be left out of the security operations. It is about them. It is for their safety. They must be involved.

I join the President in saluting our disciplined forces. Sen. Wetangula mentioned that security is not better. I beg to disagree. Security is definitely better. No country has assured 100 per cent security; not the super powers or any country. The President did not say that he has eliminated all incidents of insecurity but we must celebrate the strides and

progress we made to make our country safer. We know we are and we have been. Can we do better? Absolutely! We must continue to do better.

I join the President in saluting our disciplined forces who continue to safeguard our people against terrorism and other crimes, and who often pay the ultimate prize in service and in the line of duty to our country and our people, and as custodians of our nation's defence. Kenya Defence Forces officers died in Somalia. We stand with them. We mourn them but most important, we are very proud of them.

We stand with the families and mourn them but most importantly, we are very proud of the sacrifices that they made to the country. We do not belittle what they do. We know that they have paid the ultimate price so that our borders are safe. I am not a security agent and I cannot tell whether it can be done better but I am proud of the work that our disciplined forces are doing, both within our borders and outside.

Once again, our President has shown a greater understanding of his role as a regional leader and Kenya's place in the geopolitical space both in Africa and around the world. I know it has been said that he did not get reciprocity. I come from a diplomatic world and I want to tell you that reciprocity is for like-for-like. If we are leaders, we must provide the leadership. We cannot expect reciprocity from people that cannot provide it. So, I am proud of my President for opening the borders and accommodating other East Africans and providing the leadership that Kenya should continue to provide, even in the absence of reciprocity.

Definitely, protectionism has no place in modern society and it can only constrain growth for all of us. Kenya has chosen not to be a protectionist country, but instead, a country that has opened its borders and that should be lauded. That should be seen as leadership and nothing short of that.

Those already campaigning for 2022 and those insulting fellow citizens for their perceived or desire for leadership should heed the President's wise counsel and stop the arrogance and the sense of entitlement that we see all over the place. Using the President's words, let us forge a Kenya that speaks gently, criticizes constructively and embraces and respects dissent and competition as healthy and civilised ways of collaboration.

I support.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, first and foremost, I would like to say that in complying with the law, we must laud the President for making his status report about the country. That said, I do not believe that this should be compliance for the sake of it.

Several things crossed my mind after the statement had been read. Those who have been in this Senate before have heard the several speeches that the President has made in compliance with the Constitution. It occurs to me that the status of the nation is a continuous progress report. That means that the statement of 2018 must be informed by that of 2017, 2016, 2015, 2014, 2013 and 2012. To that extent, I think that a better way of doing his speeches – for those who write the speeches for the President – is to tell us things that he has said before and how those things have been complied with. I have one in mind that bothers me a great deal.

The statement on corruption appears to whitewash corruption. We cannot laud it because the President was bold enough to bring a list that caused much uproar to

Parliament. That list had names of Members who had been accused of various things. The correct status of the nation on the question of corruption by the President should have been how many of those cases have been prosecuted successfully.

The court ruled that the Ethics and Anti-Corruption Commission (EACC) Secretariat acted outside the law in producing a list to the President when there was no commission. There is no reason to whitewash the EACC. We should castigate them for whitewashing corruption, for carrying out a witch-hunt on people and for being used wrongly for prosecuting, naming people and defending them. That is the correct status of corruption.

The President was bold enough to say that it is inconceivable that people who were employed recently in the counties can start building homes. The correct status of the nation is that the money we sent to counties has become a pocket for people to enrich themselves. It is not enough to recover the assets. The only way to punish corruption is by jailing people. The only way to make sure *na liwe funzo*, like they say, is to make sure that there is punishment for these ills. People who have not done their work should be told to do so.

The statement made by the President about the Judiciary is not correct because, recently, Pastor Ng'ang'a was acquitted of the crime of speeding and negligent act of killing a person. Would you blame the magistrate because there was no evidence in court? That is not correct. The problem is with the prosecution and the EACC. The people who have let us down continuously are the agents that investigate corruption because they are either being used by people to fight people politically by naming people wrongly or, alternatively, they are covering up corruption. We must call it as it is. This county is paying lip service to corruption and we are going nowhere.

My view is that the President must give us a correct status report as opposed to the recovery. If Kshs500 million was recovered, who is the person we recovered the money from? Smith and Ouzman and his son are serving a jail term and money was confiscated from them because they bribed Kenyans for what is famously known as "Chickengate." Those fellows in Kenya are walking around, issuing statements and nothing has happened to them. That is not a status of corruption but it is called whitewashing corruption.

I noticed in Paragraph 15 that whoever was writing the speech for the President made a typographical error. The correct figure under Paragraph 15 is Kshs302 billion which is shareable revenue and conditional grants in Paragraph 16 is Kshs372 billion. I was a little disappointed that they allowed the President to have a speech with errors. They should know better!

Concerning the question of the status of remitting money under Article 203, my fellow colleague Senators, this issue has not been properly addressed. The fact is that under Article 203, we should share revenue according to the latest audited accounts but they base on accounts of 2013/2014. Are you happy, my fellow colleague Senators, that we send money to counties based on a figure of Kshs963 million when the already existing figures are between Kshs1.3 billion and Kshs1.6 billion? We have lost almost 30 per cent of what should go to counties. The correct position on the status of the nation is that there is somebody somewhere in Parliament who is not doing their job and that is a disservice to the people of Kenya.

The Auditor-General has submitted reports of 2015/2016 and we should divide revenue based on the latest audited accounts. If you do not say so, you will be letting Kenyans down. We must tell the President that we are disappointed in some of the things happening in this country. True devolution means true fiscal devolution. It cannot be under Article 187 that we can devolve functions without following resources. Sen. Halake talked about 15 per cent. What is 15 per cent and where did that figure come from? That is arbitrary or a wish.

The important thing for me so far is to follow what we did as this Senate. We have passed a unanimous bipartisan resolution in our draft Bill proposing that the counties should get 40 per cent. My fellow Senators, it is said that Kshs1.5 trillion shillings has been sent to counties. Most of you know that 80 per cent of that money has been paying wages. Are you happy with that status? Please, do not answer me. It is not right. We are devolving the payment of salaries, we should have more development. We should upscale this to 50 per cent. It is not happening. Therefore, the scorecard is that we have done well but we can do better.

This State of the Nation Address is a report and not a manifesto. What do you say about the report? You cannot be happy about something like that, I am not. I will prefer that we get more resources and we must say so. In doing so, we are not telling the President that he has done something wrong, we are rather telling him to put his foot down, his only legacy. In fact, the legacy of President Uhuru Kenyatta will not be the Standard Gauge Railway (SGR). He mentions here that the legacy that he can leave this country to exorcise the ghosts of 1963 of marginalization is to ensure complete fiscal devolution, according to Christine Lagarde of the International Monetary Fund (IMF) who called them the three C's and one of them is Complete fiscal Devolution.

In terms of services, I am happy because the idea of devolution is to have services outside your doorstep. Recently, the people of Makueni had to sleep in Wote because of birth certificates. That is an embarrassment. In fact, my Chairman, Sen. Cherargei, asked that question and when it was answered, somebody skimmed through it. If you are a citizen by birth, the minute you are born, you should get your document. The same way if you attain the age of 18 years, you are given an identity card (ID). If under Article 53 of the Constitution, we take pride in saying that we protect our children and an ID is issued for free, why are parents paying for birth certificates? If you never paid for your ID, why are your constituents paying for birth certificates?

I laud the idea of *Huduma Mashinani* but I would like *Huduma Mashinani* to be the *Huduma Mashinani* that makes sense. We are asking *Mama Mutheu* in Makueni to pay Kshs100 to access services. This is a lot of money. The queuing and sleeping in the District Commissioners offices is even worse. For a chief or any mandarin in the provincial administration to write a letter for you, you have to pay for it. People are being harassed and for this, I laud the President. *Huduma Mashinani*, National Social Security Fund (NSSF) and National Hospital Insurance Fund (NHIF) must be made a reality.

On the Gross Domestic Product (GDP), the status of the nation is that the GDP has grown. If you mention this in Kondele, they will laugh at you because there is nothing that has grown in their pockets by 4.9 per cent. I would like to see a situation where some of these Addresses by the President speak to *mwananchi* in an ordinary way.

How does that translate to *unga*, sugar or even tea? This is for the bigwigs only; the people who have coffee plantations like the Senator of Nandi who is happy about these factors because this looks very good for him. This means nothing for ordinary Kenyans.

The selling point for SGR was to reduce traffic on Mombasa Road for us not to have all the trucks. It was the investment of Kshs325 billion. Ladies and gentlemen, my fellow Senators, Kshs500 million per kilometer was not supposed to increase passenger traffic, it was supposed to make sure that we have fewer trucks on Mombasa Road. Are we getting value for money? No, thank you! It is not happening and it is not as modern as it was supposed to be. The road network is the same.

On the big four agenda, I will laud the President. In fact, I acknowledge Makueni for having its own version of universal healthcare. This is one factor. I want to end by saying that the President mentioned about all of us being affected in one way or the other by somebody who needs money. The Commission for Revenue Allocation (CRA) proposed that we build two regional cancer centres this financial year. We never passed it. Cancer is becoming worse than any other disease in Kenya. My fellow colleagues, let us not make a mockery of this. Please, say it as it is. Two regional cancer centres in Kenya are an issue.

