

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 10<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

### PAPERS LAID

#### REPORTS ON THE FINANCIAL STATEMENTS OF MWSSC LTD

**Sen. Kang'ata:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, Thursday, 10<sup>th</sup> May 2018:-

The Report of the Auditor-General on the financial statement of Mombasa Water Supply and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2017.

*(Sen. Kang'ata laid the documents on the Table)*

**Sen. M. Kajwang':** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Thursday, 10<sup>th</sup> May 2018:-

#### THE REPORT OF THE KENYAN DELEGATION TO THE CPA FORUM

The Report of the Parliament of Kenya delegation to the inaugural Commonwealth Parliamentarians Forum held at the Westminster, London, United Kingdom (UK) from 26<sup>th</sup> February to 1<sup>st</sup> March, 2018.

#### REPORT OF CPAIC ON FINANCIAL OPERATIONS OF SEVERAL COUNTY EXECUTIVES FOR THE FY 2013/2014

Report of the Senate Sessional Committee on County Public Accounts and Investment Committee on the inquiry into the financial operations of Kajiado County Executive for the Financial Year 2013/2104, from 1<sup>st</sup> July, 2013 to 30<sup>th</sup> June, 2014.

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Report of the Senate Sessional Committee on County Public Accounts and Investments on the inquiry into the financial operations of Narok County Executive for the Financial Year 2013/2104, from 1<sup>st</sup> July 2013 to 30<sup>th</sup> June, 2014;

Report of the Senate Sessional Committee on County Public Accounts and Investments on the inquiry into the financial operations of Turkana County Executive for the Financial Year 2013/2104, from 1<sup>st</sup> July 2013 to 30<sup>th</sup> June, 2014;

*(Sen. M. Kajwang' laid the documents on the Table)*

### SENATOR'S GENERAL STATEMENT

**Sen. Kasanga:** Mr. Speaker, Sir, can I please be guided?

*(Sen. Kasanga consulted the Clerks-at-the-Table)*

#### BAN ON CHARCOAL BURNING AND TIMBER HARVESTING IN KENYA

**Sen. Kasanga:** Mr. Speaker, Sir, pursuant to Standing Order No. 46 (2) (a), I rise to make a Statement regarding the ban on charcoal burning and timber harvesting in Kenya, following the imposition by the Government of a moratorium on timber harvesting in all public and community forests to allow re-assessment and rationalization of the entire forest cover in Kenya.

Mr. Speaker, Sir, I make this Statement because many Kenyans whose livelihoods are dependent upon small-scale charcoal and timber selling business have began to be adversely affected by the ban. Additionally, low income earners who depend on charcoal for cooking - because they cannot afford any other forms of energy for domestic use - have also been affected.

There have been reports of some hotels scaling down their businesses, while some have expressed fears of being kicked out of their premises for using smoky firewood because they can no longer access charcoal. Indeed, some hotel operators have complained that they have completely been driven out of business.

Mr. Speaker, Sir, maize roasters, many schools, prisons and hospitals have also complained that they have to look for alternative sources of energy which are too costly. Worst still, the ban has created an avenue for smugglers who are now trafficking charcoal from Uganda and Tanzania.

Mr. Speaker, Sir, I, therefore, wish to draw the attention of the Senate to this and appeal to the national Government, in conjunction with the county governments, to assess the situation and consider addressing the plight of poor Kenyans who have been subjected to a lot of suffering by the ban.

I thank you.

**STATEMENTS**

## ALLEGED ABUSE OF HUMAN RIGHTS OF PWDS

**The Speaker** (Hon. Lusaka): Chairperson, the Standing Committee on National Cohesion and Equal Opportunities to issue a Statement on the alleged abuse of human rights of persons with disabilities.

*(Statement deferred)*

DELAY IN HANDING OVER OF THE LAKE  
BASIN MALL TO LBDA

The Chairperson, the Standing Committee on Devolution and Inter-governmental Relations to issue a Statement on delay of handing over of the lake basin mall in Kisumu city to the Lake basin Development Authority (LBDA).

*(Statement deferred)*

The Chairperson of the Committee on Roads and Transportation to issue a Statement on the status of the physical development plan for South C Estate in Nairobi.

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

*(Statement deferred)*

The next statements are also for the same Committee.

CONSTRUCTION OF BRIDGES IN VARIOUS  
AREAS OF ISIOLO COUNTYCOLLAPSE AND CUT-OFF OF A SECTION OF  
NAROK-MAI MAHIU ROAD

## DELAY IN UPGRADING THE LAMU–GARSEN ROAD

*(Statements deferred)*

Next is the Chairperson of the Committee on National Security, Defence and Foreign Relations. Where is the Vice Chairperson?

AUCTIONING OF CATTLE OF KENYAN HERDERS BY  
THE TANZANIAN GOVERNMENT

*(Statement Deferred)*

Next is the Chairperson of the Committee on Agriculture, Livestock and Fisheries to issue a statement on loans.

LOANS OWED TO AFC BY FARMERS IN  
KAJIADO COUNTY

*(Statement Deferred)*

Next is the Chairperson of the Committee on Roads and Transportation.

CONTINGENCY PLANS TO MITIGATE ADVERSE EFFECTS  
OF HEAVY DOWNPOUR ON INFRASTRUCTURE

*(Statement Deferred)*

Next is the Chairperson of the Committee on Labour and Social Welfare.

STATUS OF THE KENYA NATIONAL EMPLOYMENT AUTHORITY

*(Statement Deferred)*

Next is the Chairperson of the Committee on Land, Environment and Natural Resources. I think I have seen him.

COMPENSATION FOR PERSONS AFFECTED BY OIL  
SPILLAGE AT THANGE RIVER

**Sen. Mwangi:** Mr. Speaker, Sir, this statement came yesterday and I told the House that it is supposed to be answered by the Committee on Energy. You had so ordered.

**The Speaker** (Hon. Lusaka): Yes, that is true. I think it is an oversight from the secretariat.

*(Statement Deferred)*

You still have another statement to issue with regard to asbestos at Ngulu Kikumbulyu. Is that so?

DUMPING OF ASBESTOS AT NGULU KIKUMBULYU  
WARD IN MAKUENI COUNTY

**Sen. Mwangi:** Mr. Speaker, Sir, the Ministry of Agriculture, Livestock and Fisheries does not know the person who constructed the dam. So, they are still asking us to give them more time. I thought they would have brought the Statement today but they did not.

**The Speaker** (Hon. Lusaka): How much more time do they want you to give them?

**Sen. Mwangi:** Mr. Speaker, Sir, let us give them one week. I will follow it up.

**The Speaker** (Hon. Lusaka): So, provide a response next week on Thursday.

**Sen. Mwangi:** Yes, Mr. Speaker, Sir.

*(Statement Deferred)*

**The Speaker** (Hon. Lusaka): Next is the Chairperson of the Committee on National Cohesion, Equal Opportunity and Regional Integration.

MAINSTREAMING OF LEARNERS WITH  
DISABILITIES IN EDUCATION CURRICULUM

*(Statement Deferred)*

Next is the Chairperson of the Committee on Land, Environment and Natural Resources.

STATUS OF LAND OWNED BY ADC IN LAIKIPIA COUNTY

**Sen. Mwangi:** Mr. Speaker, Sir, the Ministry of Lands seems to have a problem because they have not responded to all the statements that we have sent to them. I propose that the Cabinet Secretary (CS) be summoned. Yesterday, you directed that CS, Ministry of Tourism and Wildlife be summoned for the same reasons. .

**The Speaker** (Hon. Lusaka): Is that the CS for Agriculture, Livestock and Fisheries?

**Sen. Mwangi:** Mr. Speaker, Sir, it is the CS, Ministry of Lands and Urban Development.

**The Speaker** (Hon. Lusaka): Okay. I direct that the CS be summoned within the next two weeks to provide the answers that we require.

**Sen. Mwangi:** Thank you, Mr. Speaker, Sir.

**Sen. Khaniri:** On a point of order, Mr. Speaker, Sir. I do not know why my Chairman would subject the Speaker to this. Article 125 of our Constitution is very clear. So, the Chairman, in his capacity and the Committee, has the powers to call for evidence. He does not have to come on the Floor of the House and ask the Chair to do what he is supposed to do as the Chairman.

**Sen. Mwangi:** Mr. Speaker, Sir, my Member should know that I was supposed to respond to the statement in this House as I have done. However, in the course of responding, I requested that we summon the CS in charge.

**The Speaker** (Hon. Lusaka): The Senator says that you should have summoned the CS without necessarily referring to me because you have the powers. You do not need permission from me to do so.

**Sen. Mwangi:** Mr. Speaker, Sir, I oblige. However, the Members should also be helping me to get these statements. He is a Member of my Committee.