Last, the President should have talked about the flood situation in the country even if it called for amendment of this speech. He should have said that he sympathises with the people of Tana River, Makueni and Kwale because of the suffering they are going through as a result of floods. I would have liked to hear him say the Government has established an emergency fund or sent the National Youth Service (NYS) and the military to these places because people are suffering.

There is nothing good about this nation when you look at the pictures that I saw on KTN on Tana River. By the time the floods are gone, there will be more diseases in Tana River than diseases themselves. It is a national crisis of monumental proportions. I am glad Sen. Sakaja and I have proposed a Disaster Management Bill. Trust me, this is the solution. We should tell the President to devolve disaster management because the people at the national level have failed. They have failed Kenyans. People are marooned in water. That is the correct status of the nation.

On the handshake, you cannot have a referendum without reforming the Independent Electoral and Boundaries Commission (IEBC), if you are talking about devolution and the executive. If you want to amend little things, we can do it in Parliament, otherwise, Article 255 is clear.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): You have less than one minute.

**Sen. Mutula Kilonzo Jnr.:** Those chapters in Article 255, whether you want to go up or down, you must have a referendum. The million signatures will have to be verified by a credible IEBC. We will have to go back to *mwananchi*. There is a draft Bill that is going to be sent to the 24 counties. You need IEBC and Chebukati is not the person that we want, moving forward. Please, say it as it is; why whitewash these things?

The Chairman knows what he did when he wanted to speak to these people. May be he is going to tell us but we want reforms that are people driven and not just for purposes of rewarding people so that you can have seats.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Mutula Kilonzo Jnr. We will now hear from Sen. Kinyua.

**Sen. Kinyua:** Asante sana Bw. Naibu Spika. Kwanza kabisa, nataka kuunga mkono Hotuba ya Rais ambayo alitoa na pia kwa kutambua kiongozi aliyepigania uongozi mwema hapa kwetu Kenya, marehemu Matiba. Hapa Kenya, tunafanya maajabu kwa sababu sisi hupongeza viongozi wakati wamefariki. Kuna viongozi wengi ambao wamefanya mambo mazuri hapa nchini kama Mheshimiwa Paul Muite, Sen. Orenge, Mheshimiwa Charles Rubia na wengine ambao wamechangia sana katika kuboresha demokrasia lakini tunampongeza mtu wakati amekufa. Ni vizuri tuwatambue hata wale ambao wako hai ili mambo ambayo mtu alifanya yajulikana vizuri na tunampongeza akiwa hai badala ya kuwekelea maua katika kaburi lake.

Nataka pia kumshukuru Rais kwa sababu alitambua ugatuzi na vile ambavyo ugatuzi unaendelea. Ukiangalia vile pesa zilivyo kuwa zikitolewa, utaona kwamba Serikali ilikuwa inatoa Ksh210 bilioni kwa ajili ya serikali za kaunti lakini kiwango hicho kina zidi kuongezeka. Tunajua kwamba Serikali kuu imetoa Zaidi ya Ksh300 bilioni kwa serikali za kaunti. Kwa hivyo, mimi napongeza Rais wataifa.

Jambo ambalo limekuwa changamoto kwetu kama maseneta ni ya kwamba kunasemekana kwamba ufiisadi umekithiri sana katika kaunti zetu na hiyo ni kazi yetu kama maseneta. Tunafaa kuangalia kwamba pesa ambazo zimekwenda mashinani zinatumiwa kwa kazi ambayo zimetengewa kufanya pale mashinani; bali si kuwatajirisha watu wachache na kuwafanya wengine kuweza kujenga manyumba kama vile mheshimiwa Rais alivyosema.

Unapata mtu ameajiriwa juzi, lakini baada ya miezi miwili au mitatu, amejenga nyumba ya orofa. Sisi kama Seneti tunazembea kidogo katika kazi yetu na tutajitolea kabisa ili tuweze kuangaliana kumulika vizuri pesa ambazo zinakwenda katika kaunti.

Jambo lingine ambalo ningependa kusema ni ya kwamba alizitaja nguzo nne ambazo yeye mwenyewe anaziamini zitasaidia kuimarisha Maisha ya watu wetu. Jambo la kwanza, nikupigana na janga la njaa. Waziri ambaye anashughulika na mambo ya ukulima tayari ameanza kutengeneza mabawa katika sehemu nyingi.

*(Sen. Sakaja consulted loudly)*

**The Deputy Speaker** (Sen.(Prof.) Kindiki): Order, Sen. Sakaja, you are running an illegal meeting in the Chamber.

Proceed.

**Sen. Kinyua:** Ahsante Bw. Naibu Spika, kwa kuweza kumzuia Senator kupiga gumzo. Mimi nakubaliana na mambo ambayo Rais aliyataja kama anayoyaamini, kama vile mambo ya madktari. Kamati ya Seneti iliweza kuenda Cuba ili kujifahamisha na jinsi madaktari wanafanya kazi huko. Nina imani ya kwamba, madktari hao wakija hapa Kenya, mambo yetu yataendelea kuwa mazuri. Niliona wale madaktari wana uzoefu.

Jambo lingine ambalo aliongelea ni usalama. Mwenzangu ameuliza mahali Rais anapoishi kwa sababu usalama umedhorora sana nchini. Lakini, ningependa kumhakikishia mwezangu kwamba hali ya usalama imeimarika. Rais anaishi katika Ikulu ya Nairobi na vile vile huwa anazitembelea Ikulu zingine.

Ni ukweli kwamba umoja ni nguvu, na utengano ni udhaifu. Ninamshukuru Rais kwa kuweza kumsalimia kinara wa NASA na kusema ya kwamba Kenya ni moja na tunafaa kusonga mbele pamoja. Kuna ndugu wetu wengine ambao wanauliza mbona Rais

alimsalimia mtu mmoja. Nimetoka katika jamii ya wafugaji na ninajua ya kwamba wakati ng'ombe ameumwa na simba, unamtafuta simba lakini husumbuki na wale nzi wanaobaki wakilambalamba damu.

Kuna ndugu wangu wengine ambao hawataki tuongee kuhusu mwaka wa 2022. Tunafaa kuongea ili tuweze kujiuliza mambo kama vile, tutaweza kujenga daraja na hospitali ngapi, tutakuwa na walimu wangapi na tutakuwa tumepeleka stima kwa nyumba ngapi, inapofika mwaka wa 2022. Baada ya kuongea hayo, tutajiuliza ni nani atakeyekuwa kwenye mstari wa mbele hayo mambo yakifanywa. Tukijiuliza hayo, tutakuwa na jawabu.

Vile ambavyo Rais amesema, sisi wote tunafaa kuomba msamaha kwa wale ambao tumekosea na tutembe pamoja.

Bw. Naibu Spika, Nitakomea hapo. Ahsante kwa kunipa fursa hii ili niweze kuongea kuhusu hotuba ya Rais.

**The Deputy Speaker** (Sen.(Prof.) Kindiki): Shukran, Sen. Kinyua.

Proceed, Sen. Imana.

**Sen. (Prof.) Ekal:** Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to comment on the President's Speech. I though the Speech was good and touched on many--

**The Deputy Speaker** (Sen.(Prof.) Kindiki): Order Senator. Are you on the microphone?

**Sen. (Prof.) Ekal:** Mr. Deputy Speaker, Sir, my voice is loud enough.

**The Deputy Speaker** (Sen.(Prof.) Kindiki): Order Senator! You have to be on record. It is not about the size of your voice; it has to do with being on record. Therefore, Senator, use the Dispatch Box, may be, for the first time.

**Sen. (Prof.) Ekal:** Mr. Deputy Speaker, Sir, it is for the first time, you are right.

*(Sen. (Prof.) Ekal moved to the Dispatch Box)*

**Sen. (Prof.) Ekal:** Mr. Deputy Speaker, Sir, thank you for giving me a chance to comment on the President's Speech. I thought it was quite good and touched on many points which were agreeable in many places. However, the one that concerns me most is the point that the President took his time to apologize to the nation. It was remarkable seeing the President of Kenya standing before the nation and saying that he is sorry if he has hurt anyone or caused any problem to anyone. It takes a lot of courage for a man to stand up and say 'I am sorry' for things that may have gone wrong. I really laud the President for that. This is something that many leaders in the country should emulate. If the President of Kenya can apologize to the people that he has wronged, then the rest of us can follow suit.

I have heard the President say several times that the country is safe. If you are Sen. (Prof.) Malachy from Turkana County, you would not say that the country is safe because my world is not safe. I have said this a number of times. A case in point, is the recent killings on a Kenyan road between Kapedo and Marigat.

I lived overseas for a long time, however, when I am in this country, I feel I am home and I should be able to travel around the country any time of the day without being

threatened. Unfortunately, this is not the case on the borders of Turkana-Baringo and Turkana-Pokot. To me, that is where the insecurity in this country is concentrated.

I know that there are problems on the border of Kenya and Somalia but you do not hear of these killings as often as you hear between Turkana and their neighbours. Therefore, I urge the President, being the overall leader and the chief of all the forces in the country, to do something about security along the borders of Turkana-Baringo and Turkana-Pokot. These people are not having little skirmishes here and there because they are chasing emaciated cattle across the border. That is not the case.