**Sen. M. Kajwang':** On a point of order, Mr. Speaker, Sir. This is on two things. One is on Chairpersons who do not appear before the Senate to respond to statement requests. It is in the public domain that in the United Kingdom (UK) in the House of Lords, a Member offered to resign because he was not at his position at the time when he was expected to respond to a question. What kind of precedent are we creating in this House where since we resumed sittings, you have been calling out Chairpersons of Committees, but they do not respond and Members of those Committees are not giving indications on when these statements will be read?

I beg you to crack the whip and give a strict notice to Chairpersons. There is a reason why they are Chairpersons. They have big offices and get some extra allowances as Chairpersons. They fought for those positions. They should come to this House and respond. There are almost 30 statements here. If we are going to proceed this way, then it will be useless. I have a statement that I want to request, but I know that it will be No.35. Maybe, it will be reached in the year 2022. I beg you to crack the whip.

Mr. Speaker, Sir, the second bit I think has been canvassed by Sen. Khaniri. However, I just want to emphasize that Chairpersons should not be coming back to this House and telling us stories about what the CS did or did not. It is the statement of the Chairperson and not the CS. You ruled on this. I remember you made a Communication from the Chair that when a statement is requested, the Chairpersons should bring the Committee's report and not the CS's report. So, I urge Chairpersons to filter what they bring back to this House.

**Sen. Olekina:** Mr. Speaker, Sir, to defend the Chairpersons, it is important for us to talk about capacity. It is high time that we trained them and indeed all of us because I think we lack in capacity. I am honest with you. The work that the Chairpersons are supposed to do ---

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order, Members!

**Sen. Olekina:** Mr. Speaker, Sir, the work the Chairpersons are supposed to do is enormous. There are so many issues that we are facing.

**An hon. Member:** Not all of us!

**Sen. Olekina:** Mr. Speaker, Sir, when we went to Naivasha we were not trained on procedures. We do not want to get half-baked answers. For example, the Chairperson did not know that he can use his powers to summon the CS. Now asking the Speaker to

do so, just shows that they lack capacity. It will help this House if Chairpersons and other Members are trained on procedures.

**Sen. Wambua:** Mr. Speaker, Sir, allow me to ride on the comments made by Sen. M. Kajwang'. I have observed this trend since Tuesday where the Order Paper is full of Statements to be issued, but it ends up only two or three Chairpersons are available to respond to them. I would not seek the training of Senators as the Senator for Narok County is suggesting. However, I would kindly urge the Chair to call the Chairpersons to order.

It can be very frustrating. For example, today, I received one of the responses to statements that I sought and it is dated 8<sup>th</sup> March, 2018. I am very sure when the Chairperson is called to respond, he would want me to take this as a response to a matter that has moved on since that time. The same thing happened yesterday.

Mr. Speaker, Sir, the argument that we have been on recess falls flat on its face. This is because this Order Paper was not prepared today. It was prepared and circulated. The Chairpersons know that they have issues to respond to on the Floor of the Senate. They should be here to tell us why they are unable to respond to these issues.

**The Speaker** (Hon. Lusaka): Hon. Members, I have noted your concerns. What you are raising here are very serious issues. On Tuesday, I will want all the Chairpersons and their deputies to be here because I will also be issuing a very comprehensive statement on the way forward. This is because it is very frustrating for Senators to be requesting for statements, but they are not getting responses. The issue of capacity building we can do it, but at least, they should show they are making some efforts.

*(Loud consultations)*

There are Chairpersons who are always here, for example, the Chairperson, Committee on Land, Environment and Natural Resources, responding to statements. Whether it is adequate or not, that is another story. He is always here to respond to them. So, as much we will deal with the issue of capacity, but I want all the Chairpersons and their Vice Chairpersons to be here on Tuesday so that we agree on how we will proceed.

*(Statement Deferred)*

Let us move on to the next statement. The Chairperson of the Committee on Land, Environment and Natural Resources, proceed.

**Sen. Mwangi:** Mr. Speaker, Sir, I agree with what you have ruled but I also want to point out that the Senator for Narok County sometimes becomes a nuisance.

*(Laughter)*

**The Speaker** (Hon. Lusaka): Order, Mr. Chairperson.

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

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

**Sen. Olekina:** Mr. Speaker, Sir, I think we are all trained to be mature and to use parliamentary language. Is the Chairperson of the Senate Committee on Lands and Natural Resources in order to say that I am a nuisance when I raise an issue of capacity? Those issues have been pending for a very long time. He should have gotten substantive answers for them. I think you should rule him out of order for using unparliamentarily language.

**The Speaker** (Hon. Lusaka): Chair, you are out of order. I order you to withdraw and apologise.

**Sen. Mwangi:** Thank you, Mr. Speaker, Sir, I can apologise for that but also want to add that when the Senator is talking to another Senator---

**The Speaker** (Hon. Lusaka): Order Members. Withdraw and apologise.

**Sen. Mwangi:** Mr. Speaker, Sir, I withdraw and apologise. This is another statement also supposed to come from the Ministry of Lands and Housing. As I said before, all those questions have not gotten any response. I said I am going to work on them.

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

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

**Sen. Sakaja:** Thank you, Mr. Speaker, Sir, I know the good Senator and Chairperson of the Senate Committee on Lands and Natural Resources is a very experienced member of this House. He has been in Parliament when some of us were in school. When he utters a word such as the one he uttered, “nuisance”, it might be unparliamentarily but maybe you should guide us on what is the parliamentary equivalent of nuisance. This is because there is something that he must have been trying to communicate---

**The Speaker** (Hon. Lusaka): Order Member. I have already made a ruling on that---

*(Loud Consultations)*

**Sen. Sakaja:** Mr. Speaker, Sir. I am just asking for the parliamentary equivalent. You know, in Swahili language we call it *tasfida*---

**The Speaker** (Hon. Lusaka): Order! I have already made a ruling on that matter. Just as I ruled, we want the Cabinet Secretary (CS) for Lands and Housing to appear before the Committee so that we can get comprehensive responses to all outstanding issues that we were not able to get. Let us get the next statement from the Chairperson Senate Committee on National Security, Defence and Foreign Relations. We are on statement “P” as sought by Sen. Olekina.

USE OF EXCESSIVE FORCE/POLICE BRUTALITY DURING RAID  
AT THE UNIVERSITY OF NAIROBI

**Sen. Sakaja:** thank you, Mr. Speaker, Sir, this statement is not new. It was requested earlier. I am just getting it because I know I had it. There are certain statements that we have been trying to follow up from the Ministry Of Interior and Coordination of National Government. They have all been ready.

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However, I think as we are all aware, there have been some issues yesterday and today in Solai, Nakuru County and so the CS has not been able to sign the statement. So, I have just confirming this specific from Sen. Olekina. It seems that we do not have that one.

If you go to the next one, I will confirm where it is because it must be in the House.

**The Speaker** (Hon. Lusaka): Okay, will you confirm before close of business today?

**Sen. Sakaja:** Mr. Speaker, Sir, actually in the next few minutes, I will just confirm.

**The Speaker** (Hon. Lusaka): Okay. The statement will be revisited. The Chairperson, Senate Committee on Lands and Natural Resources. Is it the same story?

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

**Sen. Mwangi:** Mr. Speaker, Sir, it is the same story.

**The Speaker** (Hon. Lusaka): Okay. We will get the CS for lands to give you a response on all those matter.

*(Statements Deferred)*

Let us go to the Chairperson of the Committee on Education.

REGISTRATION AND PROVISION OF FACILITIES  
IN PRIMARY AND SECONDARY SCHOOLS

**Sen. Seneta:** Mr. Speaker, Sir, this statement is not ready but I am requesting for one more week.

**The Speaker** (Hon. Lusaka): are you sure you will bring it by Tuesday.

**Sen. Seneta:** Mr. Speaker, Sir, I am very sure because we do not have any pending statements.

*(Statement Deferred)*

**The Speaker** (Hon. Lusaka): Let us have the Chairperson, Senate Committee on Health. I can see many statements.

#### CANCER SITUATION IN MARSABIT COUNTY

*(Statement Deferred)*

Let us have the chairperson of the Senate Committee on Labour and Social Welfare.

#### EMPLOYMENT REQUIREMENTS FOR FRESH GRADUATES

**Sen. Sakaja:** Mr. Speaker, Sir, on this one we had even discussed with the Senator who asked. Unfortunately, I cannot see him in the House to confirm. He was to attend our interrogation of the same from the relevant Ministry. Kindly, you can maybe indulge us so that when he is back in the Senate we can issue the statement.

**The Speaker** (Hon. Lusaka): The Statement will be revisited. Let us have the Chairperson of the Senate Committee on Labour and Social Welfare.

#### YOUTH UNEMPLOYMENT IN KENYA

**Sen. Sakaja:** Mr. Chairperson, Sir, I think we need to do some cleaning. This is part of the statements that have been responded to in this House. We responded to this statement on the status of youth unemployment by Sen. Prengei. In addition, we asked him to also join us as we interrogated the matter with the Ministry of Labour and Social Protection, unless the response is unsatisfactory. If Members will remember, some of the questions that were being asked were very straightforward such as what the rate of unemployment was and what the Government is doing to solve the unemployment problem. We had given that in a response that covered that, and also covered Sen. Chebeni's question on the same.

**The Speaker** (Hon. Lusaka): Sen. Prengei, since you are here, you can confirm whether you are satisfied with the response which was given.

**Sen. Prengei:** Yes, Mr. Speaker, Sir, I attended a meeting where the responsible institution was. I was satisfied with the statement.

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

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

**Sen. Malalah:** Mr. Speaker, Sir, I would like you to give direction as to whether the question that was asked is a property of the Member or of the House. I think we also should have information on the response. The Member cannot attend a meeting of the Committee and think that he has satisfied the House. I do not think this is a matter of the Member but of the House and the response should come to the House.

**The Speaker** (Hon. Lusaka): if I heard well, the Chairperson has said that he had responded to that matter in this House. He further asked the questioner to attend the

meeting, which he has confirmed he attended. It is satisfactory. You can also make a follow-up with him and get a response.

MUSHROOMING OF SCHOOLS IN RESIDENTIAL  
ESTATES IN NAIROBI COUNTY

**Sen. Seneta:** Mr. Speaker, Sir, my Chair is not in but as a Committee, we request for one more week so that we can give the response.

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

**Sen. Nyamunga:** Mr. Speaker, Sir, it is with regret that I have this suggestion on the issue of Committees. They can be made to resign and then we offer ourselves for these positions because we are doing a lot of nothing in this House.

**The Speaker** (Hon. Lusaka): Order, hon. Members. I will issue a comprehensive statement on Tuesday because we cannot proceed this way. That is not acceptable to this House. We need to be serious. Kenyans are watching us and we cannot just come here to make the Senate look like a sham. We must be serious. I will issue a statement on Tuesday on how we will proceed with this matter.

*(Statement Deferred)*

Let us have the Chairperson of the Standing Committee on Finance and Budget to issue a statement on Kshs65 billion allegedly owed by the national Government to Nairobi City County Government.

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

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I am sorry. I have tried to peruse the Order Paper but I did not see anything for the Committee. Which number is it? I seek your indulgence.

**The Speaker** (Hon. Lusaka): It is statement (jj). If you have not seen it, then I do not think you will have a response.

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, thank you very much. This statement is about the money owed to the Nairobi City County by the national Government. In fact, we were discussing this with the Senator for Nairobi County. He promised to give that report which he said it was already discussed somewhere. So, I have not got the report from the national Government yet. I am sorry we will issue it in the next two week.

**The Speaker** (Hon. Lusaka): Hon. Members, in view of what is happening; I am suspending all those statements until next week on Tuesday when I will issue a statement.

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

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COMPENSATION OF VICTIMS OF 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

*(Statements deferred)*

In the meantime let us get a statement from the Leader of Majority pursuant to Standing Order No.46(2)(c).

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 15<sup>TH</sup> MAY, 2018

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, pursuant to Standing Order 46(2)(c), I hereby present to the Senate the business of the House for the week commencing Tuesday, 15<sup>th</sup> May, 2018.

As you are aware, today is the third and final day of the debate of the address by H.E. the President. I take this opportunity to thank Senators for their thoughtful and insightful contribution to the debate. The Senate Business Committee (SBC) will meet on Tuesday, 15<sup>th</sup> May, 2018 to schedule the business of the Senate for the coming week.

Subject to further direction by the SBC, the Senate will on Tuesday, continue with consideration of business that will not be concluded in today's Order Paper.

On Wednesday 16<sup>th</sup> May, 2018 and Thursday 17<sup>th</sup> May, 2018, the Senate will consider business that will not have been concluded on Tuesday and any other business scheduled by the SBC.

Hon. Senators, the following Bills are at various phases of Second Reading:-

- (a) The Food Security Bill (Senate Bills No.12 of 2017)
- (b) The County Boundaries Bill (Senate Bills No. 6 of 2017)
- (c) The Office of the County Attorney Bill (Senate Bills No.3 of 2018)
- (d) The County Governments Retirement Scheme Bill (Senate Bills No.6 of 2018)
- (e) The Public Participating Bill (Senate Bills No. 4 of 2018)
- (f) The County Wards Development Equalisation Fund Bill (Senate Bills No.5 of 2018)

There are also two Bills due for Committee of the Whole namely:-

The Assumption of Office of the County Governor Bill (Senate Bills No.1 of 2018) and;

The National Flag, Emblems and Names (Amendment) Bill (Senate Bills No.8 of 2018)

I continue to urge Standing Committees to submit reports on Bills referred to them to facilitate the House to effectively navigate the Committee of the Whole on Bills.

Furthermore, I urge all Committees to dispense with the petitions pending before them within the requisite timelines.

Mr. Speaker, Sir, lastly, I take this opportunity to welcome Senators back from recess and wish them an industrious and fruitful second part of this Session.

I thank you and hereby lay the statement on the Table of the House.

*(Sen. (Eng.) Mahamud laid the document on the Table)*

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

**Sen. Sakaja:** Mr. Speaker, Sir, I am sorry I have to take you back or even apologise on behalf of other chairs. Members will confirm that I always have answers. I have Sen. Pareno's statement while Sen. Ledama's answer is on its way.

If you allow me, I will start with the response to Sen. Pareno's statement so that we can move it out of the Order Paper.

**The Speaker** (Hon. Lusaka): I made a ruling. We cannot go back. Let us ---

**Sen. Sakaja:** Mr. Speaker, Sir, part of the problem is that many times we come with all these responses in files, we are never called and so, the day that you get to us, we do not have the responses but I have answers, Sen. Pareno has ---

**The Speaker** (Hon. Lusaka): I ruled that Chairs should have answers all the time. Hon. Senators want responses. These issues come from the counties.

Yes, Sen. (Dr.) Zani?

**Sen. (Dr.) Zani:** On a point of order, Mr. Speaker, Sir. Would I be in order to indicate that in the Standing Orders, it is very clear that if the Chairperson or Vice Chairperson is not there, like Sen. Seneta has done today, we can give the statement. So, the issue raised by Sen. Sakaja, is not whether you are there or whether the other person is there because the Speaker already ruled before that you can give the statement even if the person who sought that statement is not there at that time on a day you will not be there, you can delegate to your vice chair or a Member of the Committee to do the same. It is in the Standing Orders.

**Sen. Sakaja:** Mr. Speaker, Sir, I do not think Sen. (Dr.) Zani has understood what I was saying. I was just asking for permission to give response to statements requested by Senators who are present in the House; as I currently am also present in the House. As you have said, I think those matters are pressing to the people of a county. I have the answers here. I am begging to give a response.

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

**Sen. Wambua:** On a point of order, Mr. Speaker, Sir. I need your guidance on this matter. You have ruled on this matter and you have moved on to other issues. Are we opening debate on a matter that you have already ruled on?

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

**Sen. (Dr.) Zani:** On a point of order, Mr. Speaker, Sir. Is Sen. Sakaja in order to process in his mind what I have or have not understood? He cannot get in mind to understand what I have understood. I understood what he said and stated another point of order which was important to help us in this House to deal with the issue of statements which we have seen this afternoon as an issue we need to be a bit dynamic on in how we address.

**Sen. Sakaja:** Mr. Speaker, Sir, I would never imagine to get into Sen. (Dr.) Zani's mind but I can only judge it by its output which is what she is saying.

I am only begging. It might be strange in this House for a Chair to beg profusely for an opportunity to respond to statements asked by Senators. That is all.

**The Speaker** (Hon. Lusaka): Hon. Senators, I made a ruling on that matter. You will not give your answer when it is convenient for you when you have a response, while when you do not have a response, it is not. I have made a ruling. Let us get your response on Tuesday. Nothing drastic will happen to the response between now and Tuesday.

Next Order!

## 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, 2nd 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, 8th 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 International Obligations of the Republic; and

(iii) Report on the State of Security.

*(Sen. Dullo on 8.5.2018)*

*(Resumption of debate interrupted on 9.5.2018)*

**Sen. Nyamunga:** Mr. Speaker, Sir, thank you for giving me this opportunity to make comments on the President's speech. We the Minority do not have to make negative comments for the sake of it. However, as Members of the Opposition, it is very important that we do our work, whether the handshake is there or not. We are in the Opposition and we must put the Government on check.