I would like fellow colleagues to know that the fights that are going on today, where innocent children are killed are not because the children were driving cattle or carrying them in vehicles, they are about land and resources. It is not about cattle rustling anymore. You can see the evidence because the children that were killed were school-going children. Why should they be killed yet they do not own any cattle? There is something that is going on in some of these counties that is creating these problems that are giving Kenyans a lot of insecurity.

I know that there are Members that sit in this Chamber and the other Chamber that are behind these problems. I know that there are people who are armed and are put along the borders of Turkana-Baringo and Turkana-Pokot and their job is to scare the people of Turkana out of their land. As soon as they run away, structures are constructed there, a chief is appointed and the area is claimed. This is conquest.

I would like to tell those leaders that conquest ended in the 15<sup>th</sup> century. Kenya must have boundaries that were set in 1963 and they must remain. It does not matter how many people are killed or chased away. The boundaries must remain. I would have expected the President to call out the Independent Electoral and Boundaries Commission (IEBC) to establish the borders so that we know where the border of Turkana-Baringo and Baringo-West Pokot counties is.

We will then ask what it is that some leaders of some counties want in Turkana County. If there are resources in Turkana County, there are better ways of requesting and exploiting them. It does not have to cost the lives of innocent people.

Mr. Deputy Speaker, Sir, insecurity bugs me a lot and I spend a lot of time thinking about and consulting on it. I hope that someday, some of the cartels that are interested in whatever is going on in Turkana County – its resources and the land – will wake up and find that we are all Kenyans. The boundaries that were set by the colonialists are the ones that guide the entire continent of Africa. If we start changing boundaries now, just imagine how many battles we will have in Africa. People will fight because land is what people fight about all over the world.

With that, I think the President gave a good speech and I support.

**Sen. (Dr.) Langat:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to make my observations on the Presidential Speech. I support it, especially when he acknowledged the contribution of the 11<sup>th</sup> Parliament to the implementation of the Constitution. It is very important to acknowledge the contribution of others in preparation towards supporting the process that is ongoing.

It was very important that he recognised the contribution of the late Matiba to the expansion of democracy in this country. However, he should have mentioned something

towards compensating his efforts in this era, apart from only acknowledging his contribution to the expansion of the democratic space in this country.

The President also mentioned something on devolution, which is still very young in our country and has a long way to go. This is especially so when it comes to delays in the disbursement of funds to counties. Up to this time, counties still have a lot of problems when it comes to payment of workers because of the delays by the national Treasury in remitting funds to the counties. That has posed a lot of challenges in running counties. Realisation of achievements in counties is difficult because of the delay.

Mr. Deputy Speaker, Sir, the President also mentioned the growth and development of our country in term of the Gross Domestic Product (GDP). However, this has not been felt by the locals in the society. It is still a mirage to most of them. They are not feeling it and I would have expected the President to address serious issues concerning the living standards of our people in the rural areas.

I am also happy about the fact that he mentioned the Big Four Agenda. However, there are still a lot of challenges affecting our health sector. We still have challenges when it comes to strikes affecting our health sector, especially in the devolved units. Most health sector workers in counties are still facing a lot of challenges and that is why we still have strikes by nurses because of poor payment, services and so on. We have similar challenges even at the Kenyatta National Hospital.

Insecurity was also mentioned by the President and we have seen the progress that has been made to address it. However, as some Members have mentioned, we still feel that some parts of the country are still insecure.

I also expected the President to mention something to do with massive unemployment of youth, which is becoming very dangerous. Most of them are still very idle in villages and even here in the City.

The other problem that we are still facing has to do with free secondary school education. It is still a mirage in this country. If you go to the villages, like in Bomet County where I come from, most secondary schools do not have enough teachers. We have several secondary schools with a population of about 300 students, but they do not have enough teachers. It has forced parents to pay fees, which challenges the idea of free secondary education. I expected the President to also touch on the employment of teachers.

Mr. Deputy Speaker, Sir, we welcome the handshake, but my expectation was that it should have started with all the 'principals,' including Sen. Wetangula and hon. Kalonzo Musyoka. It should not have been only between the President and the former Prime Minister, the Rt. Hon. Raila Odinga. I would have wished to see all the principals with the President together in State House or Harambee House shaking hands and sending a message to all of us.

The Deputy President should also have been there to shake hands and extend it everywhere. We have also seen the extent to which the handshake is limiting some people. It was surprising that when the Deputy President wanted to extend a handshake to the retired President Moi, it was limited.

Therefore, I feel that the handshake is sending more signals of suspicion than bringing harmony in our country.

**Sen. Pareno:** On a point of order, Mr. Deputy Speaker, Sir. Is the Senator in order to try and shape the kind of business that the President should do, instead of contributing to the Speech?

**The Deputy Speaker** (Sen. (Prof.) Kindiki): What is out of order?

**Sen. Pareno:** Mr. Deputy Speaker, Sir, it is out of order for him to try and say that he should have extended the handshake and choose who to shake hands with. I think the President was in order to decide what business he had and how to handle it. He is out of order.

**Sen. (Dr.) Langat:** Thank you, Mr. Deputy Speaker, Sir. It was actually in connection with what I read in the President's Speech; that he wanted to see the same happen in all the corners of the country. I expected that it should have begun right from the first day when the handshake took place. It is somewhere in the Speech of the President.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Pareno, the Motion on the President's Speech gives Senators a lot of leeway in terms of what to say. So long as he has not broken any Standing Order, he can proceed.

**Sen. (Dr.) Langat:** Thank you, Mr. Deputy Speaker, Sir. That was my expectation on the handshake, but I welcome it.

Let me also say something concerning the year 2022 in association to this one. It is very important for us to say something about our future. However, it should not be very much attached to the handshake. The importance of peace in this country during elections is paramount to all of us.

When it comes to amendment of the Constitution through a referendum as some of our colleagues are agitating, it should start even with reformation of the Independent Electoral Boundaries Commission (IEBC). To me, any amendment to our Constitution should be geared towards empowering our devolved units financially. At this point in time, any amendment to our Constitution which is aimed at creating positions or helping some people achieve their own selfish desires should not be welcomed.

Mr. Deputy Speaker, Sir, I want to support what the Senator for Narok County said yesterday about inclusivity. In fact, to expand our Constitution to enhance inclusivity is a matter of reinforcing the county governments. This is because there will be no time in our country that we will be able to form a government with high positions being occupied by people from all tribes.

As I said, we must reinforce our devolved units and even give our governors more resources to do development projects. That will help us more than changing the Constitution just to create position of a prime minister and others. Even if we do so, we will never accommodate all the tribes in this country. If that is the way to deal with inclusivity, then we should also create positions for marginalised communities.

Mr. Deputy Speaker, Sir, I welcome any change in the Constitution if it is for the benefit of reinforcing the success of our counties. This will ensure more inclusivity in terms of development.

I beg to support.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. (Dr.) Langat. Let us have Sen. Faki.

**Sen. Faki:** Asante, Bw. Naibu Spika, kwa kunipa fursa hii kuchangia hotuba ya Mhe. Rais Kenyatta. Kwanza, ningependa kuipongeza hotuba kwa kukariri Uhuru wa mahakama. Itakumbukwa kuwa mwaka uliopita, baada ya sisi kupiga kura na Mahakama Kuu Nchini kutoa hukumu yake na kuagiza uchaguzi wa uraisi urudiwe, Mhe. Rais alionenekana akishtumu sana mahakama. Kwa hivyo, yeye kukariri uhuru wa mahakama mbele ya Bunge ilikuwa ni jambo kubwa sana ambalo lazima tumpongeze.

Mahakama ndiyo inayoamua juu ya mizozo baina ya raia, vitengo tofauti vya uongozi na taasisi tofauti katika nchi. Kwa hivyo, uhuru wake ni muhimu katika kujenga demokrasia katika nchi yoyote ulimwenguni.

Jambo la pili ambalo ningependa kuipongezea hotuba ya Rais ni swala la usalama. Ijapokuwa Mhe. Rais alijipigia debe kwamba ameweza kupunguza visa vya utovu wa usalama katika maeneo mengi, tunapata kwamba bado visa hivyo vinaendelea katika sehemu tofautitofauti.

Nikizungumzia Kaunti ya Mombasa, kuna sehemu tofauti ambazo zina ukosefu wa usalama. Kwa hivyo, tungeomba Serikali itumie fursa hii, hasa tunapoelekea katika mwezi mtukufu wa Ramadhani kuhakikisha kwamba usalama wa kutosha katika mji wa Mombasa na maeneo mengine ambayo Waisilamu wanaishi kwa wingi. Wakati wa mwezi mtukufu wa Ramadhani, kuna sala za usiku. Kwa hivyo, ni lazima wahakikishiwe usalama wao wanapokwenda au kutoka katika ibaada hizo.

Kuhusiana na mambo ya usalama, tumeona kwamba mwaka jana baada ya kura, watu kadhaa walipoteza maisha yao mikononi mwa polisi. Polisi wanatarajiwa kuwa wakiwapatia raia usalama, lakini walikuwa mbele kuuwa raia, kuharibu mali na mambo mengineo ambayo hayafai. Tunasema kwamba wakati Serikali inapoagalia mambo ya usalama, inapaswa pia kuwafunza upya polisi wote ili wahakikishe kwamba wanalinda maisha na mali ya raia.