The President made a very good speech and I am in agreement with most of what he said, of course with some reservations. The Jubilee Government has a lot of pride in

the issue of power. All the time, they remind Kenyans that there is power all over Kenya. They said that we will have almost 98 per cent – I am not sure about the figure – connection by 2022. To me, the power that we have in rural areas is not power. It adds a lot of harm than good to the people because in one day, power can go off for four or five times.

I am not an engineer but I know very well that when power goes off it comes back with a different voltage. In most cases we experience a lot of damage to our electrical equipment in our homes and also in the industries. So, it is important that the President comes very clear. We need quality electricity which does not bring harm to the people and which does not go on and off. I agree they have tried to supply electricity everywhere. In my village, the Last Mile power connection took place and almost every home is connected to the power but you hardly have that power.

When the State of Nation Address is given, which is good and we appreciate, it is good to point where the weaknesses are. You can talk about electricity being everywhere but how efficient is the electricity? That is big problem and I would like the Kenya Power to do something about it. In fact, there was a time we were told that you can sue the Kenya Power. I have tried to do that once or twice but you do not get anywhere because they will block you in all ways yet there is a lot of damage that they cause to our people.

As the Women Representative, I was passionate about poultry farming and we did a lot. We even had the machinery including the hatchery in place. If you lose power for four hours, it means that you will lose all the eggs in the hatchery. So, it affects the industry. We are talking about industrialisation yet our house is not clean. Most industries use electricity but we have a lot of power interruptions. I do not think we are serious to say that we want to capitalize on the Big Four Agenda. We must first put our house in order and make sure that most areas have got efficient power and not just power for the sake of it.

Secondly, it is good to talk about the Big Four Agenda but most of the functions are already devolved. If they are devolved and at the same time they are the major agenda for the national Government, that has not been explained to us legislators and even the common *mwananchi*. The Government can decide to have two level 4, level 5 or level 7 hospitals for cancer in particular areas and that is part of universal healthcare. We talk of universal healthcare yet people have not understood what that means. At the same time, we are talking of putting high quality medical facilities in one area and claim that that is part of universal healthcare. Universal healthcare should just be universal. To me, affordable universal healthcare means that all people and moreso the lower cadre people should access universal healthcare.

We have heard that 80 per cent of the people in Makeni have registered to the National Hospital Insurance Fund (NHIF) but I am told the actual figure is about 30 per cent. So, we should start from the basic moving forward, so that people are very clear.

The President said that in the remaining four years, all Kenyans should have access to proper and universal healthcare. It is not clear to most of us.

The national Government is in charge of security. It is very important that the Government controls the national security but how about having some security units at the county level? A governor is answerable to his people about security as the national

Government is answerable on issues of security to the whole nation. Even if it cannot be done holistically, I think some level of security function should be at the county level, so that there is some control within the county governments. If it is left to be a national function and the county governments have got nothing to do with security, that is a gap that the Government should see and do something about.

Another issue I have about the President's speech is the fact that he never mentioned anything about the perennial droughts and floods. Right now everybody will tell that flooding is a natural occurrence and there is nothing that the Government can do. It is true that rainfall is a natural occurrence and its magnitude cannot be controlled. However, the Government should be in a position to mitigate it. For example, there are several areas of this nation from north eastern, coastal region, rift valley and the whole of nyanza where there is a lot of suffering by our people. I believe that the Government should control the floods. Budalang'i floods were controlled and it is no longer an issue. What happens to the other areas like Tana River? If you see what is happening in Tana River, you will wonder whether we are in Kenya. You live in a maisonette when other people are suffering in the middle of nowhere because of being affected by floods.

The issue of floods must be taken seriously by the national Government. I come from Nyando in Kisumu County. People of Nyando have been suffering ever since I was a young girl. The issue of floods has been a problem. Up to now, 50 years since Independence, the Government is doing totally nothing as far as I am concerned on issues of flooding. River Nyando should be totally controlled.

There was a proposal to construct Soin-Koru Dam. Whatever politics going on, it is important that that dam is put in place to stop our people from suffering. If the dam is there, the water downstream will be controlled and the moment it is controlled, we will have water the whole year. When there was drought in January and February, it was dry to the point that there were no vegetables in many parts of this nation.

I do not know how difficult it is for a government to plan for floods and drought. These two have to be tackled seriously. It is unfortunate that we get the same answers. When it rains, you can take some maize to your people and give them one *gorogoro* each. What will that do to a family of seven, eight or nine people? We are not solving the problem by distributing food to our people. We have water and land and all we need is planning and infrastructure. The Government should go out of its way. It does not matter which people are suffering because we are all Kenyans and we should be taken care of.

The issue of flooding is unfortunate because it comes with a lot of suffering. If it is not floods, then it is drought. I believe we can have water pans in the rural areas.

Since 2013, I have been going to the Ministry to ask for water pans but I have never seen anybody go to Kisumu County to construct water pans.

Water pans are very important for they are going to help us get vegetables and food for the animals as well as mitigate the floods. The issue of the floods is a matter of life and death and the Government should apportion part of the budget for us to control the floods once and for all.

It is unfortunate that our people are suffering. There are diseases that come with floods such as malaria. You can give people nets today but how many people can you give nets? Is it possible to give nets to over 40 million Kenyans? How will that help?

That is a question that should be taken seriously. I was disappointed because the President did not talk about the floods and irrigation in his Speech. We are talking about food security yet we are still relying on rain fed agriculture. Where are we going and what planning are we doing? There are areas that are irrigated such as the rice schemes in Mwea and Kisumu County. They should be structured properly for us to have crops throughout the year. If you go to these areas right now, people are suffering yet there is something that the Government can do.

Lastly, I will address the issue of corruption. There was a time when the President took a bold step and brought a list in the House and he talked of the big fish. We have not seen any big fish arrested or the seriousness of Ethics and Anti-Corruption Commission (EACC). We want the body to work by stopping corruption for Kenya to move forward.

We are very grateful for the handshake and we have seen the relief that it has brought to the nation. We laud it and support it but some issues must be taken care of. The issue of corruption, agriculture and irrigation are top on the agenda for me. Thank you for giving me this opportunity.

**Sen. Kasanga:** Thank you Mr. Speaker, Sir, for giving me this opportunity. I also want to make a few comments on the President's Speech. I have to begin by congratulating the President for making such a wonderful State of the Nation Address which came at a crucial time, a time when Kenyans needed to hear it. We heard of the achievements and we appreciate them.

When it comes to information being disseminated on the Government's achievements, we are asking the Government to allow Kenyans to enjoy the constitutional right to information as per Article 35 of the Constitution. Our Government agencies need to give more information whether via updated website and all that. Communication needs to be done and information needs to be readily available to the people of Kenya.

I want to congratulate the President on the Agenda Four. Indeed, it is an agenda that is in touch with the people's needs. Kenyans are still grappling with a lot of basic needs and a lot needs to be achieved. We are looking forward to seeing how the Government is going to actualize these four agenda items which are very big on everyone's mind and our expectations are very high.

I also congratulate the President on the handshake, which as Sen. Nyamunga said, has brought a lot of relief to Kenyans. As we continue to see the unfolding results of the handshake, in the spirit of inclusivity, we want the Government to show more inclusivity to women and the youth. We want to see a lot given to women and youth as we know that they are the primary labour force in the country. They have the numbers, passion and creativity to try new things especially now that we are looking at actualization of the agenda four items. I believe that women and youth can be champions of the four agendas.

I want to add my voice on the issue of corruption. The President's Speech states that:

'Leaders at every level of Government must demonstrate a desire and commitment to serve and, in particular, we must all maintain the highest level of integrity'

I have to say that this is a wonderful statement but we want to see more being done in fighting corruption. This is not enough and as the President is calls out for the Government officials to demonstrate integrity, I believe that the call should be for the whole nation. We need a paradigm shift when it comes to ethics of Kenyans for corruption is deeply entrenched. It is not just the Government officials who are corrupt so I would have loved to hear the President reach out further when it comes to tackling corruption.

When it comes to unemployment, in this House, we have heard the statistics, and the President in his speech says:-

‘If we were to create the jobs for which Kenyans long, we need investment. When I took office in 2013, my administration promised and delivered in many instances, the most aggressive surge of infrastructure development in Kenya’s history’.

I have to say that in as much as there is a lot of infrastructure development going on, we still see a huge rise in unemployment. We have a lot of youths languishing in our counties and the cities where we see a lot of youths hanging around. We have seen a surge in the number of street boys which leads to insecurity. The issue of unemployment is far from being solved and we are looking forward to see what the Government is going to do about this because the youth are the future and they need to be engaged fully.

When it comes to healthcare, we appreciate that the Government is looking forward to implement universal healthcare. We have achieved universal healthcare in Makueni County. National Hospital Insurance Fund (NHIF) needs to be further spread so as to have more members from the counties registering with it. When Makueni held the universal health care conference, we missed the President’s presence for we would have wanted him to come as a champion of this. It has been done in Makueni and we believe that it can be done in the country. We are looking forward to see the commitment to the universal health care.

I acknowledge the achievements that were highlighted in the speech and in as much as the President is looking to leaving a legacy in the next five years, we are hoping that his speech is not just words but a ground work that will lead to a prosperous and modern nation. We are looking forward to seeing how the Government is going to roll out its big four agenda.

**Sen. (Eng.) Mahamud:** Thank you Mr. Speaker, Sir, for giving me the opportunity to contribute to the State of the Nation Address given by His Excellency the President. In the speech, the President addressed the fulfillment of the realization of national values by Kenyans, progress made so far in the fulfillment of the international obligations of the Republic and the state of our security.

The President paid tribute to Parliament, especially the 11<sup>th</sup> Parliament for doing a great job in that Session by implementing the Constitution that was passed in 2010. I laud Parliament for the good work last time and I urge them to continue so that we can enact laws that can build this nation. The two Houses of Parliament, the Senate and the National Assembly, must cooperate in law making and stop competition for unnecessary reasons.

The speech of the President acknowledges that in implementing the Constitution, we have really managed to at least operationalize the Constitution that Kenyans yearned for in terms of devolution and the counties are now in place and devolution is being implemented.

This is a vice that is disturbing Kenyans. In his Speech, the President expressed concern over issues of corruption and misuse of public resources by the people who are in the national Government and the county governments. It is time for Kenyans to fight corruption. Today, corruption has spread to all levels of the society to the extent that most people believe that they cannot get jobs once they are advertised unless they are assisted by someone. It is important for us, as leaders, to support the fight against corruption. The institutions that are mandated to fight corruption, especially the Ethics and Anti-Corruption Commission (EACC), must be strengthened and capacitated.

The Auditor-General, who is supposed to look at the finances of the Government, must also be supplemented in terms of funding and capacity. This is because today, unlike the old times when we had one level of Government, we have 47 county governments. We should have proper systems in place so that our institutions can do their jobs properly.

Mr. Speaker, Sir, the President also talked about the importance of peace in Kenya. Every Kenyan wakes up in the morning as an individual; they do not wake up as a tribe or a group. It is the leaders who make Kenyans what they are. This is attested by the fact that when President Uhuru Kenyatta and the Rt. Hon. Raila Odinga shook hands everything in the country calmed. The leadership of this country must be at the forefront to bring Kenyans together, so that they can enjoy their democratic rights. As leaders, we must commit ourselves to the service and, in particular, maintain the highest level of integrity. The President said that the days when governors or Cabinet Secretaries thought that they can do whatever they want with the public resources are gone. We are here to work for Kenyans and must respect the law.

The culture of corruption has also gotten into our children to the extent that some of them cheat during examinations. I thank the Ministry of Education, Science and Technology which was led by the former Cabinet Secretary, Dr. Matiang'i, for curbing the culture of cheating in examinations. Stealing has gone to various levels. It is unfortunate that we are instilling the same character into our youth.

Mr. Speaker, Sir, the President said that Kenyans expect the cost of living to go down, live comfortably and get jobs for their children. This is what Kenyans yearn for. As a nation, we should fulfill this obligation. The Government is trying and it is important that we work together to achieve that goal. As leaders, we should work for the people.

Mr. Speaker, Sir, the President talked at length about infrastructure. When we look back to 2003, our infrastructure was totally dilapidated. I thank the governments of President Mwai Kibaki and President Uhuru Kenyatta for the successful implementation of infrastructural projects especially roads, airports and the Standard Gauge Railway (SGR). Many roads have been worked on, starting with the main arteries from Mombasa all the way to Malaba and Nairobi, all the way to Moyale. There is also a plan to construct a road from Turkana to Lokichogio and the border with South Sudan. A lot of

things are being done. I am happy that in the North Eastern region, where we were ignored for a long time, plans are underway to improve infrastructure. I urge the Government, the International Development Fund (IDF) and the World Bank to complete the projects that have been planned. A lot of work has been done in regards to infrastructure. However, in Nairobi, there are constraints, for example, along the Uhuru Highway. I urge the Government to ensure that we decongest Nairobi in order to attract investors.

The fire that broke out at the Jomo Kenyatta International Airport (JKIA) some years back was a blessing in disguise because, today, we now have Terminal 2, which compares well to any other international airport. We urge the Ministry and the department concerned to continue with that.

Mr. Speaker, Sir, I do not want to repeat what the President said about the Isiolo-Moyale Road. We now want emphasis to be put on the Isiolo-Mandera Road and Garissa-Mandera Road. Since 1963 we have been complaining about these roads. I hope that something will be done and realised before the end of the term of the President.

The President also talked about the Big Four Agenda, that is, affordable housing, universal healthcare, food security and manufacturing industry for Kenyans. No country can be proud if it does not feed its nation. We really need to put a lot of effort to ensure food security. We cannot depend on rain. Unfortunately, when it rains, it causes havoc like it has done now. We cannot even plant in this situation. We must develop proper irrigated agriculture. We cannot talk about agriculture being the mainstay of our economy if we cannot feed ourselves. We should not focus on maize only; we can grow *viazi*, rice or rear livestock. People must invest in variety of foods, so that we can be food secure.

The President mentioned that he dreams of a Kenya where everyone will live in a comfortable home. In fact, we must introduce proper low cost housing. That is included in the Big Four Agenda, but the implementation and budgeting must be done properly. This is because most of the items in the Big Four Agenda are devolved. It is only manufacturing that is held in the national Government. We need to synchronize our policies both in the counties and the national level, so that these programmes are prioritized and funded.

Mr. Speaker, Sir, the President talked at length about matters of health, which is also included in the Big Four Agenda. Most of the health issues can be dealt with when there is proper water and sanitation, because quite a number of diseases are waterborne. We must also invest in water supply and sanitation in our urban areas. This will help people in the urban areas to live healthy lives and avoid a lot of diseases.

That said, the effort which is being made in the health sector is important. However, the most proper synergy should be between the national Government and the county governments, so that we can have universal health care. We must restructure the National Hospital Insurance Fund (NHIF) because we need a proper insurance scheme in the country. Many Kenyans are going through a lot of problems. For example, we send most of our cancer patients to India. Last time, there was a proposal to have at least two cancer centres in the country. I know that some Indians have invested in some in the country, but we must have a proper state-of-the-art cancer centres that will offer proper medication. People are having problems paying their bills. Hospital bills are very

expensive. Therefore, we must have a proper insurance scheme that is affordable to every Kenyan.

Mr. Speaker, Sir, with regard to the issue of old age, I am glad old people are getting some support from the Government. I would like to encourage that. I thank the Government for spearheading that initiative. Some old people are also supported by development partners. However, this must be properly structured and done in a transparent way so that our people benefit from it. .

The other issue is with regard to security. The President, in his Speech, said that we are safer than before. It is true, but it is relative because we are still not fully safe. I know that there are a lot of problems and issues that need to be dealt with. We have security problems within our regions and borders. Yes, we are okay internally, but we are not living on an island. Kenya has been an island of peace in the region which has been turbulent for many years. Up to now, Somalia is unstable. The Al Shabaab from Somalia are causing havoc in our region. We all know northern Kenya has a lot of problems because of them. We remember the issue of teachers in our region. Therefore, the issue of security must be taken seriously. I thank our security forces for doing their best. However, a lot of work still needs to be done. Security is the responsibility of all of us. It begins with you and me. We must all be security conscious.

Mr. Speaker, Sir, the other issue that the President talked about is regional peace. Our efforts in Somalia and South Sudan are bearing some fruits. Ethiopia is also having a few problems. We, as a country, will continue to invest in peace in the region. This is because we cannot be safe on our own if our neighbours are unsafe.

We have really strengthened the East African Community (EAC). It is now doing what the founding fathers thought about it at the beginning before it collapsed in 1977. We have now brought it back and, at least, now we have free movement of persons. I thank the President for allowing East Africans to move freely in the region. However, we want the other countries to reciprocate so that our people can move freely and do business there.

Regarding the handshake, I am happy that the two leaders came together and dampened the atmosphere which was so bad in terms of security. Kenyans are now interacting freely with one another. We have all seen what a handshake of the two leaders has done to this country. It is true that Kenya's problems today are the leaders themselves; it is we who are leading Kenyans into difficulties. If leaders agree on what we want to do, the country will move forward. In fact, not all of us can be in one position at the same time. We would like to give Kenyans the best.

Going forward, we should not do too many things from the handshake. Already we have started reading too much politics around it. We should not try to outsmart one another, but see what is best for this country. If there is need to adjust things here and there, let us do so without trying to have people in mind. It is very unfortunate that when we tried to review the Constitution some time back, this was being done with some people in mind. Unless we remove these persons in mind, that can be dangerous. Going forward, the two leaders shook hands, but the people who have been entrusted in spearheading the whole process, let them come up with something good which will be beneficial to all of us, as Kenyans.