Bw. Naibu Spika, swala la tatu ambalo ningependa kuliguzia ni lile la afya. Tunaunga mkono afya kwa wananchi wote wa Kenya. Hata hivyo, tunaona pia kwamba Serikali haijakuwa na uhakika kama kweli wanataka kusambaza afya kwa wote nchini Kenya. Tukiagalia, kwa mfano, katika mambo ya elimu, wameweza kutoa mipango ya kupeleka vipakatalishi katika kila shule ya msingi katika nchi ya Kenya.

Hata hivyo, wameshindwa kupele vipakatalishi zile katika vituo vya afya katika nchi ya Kenya ili viunganishwe na Hospitali Kuu ya Kenyatta. Kwa mfano, kule Tiaty sasa kuna mkurupuko wa maradhi ambayo hayajulikani. Hii ingewezesha mgonjwa akienda katika kituo cha afya, kwa mfano huko Tiaty, ugonjwa wake unawezakuangaliwa na ripoti ikawasilishwa mpaka kwa Hospitali Kuu ya Kenyatta ambayo ndiyo hospitali kuu ya kuelekezwa wagonjwa nchini Kenya.

Tunaona kwamba hakuna mipango yoyote ya kuweza kupeleka vifaa vya Kisasa kama vile kompyuta ili wagonjwa wanao hudhuria katika hizi taasisi za afya maelezo yao ya wezekuchukuliwa na yawazilishwe katika Hospitali Kuu ya Kenyatta. Jambo hili linaweza kuhakikisha kwamba magonjwa yaleyanaweza kuangaliwa kwa uangalifu zaidi ili kupunguza kupoteza maisha kupitia vifo ambavyo vinaweza kuepukika.

Pia tumeona kwamba katika nchi ya Kenya hivi sasa kuna hatari ya kurejea kwa ugonjwa wa Polio. Polio imesababishwa na maji ambayo yameingiana na virusi vyake katika maeneo fulani nchini Kenya. Haya nilicha ya kuwa, mwaka uliopita Polio ilikuwa karibu kuondolewa kabisa katika nchi ya Kenya.

Tungeiomba Serikali ituletee vifaa vya kimsingi badala ya kutuletea mashine kubwa za utafiti au za kupima Saratani ama maradhi mengine makubwa. Inafaa tuwe na vitu vidogo vidogo kama kuwa na tarakilishi na vifaa vya kisasa katika zahanati zetu. Vifaa hivi vinampa mgonjwa nafasi ya kuangaliwa kwa urahisi bila kutembea muda mrefu ama kufunga safari ili kupata huduma za kiafya za kisasa. Afya kwa wote ni jambo nzuri na ni lazima tuliunge mkono.

Bw. Naibu Spika, jambo la nne ni kuhusu ukulima ambao ndiyo ngao ya nchi yetu. Hii ni kwa sababu ukulima ndiyo utatupa chakula cha kutosha katika nchi yetu ya Kenya. Vilevile, utatupa fursa ya kupata viwanda ambavyo vitatusaidia kuifanya Kenya kuwa nchi ambayo imetajirika kiviwanda. Hata hivyo, tunaona kuwa ukulima wetu mwingi unategemea mvua. Mvua kwa sasa iko kwa wingi lakini hakuna mipango yoyote ambayo serikali imewapa watu kuhakikisha kwamba yale maji ya mvua ambayo yanatiririka kwa wingi yanaweza kuhifadhiwa na kuwekwa katika mahali pazuri ili yawezekutumika muhula ujao.

Kutokana na hasara hii miji mingi imeweza kuharibika. Kwa mfano, katika Kaunti ya Tana River tumeambiwa kuwa vijiji 30 vimezama. Tumeshuhudia haya katika vyombo vyetu vya habari. Vilevile kaunti ya Kilifi na sehemu za Ganze zimeathirika. Kuna sehemu zingine tofauti ambazo zinaathirika na mvua kwa sasa.

Bw. Naibu Spika, tunaona kwamba mengi ya mabwawa yanayojengwa ni kwa minajili ya watu kujinufaisha kibinafsi kupitia kula rushwa. Hata hivyo, kwa hakika mabwawa yale hayajaweza kusaidia miradi ya kuhifadhi maji, kuhakikisha kwamba wananchi hawapati shida katika sehemu zile. Mfano, ni ule mradi wa Galana-Kulalu ulikuwa umetarajiwa kusaidia kupunguza mafuriko na pia maji hayo yatumike katika zile sehemu ambazo zinafaa kutumika kwa ukulima lakini kwa sasa haijawezekana.

La tano ni kuhusiana na ufisadi. Ni kweli kwamba mwaka wa 2013 katika hotuba kama ambayo aliyoitoa juzi, Mhe. Rais alizungumzia maswala fulani ya ufisadi na akataja majina katika Bunge lakini kutoka mwaka wa 2012/2013 mpaka sasa hatujaona matokoe yoyote kuhusu ufisadi, kama vile, watu kuhukumiwa mahakamani au watu kuonyeshwa kwamba hii ilikuwa ni mali ya ufisadi, tumeweza kuirejesha kwa serikali kupitia labda kwa mahakama ama Tume ya Maadili na Kupambana na Ufisadi.

Bw. Naibu Spika, ufisadi ni hatari kubwa inayotukabili hivi sasa. Kura za kitaifa nyingi zinapigwa kwa mirengo ya ufisadi kwa sababu wakati wengi wakienda mashinani kuomba kura, wanatumia fedha kama kigezo cha kuchaguliwa. Kwa hivyo, ufisadi ni jambo ambalo ni hatari kubwa kwa uhuru wa kila aina katika nchi Kenya. Unaambiwa, “Mwenye pesa mpishe.” Kwa hivyo, tusipopigana na ufisadi, ipo hatari ya taifa letu kuingia katika misukosuko zaidi siku za usoni.

Katika hotuba ya Rais sikuona jambo lolote ambalo alilizungumzia akitaja kupambana na ufisadi kama njia ambayo twaweza kuiokoa nchi yetu ya Kenya katika siku za usoni. Lazima tupigane na ufisadi kwa njia yoyote. Ufisaidi haupo kwa serikali kuu pekee yake. Uko pia katika serikali za kaunti ambazo tumesema zitaleta maendeleo katika nchi yetu ya Kenya.

Bw. Naibu Spika, ningependa kuzungumza juu ya uwiano ama “*handshake*” ambayo ilifanyika baina ya Rais Uhuru Kenyatta na Mhe. Raila Amolo Odinga. Kwa hakika, uwiano ule ama *handshake* ile imeleta mabadiliko katika nchi yetu ya Kenya. Leo

ni wazi kwamba Sen. (Dr.) Langat ambaye ni Seneta wa Uasin Gishu anaweza kuzungumza na mimi ---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator. Get your facts right.

**An hon. Senator:** Bomet!

**Sen. Faki:** Samahani Bw. Spika. Sen. (Dr.) Langat ambaye ni Seneta wa Bomet anaweza kuongea nami ana kwa ana bila tashwishi yoyote kwamba anaweza kuripotiwa sehemu fulani kwamba amevunja sheria au mwafaka walio nao. Seneta wa Laikipia pia amezungumza kwa ufasaha kuunga mkono uwiano na akatoa mfano wa kupigana na simba ambaye anakula nyama na ukawaacha inzi ambao wanarukaruka pale. Ni jambo nzuri ambalo limekuja katika nchi yetu ya Kenya. Tuliunge mkone ili makabila yote au jamii zote katika nchi ya Kenya waunganishwe katika serikali ambayo twataka kuitumikia ili kuhakikisha kwamba yale matatizo tuliyokuwa nayo ya kura yanakwisha.

Ni wazi kwamba kutokana na mwafaka huo, Tume Huru ya Uchaguzi na Mipaka lazima iundwe upya na tupate watu ambao wana tajriba ya kuhakikisha kwamba wanaweza kusimamia taasisi hii bila matatizo. Kura nyingi zimeharibika kwa sababu ya kutokuwa na imani na Tume Huru ya Uchaguzi na Mipaka. Lakini nataraji kwamba katika tume ambayo itaundwa upya, itahakikisha kwamba haya hayarudiwi tena.

Mwisho ni kwamba tusiogope wazo la kura ya maoni. Sisi kama Wakenya tuko huru kujadili swala lolote ambalo twaweza kulijadili tupate mwafaka. Hakuna mtu ambaye anatushikia, kwa mfano, bunduki kusema kwamba lazima tusizungumzie kura ya maoni. Kura ya maoni ni haki yetu. Lazima tuketi chini kama Wakenya tuzungumze ni mambo gani ambayo tutapeleka kwenye kura ya maoni, ni mambo gani ambayo tunataka tupitishie katika sheria ambayo itahakikisha kwamba kura zinazofuata ama usimamizi wa nchi yetu kwa siku zijazo utakuwa ni wa amani, uhuru na upendo kwa kila Mwanakenya.