*(Sen (Eng.) Mahamud's microphone went off)*

**The Speaker** (Hon. Lusaka): Sorry, Senator, your microphone is off.  
Hon. Senators, I have a communication to make.

*(Interruption of debate on Motion)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF STUDENTS AND TEACHERS  
FROM NDIANI PRIMARY SCHOOL AND NYANG'ARA  
SECONDARY SCHOOL

I would like to acknowledge the presence, in the public gallery this afternoon, of visiting students and teachers from Ndiiani Primary School and Nyang'ara Secondary School both from Kiambu County. We thank them for coming to the students and teachers for coming to the Senate.

**An. hon. Member:** They have just gone out.

**The Speaker** (Hon. Lusaka): Okay, we acknowledge them in absentia.

*(Applause)*

*(Resumption of debate on Motion)*

Sen. (Eng.) Maina, proceed.

**Sen. (Eng.) Maina:** Thank you, Mr. Speaker, Sir. We are delighted and I join Kenyans in thanking His Excellency the President for the Speech that he made during the Joint Sitting of Parliament.

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

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

Among the things underlined in his Speech was the unity of this country. It underlined politics without hate, but politics about the welfare of Kenyans. That is what the Constitution and the oath that we took underlines. We should all take security efforts seriously, not just take it as a talk. It should be reflected in our utterances and actions. The greatest danger to this country, like others, especially in Africa, is lack of unity. We are ethnically divided. However, our ethnic differences should not be a basis for nurturing hatred. I also thank the former Prime Minister, Hon. Raila for joining the President towards achieving this goal.

Madam Temporary Speaker, this moment has come and we should not take it for granted. Let us not let it slip away from us without entrenching some roots that will remain to unite us. As a student at Alliance Boys High School, we had a motto saying: "We will always agree, but at times, we will disagree to agree." You would tell your friend that is your opinion or position. I respect it, but let us remain committed to our main course". We have wananchi to serve in this country and a country to develop. We will fail, unless we unite. Let us not spend our energy on anything else. The President and his Government, with the cooperation of the former Prime Minister, have undertaken to support this course.

I wish this House would start going round this country and holding social functions. Let us go into the heartland of Luo, Kikuyu, Giriama and every part of Kenya, so that they see the faces of Kenya that they cannot associate with a particular tribe or party. I feel that is when Kenya will be on the path to major development. Therefore, let us unite for the good our country and for service to God.

The President also touched on corruption. We want to develop this country. Let me give an example of when a patient goes to hospital. If the patient is bleeding, the first thing to be done is to stop the bleeding. Corruption is nothing else, but the country bleeding and its resources ending up into holes that are not productive to the country. When we are told that as much as 30 per cent of our budget ends up into some pockets, I do not know if some people sit down to imagine what colossal sums of money that is and what resources it entails. Out of a one trillion budget, a sum of Kshs300 billion goes to peoples' pockets. We can all imagine what a billion can do.

It is high time that Kenyans realised that to be poor is not a question of just amassing money or the amount of money you have, it is a question of what you wanted to have minus what you have. Most of us suffer from that poverty.

Africa is endowed with everything that God could give it; good climate and natural resources. There are enormous things we could be doing to develop this country without corruption. With commitment, the Port of Mombasa could run the Gross Domestic Product (GDP) of this country if we sat down seriously.

It is a shame that we should we should be importing food. There was one time in the early 1970s when this country was forced to look for food and yellow maize came. I remember the late President *Mzee* Kenyatta stood up and assured the people that they would never again eat the maize. As history would have it, he called upon the Government where some people sat especially, the Provincial Commissioner who was in the Rift Valley province. They came up with the Guaranteed Minimum Returns (GMR). The following year the Standard Newspaper ran a front page saying: "*Kenya has a Bumper Harvest.*"

This is the kind of action we want. We want a country that makes a decision and feels proud about it because whatever it takes; we should make our maize, potato and rice farmers produce more. Sometimes, we import food from china. We wonder how they are to feed 1.3 billion people and then export the surplus to us. We must come out of this. I believe that is what the President feels and is what he expressed in his Address.

Corruption will not just go. People are not created to obey laws. When God made the Ten Commandments, He knew that people would not obey them. He therefore put a

serious punishment. He said that people would burn forever. That is what makes people to keep obeying the Ten Commandments for those who do so. It is because our God, the creator knew that human beings would not just obey laws. Therefore, I propose that stern action should be taken against corrupt people to end this vice.

On devolution, a lot of resources have been disbursed to the counties. However, what are we witnessing? On a scale of one to 10, how much goes into tangible and productive projects towards improving the lives of the people? Statistically, let anybody do it but I wonder whether it will go beyond 30 per cent at the best.

As good as devolution is, we do not want to devolve corruption but services. That is the essence of the Constitution. However, I am sorry to say that in most cases, we have devolved corruption. The issue is that *wananchi* are getting extremely disappointed to witness the squandering of resources and gluttony of splendour when in the next clinic there is no basic medicine.

We must recreate Kenya. Whatever it takes, corruption must be hard hit. It will not just go because we prayed in churches or talked about it in rallies. It will go because we have fought and done so with the hardest arsenal.

Madam Temporary Speaker, there is the Big Four Agenda that the President underlined. We should truly take them seriously to be the basis of our development. He called upon every Government officer to be self-assessing and ensure that they achieve whatever is required. When we start projects, we should do them for the benefit of the country and not for any other benefit or personal interest. When we start a project in this country, we need to do so clearly with an agenda that it is what is going to benefit our country.

The Big Four Agenda should start with food security. Those four agendas especially industrialisation can be achieved. We should develop infrastructure to move our products and not just for goats to sleep on our roads if we want to develop our country.

Sometimes it is mindboggling why a project such as building a hospital or market can take ten years. I have such cases in my county. I call upon Government officers to be wary and to listen to the President's Address and its objectives and assist this country to realise them. Projects should not be started for the sake of it but with clear guidelines and mind on what they are going to achieve. Kenya is a rich, productive and a blessed country. We just need to take care of those blessings.

Madam Temporary Speaker, there are things that are unspeakable. If today you flew over Mau, Aberdare and Mount Kenya forests---

*(The amber light went off)*

I do not believe my time is over. Check your clock.

There are things that are unspeakable. If today you flew over Mau, Aberdare and Mount Kenya forests, you will be pricked to your heart to witness big parcels of land where indigenous trees that have taken a 100 years to grow have been cut down. We are testing mother nature and I pray that action be taken ---.

**The Temporary Speaker**(Sen. (Prof.) Kamar): Are you done, Senator? Let us have Sen. Malalah.

**Sen. Malalah:** Madam Temporary Speaker, first, before I contribute on the Presidential Address, I take this earliest opportunity to thank all the NASA Senators who believed in my leadership and voted for me as the Deputy Minority Leader. I also take this opportunity to thank the Senators from the Jubilee side for their prayers and moral support.

*(Applause)*

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

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

I promise that I will serve you diligently. We as, Senators, need to demystify the role of the Senate. As the Deputy Minority Leader, I will be enthusiastic to ensure that we protect the dignity of this House. I will start an initiative of us mentoring the county assemblies. I have been in the county assembly for the last five years. I believe that if this House takes the role of mentoring county assemblies across the country, we shall go a long way in ensuring devolution is achieved as envisioned in the 2010 promulgated Constitution.

Madam Temporary Speaker, I would even suggest that we start having our sittings in the county assemblies so that we interact with the Members of County Assemblies (MCAs) and exchange experiences and ideas. I believe that this is the “upper” House. This was evident when His Excellency the President, Uhuru Kenyatta decided to hand over the original copy of his Speech to the Speaker of the Senate and gave a photocopy to the Speaker of the National Assembly. This in itself was a sign that the Senate is the “upper” House.

This House has got very brilliant ideas. I have sat here for the last six months and seen great minds exchanging great ideas. This has been attributed to the fact that our Standing Orders and the procedures of transacting business in this House begin with a prayer. However, we have a problem in implementing the resolutions of this House. We have very good ideas but the implementation is wanting. Maybe this can be attributed to us not praying at the end of the sitting. I will suggest that we can do an amendment to the Standing Orders to have a prayer at the end. This is so that whatever we have discussed can be placed before the Lord so that they can be implemented. I think just leaving without a prayer is the reason why the resolutions of this House cannot be implemented.

On the Presidential Address, first, as a young person I was touched not by the literature that the President read on that day but by the gesture of being remorseful and apologetic to this nation. That touched me. Therefore, I support the handshake fully because we are alive to the fact that we are just from a very violent post-electioneering period. We lost lives and property. This handshake came in handy. It came in at the correct time to ensure that we heal the wounds created during the post-election season.