Bw. Naibu Spika, kwa hayo mengi, nashukuru kwa kunipa fursa hii. Ninaunga mkono hotuba ya Rais.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Asante sana Sen. Faki.

Next is Sen. Hargura Godana.

**Sen. (Eng.) Hargura:** Mr. Deputy Speaker, Sir, I thank you for giving me this opportunity to join my colleagues in expressing the thanks of the Senate on the exposition of the public policy contained in the address by the President to Parliament.

The President's speech was balanced and realistic. We have to look at the areas he addressed. He clearly stated that the main gain Kenyans made in enacting the new Constitution was devolution. He stated the steps we have taken since 2013, the work done by the Eleventh Parliament which I had the privilege of being in, and the challenges we are facing. The President was candid that corruption is the main challenge we are facing when it comes to even implementing the Constitution and achieving our national values. He even went ahead to say that it has to be fought from many angles even as far as starting inculcating these values of integrity in our school children.

It has reached a point that Kenyans do not care where you get your wealth but they respect you when you are wealthy. That is why there was a time a survey was conducted and a young Kenyan was asked if he would mind getting his riches through corruption. He said that so long as he will be rich he does not mind. That is the state of mind we have as Kenyans. So long as that is in us, then we have a long way to go

because we are trying to use the limited resources we have to develop our country but the main betrayal we have is corruption.

As he said, it has to be fought from many angles. He asked the Judiciary to be very objective in carrying out its duties and the Legislature in enacting necessary legislation which I think we do not lack; the problem is how we implement them.

On devolution and the steps we have taken, the President has given a breakdown of how the Government has been committing resources. I join my colleagues who said that Parliament and especially the National Assembly is failing devolution in the sense that the audited accounts being used, we are told, are always very far behind the current status. That is the work of the National Assembly. They should know that they are letting down devolution by not updating the audited accounts so that we can get the 15 per cent based on the most current audited accounts.

In the current Financial Year 2017/2018, we are told that counties are getting less money than we approved in the Division of Revenue Bill. I remember very well that Division of Revenue Act has Section 5 which says that in the event that the revenue is not generated to the estimated amount, then the county should not suffer, they should get their share. That is already an Act. So, when we are told by the Cabinet Secretary for National Treasury that counties are getting less by Kshs20 billion, that is going against the law.

As the legislature which passed that law, we need to challenge the National Treasury why they are underfunding counties, leave alone delaying the funds. They are even going against the Division of Revenue Act, 2017 by underfunding the counties.

The President also talked about the measures which are taken to bring this country to almost the same level of development. Kenyans in their wisdom came up with the Equalisation Fund which is supposed to be 0.5 per cent of the budget. It is supposed to run for 20 years. First of all, marginalisation has been on for the last 50 or so years since Independence but even in some parts of this country like Northern Kenya, it was a colonial policy to lock out that part of the country. The Northern Frontier District (NFD) was a locked area. So, there is no development.

We are told that 0.5 per cent will be used not only in that area but in other areas to bring us to a semblance of same level of development which I could say is ridiculous because you cannot cure 50 plus years of marginalisation with 0.5 per cent which is spread thinly. Since the onset of the new Constitution, the President reported that only Kshs2 billion has been used. Over about Kshs27 billion has already been generated. That also shows lack of the will to implement marginalisation policy. The Equalisation Fund should cure marginalisation.

The other day I heard that the Commission on Revenue Allocation (CRA) was coming up with a second policy. I was surprised that a county like Murang'a will get Kshs4 million from the Equalisation Fund. What is the intention of that kind of policy? What can Kshs4 million do? It is like they have lost direction. The CRA should look at the second policy so that it enhances what it was supposed to do; which is to reduce marginalisation instead of dividing money which is already little.

In Kenya we have some kind of selective memory. When I tell you that you have marginalised me for long and you start something, you assume nothing happened before. For example, they used to take into account some factors before disbursing the

Constituency Development Fund (CDF). Now, people just sit down and divide 2.5 per cent by 290 assuming that all of us have the same conditions. You will find that a small constituency in Nairobi gets the same amount of the National-Government Constituencies Development Fund (NG-CDF) as North Horr which is the biggest constituency in this country covering 40,000 square kilometres. That is lack of objectivity. As Kenyans we have to look at it so that whatever we do goes a long way in creating unity and a sense of nationhood in this country, so that we all feel we belong to this country.

I now want to talk about the Roads Fund. Whatever is there for road maintenance is divided equally by the number of constituencies. The road network of a constituency here in Nairobi could not be the same as that of the big constituency in my county called North Horr. We lack objectivity when we try to cure some of our own creations called marginalisation.

It is good that the President brought it out and talked about what is being done but there is a lot which needs to be done so that we get to a level where we feel comfortable. We should think of being people of one country where we share whatever resources that we have equitably.

Concerning the issue of bringing services closer to the people, the President stated that we have the *Huduma* Centres. This is a very good initiative and we thank the Government for having done that. However, when you bring services closer to the people, it is always good to take them as close as possible. I represent a county with centres like Ileret which is about 600 kilometres from Marsabit Town. The *Huduma* Centre is based in Marsabit Town. How does it assist that person who is 600 kilometres from the *huduma* centre? I think there must be objectivity in what we do. Let us take these things as close as possible. They can even be taken to ward headquarters.

The other day I went to a county whose size is 1300 square kilometres and I was surprised. I come from a ward which is 7,000 square kilometres. So, we have to take into account the element of space when we take services closer to the people.

Of course everybody is crying about birth certificates. We have registrars of persons who deal with the issuance of identification cards and they are based at the sub-county levels. Why could the same service not be used to issue birth certificates? There are things we have to look at when we come up with policies.

The other important issue that the President touched on is the economy. It is true that the Government is doing a lot. It realised that we have to do infrastructure development to attract investment. The Standard Gauge Railway (SGR) is a good idea and I am sure with its extension towards Naivasha and beyond, we will improve the movement of goods and services.

The only thing I would like to comment about the Jomo Kenyatta International Airport (JKIA) is that the other day when we had discussions with the manager of the airport, it came out that there is a reduction in transit passengers via JKIA. We are improving the infrastructure but they put other bottlenecks like charging passengers who pass through JKIA and that is why the traffic is going to Addis Ababa and Johannesburg because they do not charge what we charge. So, we also have to make good use of the infrastructure. Instead we build them and put bottlenecks and, consequently, they become ineffective and costly projects for us.

I would like to talk about the road infrastructure. The idea of 10,000 kilometres low volume sealed roads is good. That is the way to go so that we do not spend a lot of money in doing a kilometre of road. We need to use the appropriate technology and do many kilometres. My only worry is that this is one of the President's projects but if you check this year's budget, you will find that there is reduction in funds for development. I think whoever is planning should make sure that what the President said is what they are planning. They should not reduce money for development yet the President promised us that there will be improvement in that sector.

I happen to be a beneficiary of the Isiolo-Moyale Road. In fact, residents of Marsabit County all the way to the border are very grateful to the Government of Kenya for having tarmacked the road. We were wondering how we would be moving with these rains. It could have been a serious nightmare of people sleeping on the roads. Now it is faster to move from Moyale to Isiolo than from Isiolo to Nairobi, when Moyale to Isiolo is about 560 kilometres while from Isiolo to Nairobi is about 280 kilometres.

It is because the road is good and you can move safely. We get what we call the highest service of that road. That is something which residents of Marsabit are grateful about. Every time we went to Isiolo, we used to say that we are going to Kenya but we no longer say that because we are already connected to Kenya, thanks to His Excellency the President and the Government for having done that.

There is a cross-border programme between Kenya and Ethiopia which will improve business at the border. I would like to remind the Government of Kenya that we have not paid our commitment fund of Kshs5 billion. It is a United Nations (UN) project and Ethiopia paid but we have not. We also have to make sure that when we get into this kind of programmes, we should do our part.

Lastly, on the Big Four, healthcare is very important. I would like to note one thing which the President said. He said that there is reduction in the immunisation since devolution from 90 per cent to 70 per cent.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Wind up. You have less than a minute.

**Sen. (Eng.) Hargura:** County governments must take that sector which has been devolved to them very seriously. If there is reduction in the number of people being immunised, then that will mean more diseases and more costly treatment. By that, we will not be making use of devolution and we will not be taking services closer to the people.

Lastly, the hunger safety network programme is one area where we are very grateful to the Government because Marsabit is one of the beneficiaries. Even if our people are 600 kilometres from the headquarters, they can still get their money by M-pesa and they can still access and buy food wherever they are. That is the way to go even for the county governments.

I thank you and support.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you Senator. Hon. Senators, you need to organise your thoughts because you have 15 minutes. Make sure you do not leave your contributions to this debate hanging by not planning well.

**Sen. M. Kajwang'**: Thank you, Mr. Deputy Speaker, Sir. I wish to join my colleagues in the Senate to express my thanks to the President for his exposition of public policy contained in the State of the Nation Address of 2018.

In the past, the State of the Nation Address has evoked different emotions and reactions from Members of Parliament and the public. There are occasions where we have given the President a standing ovation like it happened in 2015 when he came and declared serious war on corruption. He went ahead to give an ultimatum to members of his Cabinet and other state and public officers to step aside because they had been implicated in corruption.