Madam Temporary Speaker, as we make peace, let us not forget the people who lost their lives during the electioneering year. I would suggest to this House that we consider compensating the people who lost their lives and those who were injured during the post-election violence so that as we heal, we heal once and for all. If we forget that fact, that, we had youth and women who suffered during the post-election violence then by us shaking hands and taking tea with hon. Sakaja and think it is water under the bridge, this will be a lie. We need to have a situation whereby healing comes from the grassroots. We need a youth in Murang'a to forgive and forget the deeds by a youth in Kondele. We need a youth in Amalemba Market in Kakamega to forgive a youth in Kayole in Nairobi. We fought on tribal lines. We need to have a platform whereby these youths and women sit and discuss matters unity. The issue of us assuming that the unity of this country will be achieved by the leaders shaking hands and posing for photos to depict unity, we are lying to each other.

As I encourage and support the handshake, as leaders, we need to walk our talk. We need to ensure that on Sunday I go to Murang'a County and join my brother in a church service and talk to the people of Murang'a. I invite Hon. Abshiro to come to Kakamega, talk to the women of Kakamega and spread the gospel of the handshake.

Recently, we saw the two leaders, His Excellency the President Uhuru Kenyatta and former Prime Minister Raila Amolo Odinga form a Committee that would ensure an end to divisive politics. Unfortunately, that Committee was not inclusive. I was sad that Committee did not include the real players of the post-election violence. We all know that the youth of this country barricaded the roads. We are the ones who were throwing stones to each other and shed blood because of defending our political parties and positions. It is sad that the youth are not in that Committee. How then would you talk about wanting to build bridges to secure a brighter future for this country and the players or stakeholders of the future are not included in such talks?

I still insist on this Floor that we should give the youth of this country an opportunity to sit on that Table and discuss matters unity, cohesion and integration. Failure to do this we shall be putting on wooden spectacles. We shall be lying to ourselves that we are building a country and yet the real people whose resolutions of that Committee will affect are not part of that Committee.

I thank the Chairperson of the Kenya Young Parliamentarians Association, Hon. Sakaja, who together with young parliamentarians has started an initiative to ensure that we take part as the youth of this country in ensuring that unity is achieved. On the first day of the Legislative Summit, we will meet all the young MCAs. We will start a conversation of young leaders to ensure that we take part in any conversation and decision as part of the future of this country.

At the same time, I would like to highlight what the President said on the issue of the 4.9 per cent GDP growth. Truth be told, this is academic because at the grassroots the unemployment rate is high. Many people are living below the poverty line. I would like the Jubilee Government to be practical when it comes to ensuring that the youth have opportunities and improve their value in life. It is sad for a youth to apply for a job and at the end of the day, there are so many obstacles that he or she will encounter.

First, he or she will be required to have the Kenya Revenue Authority (KRA) certificate which costs about Kshs300. Then they will require a certificate of good conduct. That already is a perception that the youth is a criminal even before he or she asks for a job. That certificate costs Kshs1,000. He or she will also be required to show a clearance letter from the Higher Education Loans Board (HELB) which costs Kshs1,000. At the end of the day, that youth spends almost Kshs5,000 just to access an interview. If they are invited for 10 interviews in a year, which they are not guaranteed to get the job, they will spent Kshs50,000 looking for work which is not guaranteed. We need to walk the talk by ensuring that we remove the obstacles on the path of the youth seeking employment.

As I conclude, I thank the President who assured us that he is committed to ensure that devolution works. As much as the President said that he disbursed monies to the counties and even signed the County Revenue Allocation Bill, 2018, I would like to state here that the late disbursement is a challenge to the counties. You will find that late in the year say around 20<sup>th</sup> June is when the full disbursements to counties are released. Counties are forced to use billions of shillings within ten days and I think that is intentional to ensure that devolution does not work. The central Government and the National Treasury should ensure that there is timely disbursement of funds to the county governments.

On security matters, because my time is getting finished, I would like to state that we have a problem with security in this country. The police officers have failed to understand their roles. They have turned into corruption agents and people who intimidate rather than people who offer services to the *wananchi*.

We have seen cases of brutality in this country. We have seen police officers killing people aimlessly without---

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

Madam Temporary Speaker, I suggest that you add me 20 more minutes so that I finish.

**The Temporary Speaker** (Sen. Nyamunga): I will allow you five minutes.

**Sen. Malalah:** Thank you. We need to address the issue of police brutality and come to a conclusive end. However, I still want to look at this problem from the police officer's perspective. The police officers are not corrupt because they are greedy but because they are demoralised. The other day, I was shocked when one of the agencies suggested that we should reduce the salaries of police officers. I think that is absurd. We need to encourage and give morale to our officers.

When you look at their housing and insurance package, I think these are some of the factors that make the police officers get into corruption. It is upon the leadership of this country to ensure that we package a Kenyan police officer in a manner that befits a human being.

Lastly, I agree that our country is healing and we are committed to ensure that this is achieved. Nevertheless, we have seen other leaders in different quarters wanting to raise the political temperatures in this country. I would like to urge Senators, hon.

Members of Parliament and leaders in different capacities in this country to lower the political temperatures and concentrate on the healing of this country.

I thank you.

**Sen. Sakaja:** Madam Temporary Speaker, thank you for this opportunity to be one of the final contributors to this Motion. This Motion is drawn from the Constitution. Indeed, what the President did last week on Thursday is a constitutional requirement. If I am not wrong, it is drawn from Article 132 where every year the President is supposed to come before Parliament and give a report on the state of national security, progress made in fulfilling the international obligations of the Republic of Kenya and measures taken and progress realised and achieved in the realisation of national values and principles of governance.

I know it was a spectacle that His Excellency the President gave a report to the Speaker of the Senate and the Speaker of the National Assembly despite the fact that the law is clear that that report is to be given the National Assembly. We believe those are some of the “mistakes” in our Constitution that need to be addressed at some point because it cannot be that such a report on national security, national values on governance and international obligations fulfillment should only be given to one House of Parliament.

Indeed, these documents are rightfully in this House and so this is what should be guiding the discussion on the President’s Speech. In fact, the President’s Speech is much like a cover letter of these documents and the debate that should have happened in this House for the past three days should be on the three documents on the state of national security, values and governance and international obligations.

Moving forward, I suggest that once these documents come to the House, it is important that they be submitted to the relevant committee. We have the Committee on National Security, Defence and Foreign Relations where this matter lies. It would have been more interesting to hear the report of that Committee to this House on those issues, so that we can hold the President to account on the promises or declarations that he makes in Parliament.

Allow me to go through some of the highlights first of all from the document on State of National Security. We must agree that there has been some improvement when it comes to countering violent extremism and terrorism. Yesterday I had the privilege to close a Global Counter Terrorism Forum. We had players in the industry from more than 30 countries across the world who lauded Kenya’s efforts in dealing with problems of terrorism. I told them that unlike many other professions, the less we hear about what they are doing, the more work they are doing because the more you hear about terror attacks, it means they are not working. We have seen relative calm in this country compared to what was happening in 2013/2014 when there was a shakeup in our security leadership and we encourage the police officers.

In as much as we are here to hold them to account, I always shudder at the thought of leaders who embitter police officers who put their lives on the line for us daily. They keep saying that the police officers are useless and corrupt. We must encourage them and give them the facilities and equipment they require to keep us safe.

I also noted to them that in Kenya and Africa, because many of them are from African countries, the greatest threat to security is not ISIS, Al-Qaida or Al-Shabaab; I told them that the biggest threat to our countries security and at times being an existential threat is millions of disillusioned, disengaged young people who have no jobs and have become vulnerable targets for radicalization. The terrorists take advantage of these vulnerable young people. They give them an identity, family and hope to make something out of themselves and that is what we need to deal with. We need to deal with the millions of young people in this country who have no jobs and despite not having jobs, have no hope. Many of them are educated and able.

You can imagine the frustrations and the anger that goes through their minds and their lives when they see a few wealthy Members of Parliament zooming in fuel guzzlers and trying to increase their salaries. They get frustrated even though the media at times exaggerates their stories. I know that the current story in the media is not true. I do not think that we are trying to increase our pension. That is the mindset that creates fodder for radicalization in this country. When young people from Majengo in Kamukunji Constituency cannot get an identification card for more than two years because they are told that their parentage cannot be determined because of the professions of their mothers that I will not state, it becomes fodder for radicalization. We must deal with those young people.

I am glad that on top of being the Vice Chairperson of the Committee on National Security, Defence and Foreign Relations, I am also the Chairperson of the Committee on Labour and Social Welfare and these are not big problems that have come to us. We have tried to bring institutions and proposals in this House and the other House that will help us address the issue of unemployment. We are seeing too much lethargy in Government in implementing. If Government could only implement the incentives proposed by the President on employment of fresh graduates and internship, if the Government could implement the National Employment Authority Act, an Act that I am very proud of, having been its sponsor in the last Parliament, then we will start seeing more hope and transition of our young people from jobless corners to offices and a reduction of crimes.