The State of Nation Address has invited jeering and whistle blowing in the past as was the case in 2016 when it was chaotic and other addresses have been boycotted. It is important to note that in the last Address, Members of Parliament sat quietly and attentively. They were eager and excited at the end of the Address.

This is a constitutional requirement thus it is difficult to fault the President for having not said something which is not contained in the Constitution because the Constitution requires the President to lay three reports before the House. However, I would wish to encourage my colleagues and the nation to put pressure on the President to include a fourth report which will be a report on food security or the food situation in this country when he comes to Parliament to deliver the state of the nation address.

That can be achieved through tabling of a food balance sheet. A food balance sheet would summarise the food holding and the stocks that we have in this country for human and animal consumption. It will provide us with a balanced picture and give us the assurance that Kenyans and Kenya is not going to go into the kind of situation we have been in before, where we have been forced to import maize and subsidize maize so as to meet the dietary requirements of Kenyans.

This is a requirement that does not require a referendum because Article 255 of the Constitution does not envisage that if you are going to expand the contents of the state of nation address, you have to do a referendum. Therefore, it is one area that I offer to bring a Motion to the House for us to impress upon the President, on his own Motion or the Motion of the House, that he could also table a food balance sheet. That way, all those involved in agriculture and food production in this country will take their jobs seriously.

When we were in Kakamega, during the Devolution Conference and the President talked to us, I was very happy when he pointed out to those involved in agriculture that the he is tired of this obsession with fertilizer, seed and maize subsidy. That obsession arises out of the huge amounts of money involved. Sometimes it is corruption that motivates the obsession with the three areas. The President called them out directly. On that issue, I support the President and if we made it a requirement that he brings a food balance sheet to Parliament, then people will start taking their jobs seriously.

I want to talk about what the President talked about rather than what he did not talk about. I was excited that the President started his Address by talking about devolution and how it has performed in the country. I share the same view with the President that devolution has been a mixed bag of success. We have counties like Makeni that started off on a very rocky note where people were threatening to kill each other and even dissolve the county but today, they are able to process juice out of mangoes, package it and take it to the market. They are able to package their milk which

ends up in supermarkets as well as experiment with universal health care which the nation is attempting.

I played football in Bukhungu Stadium in Kakamega. It is worth noting that we scored five goals against the governors who scored zero goals though it is unfortunate that Members of the County Assemblies took advantage of Sen. Faki, who was a little bit tired at some point, and scored one goal in the last minute. We did not lose because of the pitch.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Senator, just accept that you were defeated.

*(Laughter)*

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, I think that we came out feeling like victors. We did not lose because of the pitch. If anyone would come here and say that we lost because the pitch was horrible, that would be a liar. He would be like a farmer who blames his equipment. This is because there is a beautiful stadium built in Kakamega; Bukhungu Stadium. It was built using public funds that we keep sending to the counties on a regular basis. There are pockets of success but there are also pockets of despair. If I was to host a devolution conference in my county of Homa Bay, I do not know where we will play football because we do not have a stadium yet we get almost equal amounts of money as Kakamega. If someone was to fall sick when I am hosting a devolution conference, I would not know where to take them because there is nothing to show for the investments in the referral hospital. The fishermen in my county have no fish processing plants. The mango and the pineapple farmers have no factories to process their mangoes.

Devolution is going to produce South Korea's and counties that will reach to the levels of Singapore but it will also produce counties that will remain at the level of Haiti, Chad, Somalia and South Sudan. It is upon us, as the Senate, Senators and leaders from these counties to spur and encourage our governors and assemblies to make the right decisions so that our counties do not become South Sudan's for they can become Singapore's.

I disagree with the President on the 56 per cent increment that he was proud of for there is no reason to celebrate. That 56 per cent is a reflection of the transfer of functions to the counties progressively over the years. Functions are being transferred slowly by slowly and to date, the roads function has not been fully transferred and neither have the libraries, ferries and harbours. I come from a county that borders the lake and I know that issues to do with ferries are still being managed from the centre. As we transfer all the functions envisaged in the Constitution, the increment should be above 56 per cent. In fact, with full transfer of functions, counties should not be getting Kshs300 billion but they ought to be getting at least Kshs600 billion even if we are still benchmarking with the last audited account which is 2013/2014. That increase is not the achievement of an administration but a reflection of the work that the Senate has been doing to make sure that functions are transferred and as those functions are transferred, they are followed with funds.

For the functions that have not been transferred, we might need to reopen the discussion on costing of functions. For things like roads, we have had a dispute on re-classification of roads regarding the roads that are to go to the county and the ones that are to remain at the center. We have the Roads Bill that has not made a lot of progress. We will need to help counties to ensure that there is adequate costing so that when they take on the roads responsibility, they are sure that they have adequate funds to manage the infrastructure in the counties.

Today, I saw a paid advert in the newspapers by a county asking members of the public and good Samaritans to help them to reconstruct an infrastructure that has been demolished by the raging floods. Sometimes, people do not want to get into things that they believe the Government should be doing especially when we pay taxes through the nose. We need to make sure that counties have got adequate resources to deal with these issues.

I also want to talk about the Managed Equipment Services which the President cited as a success as far as devolution is concerned. This House has pronounced itself in the past that the national Government does not need to interfere in the running of counties and in the Managed Equipment Services. The national Government bullied county governments to take up these equipment which has been a mixed bag of blessings. Some counties have not operated using their machines. They are waiting for doctors from Cuba to come and turn those machines on. This is one area that the Committee that I chair; the County Public Accounts and Investment Committee, has been discussing with the Auditor-General. It could be the first candidate for a performance audit.

Traditionally, we have been dealing with financial statement and audits that look at compliance; was procurement done well and were reports submitted in accordance with accounting standards? We want to take a different view and look at central issues. For example, we want to pick health and ask if the investments that have been made by counties and the national Government in healthcare are realizing the desired outcome. We want to do a specific performance audit and a value for money audit before the Government pours more money. This is because healthcare is part of the big four. When we were in Kakamega, the Cabinet Secretary for Information and Communications and Technology Mr. Joe Mucheru took us through a very complex integrated health management platform that the Ministry of Information, Communications and Technology (ICT) is developing to support universal healthcare. Before we pour more money, technology, equipment and Cuban doctors into this system, we must ask ourselves how it has performed. We will be discussing this progressively with the Auditor-General to see whether the Senate can get a picture of those investments.

Mr. Deputy Speaker, Sir, the President talked about corruption as his second key issue in his Speech. There was a departure from the past firmness. I wish the President could have come with another list of shame so that it could put pressure on those who have been implicated in corruption. However, as it is, we have new players in that space. Not in the space of being corrupt but of dealing with corruption. We have a new Director of Public Prosecutions (DPP), Director of Criminal Investigation (DCI) Attorney-General and a Parliament. The only old thing that we have is the Ethics and Anti-Corruption Commission (EACC). I urge the EACC that going forward, we should move away from

the opinion polls on corruption and get serious towards ensuring that corrupt cases are investigated and handed over to the DPP for prosecution.

The President talked about the economy. In the past, people have criticized him for talking about the economy at the State of the Nation Address. However, part of our national values is sustainable development. How I wish in future that as the President talks about the growth in the economy, he will be talking about the sustainability of that growth. Are we using our environment sustainably?

If we exploit it today for tourism, production and to feed the nation, will we have it tomorrow? Is our debt sustainable? Is our development sustainable enough for the youth of this country to have a guaranteed future? If we are building the SGR, how sustainable is that debt or the project or is it the case of a peasant who got money from a tea bonus and decided to buy a Land Rover and is not sure how we will fuel it in future? One cannot deny that in Kenya the rich are getting richer while the poor are getting poorer.

On the Big Four Agenda, it is our responsibility as the Senate to make sure that we draw a line between the national Government projects and county projects. All the Big Four Agenda items, that is, housing, food security, manufacturing and healthcare are devolved. How will we make sure that as the national Government pursues these four interesting and impressive agenda, it does not encroach in the mandate of counties?

One of the things that come out of the Big Four Agenda is that part of manufacturing is hinged on textile industry which assumes that BT cotton will be produced in this country. The county I represent used to be one of the leading producers of cotton in this country because we are blessed with black cotton soil. However, the traditional variety of cotton cannot do well because the pests love them and they take much longer.

We are excited that the President and the national Government is talking about BT cotton. Unfortunately, it is still at field trial stage. It is time we opened up the debate on Genetically Modified Organisms (GMOs). Even the foul armyworm that is devastating farms throughout the country, experts are telling us that there are certain GMOs and varieties that can resist it but not the traditional varieties that we have.

Mr. Deputy Speaker, Sir, the debate around GMO and scientific innovations in food security sometimes remind me of the debate of the automobile. When the first automobile hit the road the host carriage manufacturers were very scared. They came up with a law and made it mandatory that if someone owned an automobile, it had to be operated by three people, one person would drive it, the second would be an engineer in case it fails and the third person would clear the way so that the auto mobile could not knock down horses. These are the kinds of restrictions we are putting for people who are carrying out scientific research on food productivity. This is a debate that we should open.

With regard to security, last night I watched President Trump talk about the American Government's withdrawal from the Iran agreement. Somalia was mentioned by the President. A discussion on Somalia is not an admission of cowardice. We rehatted to the African Union Mission to Somalia (AMISOM); we need to have a conversation on the long-term prospects of our boys wearing the hat in Somalia.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): You have one more minute.

**Sen. M. Kajwang:** Mr. Deputy Speaker, Sir, in that one minute, allow me to thank the President for his apology. It was not the first time he was apologizing. He apologized two years ago in the spirit of the Truth Justice and Reconciliation Commission (TJRC). There has been a call for change of laws. Whether you change laws in this country to reflect the ones that are in heaven, they will not work. We have laws about jumping traffic lights but we are still jumping them. We have laws about litter but we are still chewing gum and throwing everywhere. There is something wrong with the Kenyan psyche which we need to deal with. I hope that with this new spirit, we will not only deal with a referendum for a new Constitution but also with the Kenyan psychic.

I support.

**The Deputy Speaker** (Sen.(Prof.) Kindiki): Thank you, Sen. M. Kajwang. As you implore on Kenyans to re-look at their psyche, you should also include yourself in that bracket. In future, you are encouraged to admit openly that Senators were defeated by Members of County Assemblies (MCAs) in Kakamega.

The next Senator to contribute will be Sen. Charles Kibiru.

**Sen. Kibiru:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support the President's Speech. For record purposes, may I also add that I was in the team that defeated governors.

**The Deputy Speaker** (Sen.(Prof.) Kindiki): But you lost to the MCAs.

**Sen. Kibiru:** Mr. Deputy Speaker, Sir, from where I stand, the President's Speech has a score card. I do not want to dwell much on how the scorecard looks like. I want to look at the issues that need to be expanded or implemented so that we can move forward. The next time our President is giving his Speech, we can all stand and cheer him.

The President mentioned the Big Four Agenda which we support wholeheartedly. However, time is running out. Every time I hear about the issues we need to do, I get worried. We need technical support to construct 500 homes. Currently, we are behind on issues of technical support, for example, the plumbers. As we plan to implement the Big Four Agenda, we need to put our heads together and lay down the road map clearly. One year is almost gone; we only have another four years to go.

I propose that we improve on the creation of capacity especially for technicians. As we build houses, improve infrastructure and manufacture products, we should have the technical capacity to support that agenda.

Mr. Deputy Speaker, Sir, the President mentioned the issue of security. We agree that for the Big Four Agenda to work, the environment must be enabling. Security is an enabler of development. With the way goons are behaving in Nairobi which is the centre of investment, it is time for the Government to put its feet down and make arrests. It is surprising that we have the pictures of these culprits in the newspapers. We will spend a large amount of money to reward any citizen of this country who will identify them and bring them forward. That is a lapse on the security apparatus. They need to wake up and support the environment to implement the Big Four Agenda.

Mr. Deputy Speaker, Sir, we cannot implement the Big Four Agenda when corruption cases are taking nine to ten years. As legislators, it is time to come up with a way of putting timelines to corruption cases. Somebody mentioned about election petitions. We have up to six months to conclude them. We also need to come up with

timelines within which corruption cases should be concluded. That way, we will create an environment that will deal with corruption.

Mr. Deputy Speaker, Sir, to implement and achieve the Big Four Agenda, we need a healthy population. One of the agendas is universal healthcare for the citizens of this country. As early as yesterday, we got a petition from West Pokot County. They are petitioning this House to intervene on issues of health. It looks like we are planning to move three steps forward and at the same time, mark-timing in some areas. So, for us to move forward, it is high time the Government looks at the issue of health facilities and decides whether counties are giving us value for the money that is allocated to health services.

Moving forward, we need to come up with certain policies, and we even mentioned this at the Devolution Conference. The ministries concerned with issues of manufacturing will need to emphasize on research and development. It is encouraging that I heard the Cabinet Secretary (CS) for Education, Science and Technology mention that Kshs3 billion had been allocated to research and development.

We need to map up this country and come up with feasibility studies on the various possible investments. For example, we need to advise the people who want to invest in agro-processing of tomatoes on the possible returns. We need to put up together something that gives high-end numbers for return on investment. This way, we will encourage the would-be investors in this country, especially the people in the rural areas who may not have the advantage of employing consultants to conduct feasibility studies. There are people in counties who have money and can come together and put up an agro-processing plant. We must help these people by way of giving them concept papers, proposals and feasibility studies that they can adopt and adapt in different environments. This way, we will be giving them an enabling environment and also making investments faster.

Mr. Deputy Speaker, Sir, on the issue of enablers of industrialisation or manufacturing, I read papers day in, day out on complaints about power bills and blackouts. We cannot develop or achieve manufacturing, as one of the Big Four Agenda, without stable power. I encourage the relevant Government entities or organs to come up with ways of sorting out the issues of power. Somebody said that our power bills are probably the highest in this part of the world. We encourage the organisation that deals with this issue to address it and come up with a lasting solution. Sustainability in terms of power supply is critical to manufacturing.

Before I conclude, on the issue of infrastructure, we have mentioned time and again that time is not our side. For the last five years or so, we have been talking about the dual carriage road from Kenol to Marua. You are a witness because you pass through that road. The traffic is unnecessarily heavy. It is high time that we expedite the construction of that dual carriage, so that when we manufacture, we will be able to take our goods to the market.

Mr. Deputy Speaker, Sir, it is good that we have peace and we are talking about amending the Constitution or coming up with better ways of living together. As we do that, it should not be lost on us that we need to look at the issues of representation. We have unfair representation when it comes to some counties or constituencies for that matter. As we move forward, and this will be probably next year, we need to review our

borders and ask ourselves whether we are fairly represented. We do not want a situation a constituency or county has a ratio of one to 13 votes, compared to another constituency. That is an area that we also need to look at.

Before I conclude, I wish to talk about rain water harvesting. If we want to manufacture we must provide the inputs and some of them are agricultural. We need to implement rain water harvesting policies. If they are not there, we need to legislate and come up with mandatory rain water harvesting policies, especially when constructing houses.

With those remarks, I thank you for this opportunity and support the President's Speech.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Kibiru.

Sen. Wambua, proceed.

**Sen. Wambua:** Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I join my colleagues in registering the thanks of the Senate for the exposition of public policy contained in the Address of the President, delivered at the Joint Sitting of the 12<sup>th</sup> Parliament on Wednesday, 2<sup>nd</sup> May, 2018.

I will limit my comments to five issues; the unity of the nation, the handshake, the Constitutional review, forgiveness sought by the President and what I would consider missed opportunities. On the matter of the unity of purpose, it is a basic and fundamental responsibility of the Office of the President to speak unity and unite the nation, for purposes of growth and development.

When I listened to the President's Speech, it was clear and reminded me of the days gone by. We had the Nyayo Philosophy of peace, love and unity. It would be impossible to achieve the Big Four Agenda as set out by the President without peace, love and unity.

Mr. Deputy Speaker, Sir, while speaking about the Big Four Agenda, it is important to note that one of the key agenda items is manufacturing. The cost of manufacturing in this country is way too high, thus making goods produced in this country less competitive even in the local market. One of the factors of production that makes our goods less competitive is the cost of power. The cost of electricity in this country is unbearable, not just for households, but even for manufacturing companies. Unfortunately, we have sources of energy that are yet to be exploited in this country. Some regions of this country receive sunshine for at least eight or nine hours in a day, seven days in a week for almost three 365 days in a year. It would make a lot of sense if the Government was to look for ways and means of serious investment in solar power plants. We would generate so much power and connect it to the national grid to make the cost of manufacturing bearable and profitable.

Mr. Deputy Speaker, Sir, the issue of coal is close to my heart because I come from a county that has huge deposits of coal. For reasons only known to those who are supposed to be doing something about it, coal has not been exploited for the benefit of this nation. If we could exploit these sources of energy, it would be a lot easier for us to at least achieve that one agenda on manufacturing for the benefit of our people.

On the matter of the handshake, I have and I want to go on record once more to say that it was a very good gesture between His Excellency the President and the former Prime Minister when they shook hands on the 9<sup>th</sup> March, 2018 outside the President's

office. We should take that cue even in this House to extend that handshake not just literally, but practically and engage one another in ways that really make devolution to begin to make sense to our people.

Mr. Deputy Speaker, Sir, your county borders mine to the north and the county of Sen. Wario borders mine to the east. I, therefore, look forward, to a situation after the handshake where we should reach out to one another as leaders in those counties and deal with historical issues that have continued to bother our people, visiting bloodshed and causing death. These are issues we can deal with and finish up just by having conversations about the way forward. Most of those issues, especially with my neighbours to the east are just about small borders that can be ironed out and our people do not have to die out of that.

Since the handshake has opened the floodgates for goodies and exchange of goods and services, I will be reaching out to my colleagues in the Senate and inviting them to my county to take forward the development agenda there.

On the matter of constitutional review, this House is the seat of power for champions of devolution. I would want to witness a continuous review of existing laws and establishment of new legislation all aimed at deepening and widening devolution. I would want to see a situation where we talk about legislation, including even review of the Constitution to talk about issues of national inclusivity, electoral justice and the fight against terror. However, any review of the Constitution whose express aim is to create positions for individuals is one attempt that must be rejected by all of us. We do not want to start bastardising the Constitution to create positions of power for a few people when this country is crying out for legislation that would help entrench devolution and development.

On the issue forgiveness, I was greatly humbled to see and hear the President seeking forgiveness from whoever he might have wronged. During the campaigns which were really prolonged, a lot of things were said about certain people, communities and political parties---

*(Sen. Kang'ata and Sen. Pareno consulted loudly)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Kang'ata! You seem to be behaving like somebody who has just entered a market place. Proceed, Sen. Wambua.

**Sen. Wambua:** Thank you, Mr. Deputy Speaker, Sir, for calling the Senator for Murang'a County to order.

To me, the call for forgiveness is the greatest sign of leadership; the acceptance from the highest office that we are human. In the process of transacting our political business, we cross the paths of many people. Once we do so, it is only good that we find time and reason to apologise and hold hands together to move forward as a nation.

I want to conclude by talking about what I think was a missed opportunity. Yes, it is true the President discharged his constitutional responsibility in the State of the Nation Address by tabling the three reports as required by law: The first Annual Report on the measures taken and the progress achieved in the realization of the national values, the First Annual Report on Progress made on the fulfillment of the International Obligations of the Republic and the First Annual Report on State of Security. I would have wished

that the President would have gone into the fine details of what is wrong with our National Disaster Management Programme.

As we speak, and as the President spoke on the day he addressed the nation, there is so much destruction across the nation caused by floods yet we have institutions that are financed by public funds to deal with the management of disaster in this country.

Mr. Deputy Speaker, Sir, it would be instructive that going forward, we look into ways and means of harvesting rain water in this country. I challenge myself and other Senators to clearly come up with a legislation that puts a policy on the housing rules, codes and standards in this country so that if you construct a house of a certain size then you are required by law to construct or purchase a water tank to hold water of certain volumes. That can be subsidized by the Government. So much water is going to waste. I come from a region known very well to be a rain deficit area but every time I talk to my people back home, the prayer is one; God stop the rains. There is so much water. Two months down the line, we would be crying for that water.

Mr. Deputy Speaker, Sir, lastly, I would have wished to hear the President give us a report on the fight against institutionalised corruption. There should be a follow up on the list of shame that he tabled in the last address to find out the status report on how far the Government has gone in the war against corruption.

With those few remarks, I beg to support.

**Sen. Pareno:** Mr. Deputy Speaker, Sir, I thank you for allowing me to contribute to this Address by the President. I was impressed by the President taking time to update us on what is happening in our nation. Particularly, he talked about the implementation of the Constitution. This is so dear to me because of the history we have had in this country. It was only upon a new Constitution that some of us started feeling the Kenyanness in us. The President appreciated this Parliament. He said it has played its role in enacting enabling legislation. We appreciate that.

However, when it comes to the implementation of the Constitution, it is not only Parliament that should be seen to be working to enact the laws that are meant to implement this Constitution. The Government should have done better than it did in terms of implementation. All arms should have performed their part. At one point when it came to the implementation of this Constitution, and even now, there is a feeling that the Government was not committed to proper implementation of this Constitution. In fact, at one point, I used the word “mutilating” the Constitution on the Floor of this House when the Government sponsored a Bill that curtailed the benefits that we had so far in as far as curbing electoral malpractices was concerned.

In as much as the President appreciated us, the Government should have done better in as far as implementation of the Constitution is concerned. For example, regarding police reforms, what did we get? We expected a lot for us to be able to implement what we envisaged in our Constitution but what did we get from the police or security apparatus? Not all of them of course, but when they started getting brutal, we ended up with killings and we said, no, this is not what we wanted of our institutions.

On land reforms, the National Land Commission (NLC) is just another body. It has not been given the powers that it deserves. The NLC should have a budget to be able to handle a lot of issues that surround land. The Government did not do its bit in as far as

giving the NLC the “teeth” that it required to undertake land reforms yet this is a pillar in the implementation of our Constitution.

On the Truth Justice and Reconciliation (TJRC) report, to this date, we are still waiting to see what it contains. This would have addressed historical injustices. We are talking about truth, justice and reconciliation. What have we done for the last eight years that we have lived this Constitution? Has the Government done enough? I am afraid that it has not.

Regarding devolved funds, we must admit that devolution is working. We are just from the Devolution Conference. We are excited about having devolution work but when it comes to releasing the funds that should accompany the services that have been devolved, we are not doing that. The last time we talked, we were given a matrix that showed that the funds that had been given to the counties were just 33 per cent spent, three months to the close of the financial year. We wonder when they will use these funds. When it comes to implementation of this Constitution, the Government has not done the much that was required of it.

We have had the longest strikes ever; in schools, universities and hospitals. We have had strikes all over. This has affected us. I would have expected to have had in this Speech how we will end these strikes that are affecting our education and health systems. Something better from the Government in as far as this is concerned should have come out.

I also appreciate that the President was able to meet one of the requirements of the Constitution, a very important one that allows him to address us on the state of the nation. This is a constitutional mandate but how many other times have we seen the Government not living the life that the Constitution has given us? How many other times have we disobeyed the same Constitution? I was really disturbed the other day. With the 20 years or so that I have in the practice of law, I have never seen such blatant disobedience of court orders like I witnessed in the last quarter of last year. This was not by just individuals but by the Government.

As we go forward, in the spirit of the handshake, all those people should be reigned on regardless of who they are. The President said that nobody is above the law. We want to see that in action. They disobey court orders to an extent that the court has gone ahead to fine them in contempt of court orders. I expect the President to reign on those persons and direct that we obey court orders. If we do not obey the rule of law, it will lead to anarchy.

Our President carefully used the words “craft a Kenya that is freer, fairer, wealthier and united.” He said this is what is expected from our Constitution. Did we, in the last eight years of the Constitution, have a freer, fairer, wealthier and united nation as what the President would want us to have? I am afraid, not.

Freedom of speech became limited last year to extent that in the history of this country we had a total shutdown of the media for a whole week. That does not happen in a democratic republic. It shows that there is no freedom of expression and freedom of speech. I do not think it is fair. This time round I believe in the President of the Republic and the people’s president that we will have a freer and fairer Kenya going forward.

Coming to the appointments, today I was shocked. In the Committee of Delegated Legislation, and I can see my Vice Chair Sen. Farhiya is here, they told us that a task

force was set up and it went ahead to get views from people from all over the counties on the emotive matter of land. They had public participation on land laws and they wanted to come up with regulations.

The task force was composed of 18 people and 14 out of the 18 members were from one community. Only four came from two other communities in Kenya yet we have over 42 communities in this country. I expect a composition that has the face of Kenya in every appointment that is done in this country. That board was selected sometime around April last year and they did their work from April up to May. Were we fair as a country? Did we look at ourselves and give everybody a chance? We did not. I expect the spirit of the handshake to bring back harmony in this country.

The President passionately talked about a united Kenya. I have never seen in my life such level of disunity in this republic like I witnessed last year until the handshake. I told the President and the people's president that their legacy will be determined by how united we will be as a republic from their handshake.

We had Kenyans calling for I do not know "Central Republic of Kenya" and others calling for the "People's Republic of Kenya". We even had maps drawn. I believe that this is what has touched the President and the Rt. Hon. Raila Amolo Odinga, that we cannot have a divided Kenya. We shall rally behind them because our hopes are on them. I believe that this time they are all up to the task to unite this country. I applaud the President for talking so much about unity and the handshake. You will remember some of us were resisting everything because we felt that we were oppressed. Without justice, we cannot even achieve the unity.

I can see my time is over and I want to conclude by saying that for unity to be there, we should deal with justice first. The person who killed Musando did not want unity in this country, the person who killed baby Pendo did not want unity in this country and the person who refused to open the servers when the court ordered so disobeyed the court orders. A person who continues to disobey court orders does not want unity in this country.

I salute the President and the Rt. Hon. Raila Amolo Odinga for asking us to sober up and get united as a country. The President used very passionate words. He said that never again should Kenyan lives be lost for political sake. Let us walk the talk. We shall follow those words and ensure that never again shall we have to lose lives because of politics but if we do not fix the Independent Electoral and Boundaries Commission (IEBC) and go back on the reforms like the ones we did by amending what we had already agreed on, then we will just be talking without being serious.

The President talked about the SGR and I only have one thing to say about it. It is a good project. There were good intentions but we missed something. While other countries have done the same kind of projects with less money, we ended up doing the track alone using three times the international standards of cost that was expected and four times the original estimates. So, if we do not deal with corruption in this country and burry it under the sand like we did with the "Chickengate", Goldenberg and the National Youth Service (NYS) Scandal, this country will never be.

I rest my case.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you Sen. Pareno.

Hon. Senators, Sen. Pareno is the last speaker for today. It is approximately 6.27 p.m. and we have less than three minutes. It is important that we give this Motion the maximum time that is given under our Standing Orders, which is three days. In any case, the time left does not allow even the reply on this Motion. So, in exercise of my discretion and Standing Order No.31(2), I direct that we interrupt the business for today.

### ADJOURNMENT

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Hon. Senators, it is now 6.28 p.m., time to interrupt the business of the Senate. The Senate, therefore, stands adjourned until tomorrow, Thursday, 10<sup>th</sup> May, 2018, at 2.30 p.m.

The Senate rose at 6.28 p.m.