Madam Temporary Speaker, the report by the President notes some of those gangs; the criminal groups that have been existing in Nairobi like the 40 brothers, Gaza, Superpower, some elements of *Mungiki* and how they are able to deal with them. This is still a threat and we still need to put more resources in the fight against terror and organized criminal groups.

We also note the issues on border security that have been highlighted by the President; maritime safety and food security, which I am glad is part of the Big Four Agenda because a country that cannot feed itself should not be proud enough to sit at the table of nations and declare that it is a sovereign a country. He also touched on the matter of refugees.

I will not go further into the document of national security for I want to look at the national values and principles of governance and connect it with the highlight of the President's Speech. People were waiting for two things; the Big Four Agenda and the big one. The Big Four Agenda are those things that the President has committed to achieving in his final term but the real big one was the handshake. The big one was the building of

bridges across communities in this country; an initiative by His Excellency the President together with his Government and the Rt. Honourable former Prime Minister, Raila Odinga.

Before I get to them, I want to note that the most humbling moment was when the President of the Republic of Kenya chose to say sorry and apologized on his own behalf and on behalf of previous governments. Humility and being able to apologise is not a sign of weakness but a sign of strength and there is no greater strength of a leader than being able to say “That for those that I have wronged by act of omission or commission, I apologise, let us turn a new leaf.” That is precisely what this country needs for us to be a united country.

The happenings of the handshake have been interpreted and have been misinterpreted by many people. Some of us have been vilified for being proponents of the handshake before the handshake happened. If you remember, on the 26<sup>th</sup> October, 2017, when we went to an election, I happened to be in a place where a colleague of mine from ODM was being attacked and I did not think of whether there was a handshake or no handshake; we had to act as leaders to protect him.

I remember the other day, a colleague of ours; Hon. Babu Owino, from NASA was wrongfully detained in prison, I did not wait for the handshake. As leaders, we should see beyond our divisions and differences of tribes and party. As much as I may have been vilified and praised in equal measure, we now want to see concrete actions and activities that give credence to what this handshake is.

Time and time again, I have seen that the pain that a mother feels in Kisumu when she cannot feed a child is the same pain that a mother in Kwale County feels when she cannot provide food and nutrition for her child. The same joy that a father in Kisii like Sen. (Prof.) Ongeru feels when his child grows and succeeds is the same joy that a father in Murang'a or Turkana will feel. We have more that unites us in this country than what divides us but for the last 50 years we have had politics that is poisonous.

It is politics that has focused more on what divides us than what unites us as a people. We hope that this handshake will help us turn a new leaf as a people so that we can focus on those things that unite us. We should focus on the real needs of our people. I keep telling my people that my slogan is *Siasa Safi* and it remains my slogan in Nairobi.

We should have politics that is not about the past but about the future which is not about insults but encouragement. It is not about tribe but issues and real development to the people. That is what the people in Nairobi and this country need. We are asking for our people to be included yet in this country according to the 2009 census, only nine per cent of Kenyans were above the age of 50. That means that 91 per cent of people in this country are below the age of 50. If this handshake is driven by guilt of the past, then let it be led by people who can vividly remember where the divisions started but if this handshake is being driven by hope for the future for a new Kenya, then we must not ask for inclusion.

We must start our own activities as young leaders of today and tomorrow across the country and then wait for others to ask to be joined in. Power is not given, it is taken, Sen. Were and I know you are ready, Sen. Cherargei is ready and as the Chairperson of the young parliamentarians, I am glad that all legislators below that age of 40 - we are

welcoming even those who are older for you might be young at heart - to join us as we start real activities of uniting our people. It is young people of my age who went out in the streets; it is young people of my age who are misused to cause violence. It is not a matter of ageism; it is about those who can carry through the promise that we make of uniting our country.

As I conclude, I know that I am out of time but I will ask for five more minutes just like Sen. Malalah. I am sure that you are a fair Speaker and you will grant me that. We will make strides towards that and we will tell you the activities we will engage in. You will see us across the political divide, from *Mheshimiwa* Jaguar, Hon. Babu Owino, Sen. Kang'ata, Sen. Malalah, Sen. Were and Sen. Cherargei moving together in the same caravan addressing rallies, meetings and coming up with proposals. We are already engaging a team of experts to see whether we need to look at the law. I know that the issue of a constitutional referendum has brought divisions across political parties.

Madam Temporary Speaker, if your child falls sick today and goes into Intensive Care Unit (ICU) and you are told that you must do one or two to save the life of the child, you will do whatever the doctor asks. This country was in ICU hurtling down an abyss. Whatever it takes for us to heal this country and create bonds that will forever unite us, must be done.

The President spoke about the progress we have made and he mentioned Nairobi's regeneration. Next week, I will be seeking permission from yourself to give a Statement on the state of Nairobi County.

Nairobi County affects us all, is the face of this country and a hub of East and Central Africa. There has been hue and cry about the state of this county regarding drainage, floods and housing. As the Senator of this County, I am supposed to play an oversight role, not in a subjective but an objective manner. I am glad that I will get leave from this House to give a thorough and well considered view of what we must do for the sake of this great City. Nairobi holds 60 per cent of this country's Gross Domestic Product (GDP). If Nairobi works, all the other counties will work. I will be looking for the support of my colleagues to try and solve the problems that are bedeviling our City.

Madam Temporary Speaker, for a long time people have expected that the role of a Senator – and we must strengthen that role – is to do oversight by conducting demonstration and holding press conferences against their governors. That is when they are deemed to be working. People have been asking why Nairobi is in a mess and I am quiet. I will clearly state, during that time that I will be given, how oversight is played in an objective manner, through reports that have come to this House and proposals for interventions by the national Government and county governments, so that people can know what to believe. Beyond that, we need to create a proper framework through which, for example, the Senator of Kisii can officially interact with the County Assembly of Kisii and have his space to oversight that county to get reports.

Today, Sen. M. Kajwang' has tabled the Auditor-General's Report of Turkana County and other counties for the Financial Year 2013/2014. If I start relying on reports today, I will be auditing former Gov. Kidero, but Nairobians want me to audit Governor Sonko, who is the Governor today. Do I have to wait for four years to receive the first Auditor-General's report on Nairobi County for me to play my role? I will propose a way

to this House where Senators can actively and with the immediacy of the needs of the people, play an oversight role. We need to find a way of working with the Auditor-General, county assemblies, Members of County Assemblies (MCAs) and with the Members of the National Assembly in advance, so that oversight is not done in accrual basis.

Madam Temporary Speaker, I understand the challenges we are facing, from transport to traffic, muggings and the unleashing of goons all over the City. Nairobians and Senators want answers because we all live in Nairobi. I will give my position on these issues next week on the Floor of the Senate.

As I move on to consume my entire space of time, I want to talk about the National Employment Authority (NEA). The President touched on it without necessarily mentioning it by name. He touched on the issue of engaging our young people. We have a law in this country which provides a platform through which every young person, from Kondele where you come from or Ihura where Sen. Kang'ata is from and Nyakoe where Sen. (Prof.) Ongeru is from, can have the same opportunity to get a job in this country. They should be able to get onto the national database, so that when any national or county body is hiring, they will first go there and look at merit. It should not be based on whether someone's name is Mogaka, Njoroge or Omondi. Based on merit, someone should be able to get a job.

Madam Temporary Speaker, it also provides that every public institution that is publicly funded must provide a certain number of internships for our young people in colleges and universities. It also provides that we shall have a system through which the educators, who include universities and technical training institutions, together with the Commission for University Education (CUE), the Kenya Association of Manufacturers (KAM) and the Federation of Kenya Employers (FKE) can sit together to determine what courses are being offered in our universities. This will ensure we do not teach irrelevant courses that will postpone the employment of our young people.

Madam Temporary Speaker, it is true that jobs are created as a subsequent of the growth of the economy. However, as the Chairperson of the Committee on Labour and Social Welfare, I appeal to the Cabinet Secretary for Labour, Social Security and Services to actualize the NEA. We have our young girls who are being defiled in Saudi Arabia and in the Middle East countries. This will be taken care of by that Authority. We have young people who do not know where to start when they clear school and their fathers cannot afford newspapers. They go back to the village after finishing university. How will they get the same chance of getting a job as your son or a young person in this City?

Madam Temporary Speaker, that is my final appeal and I hope that it will be taken into consideration. If not, we will play our oversight role here by summoning them.

Thank you, Madam Temporary Speaker. I will say more next week when I give the state of Nairobi address.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senators for the contributions. I now call upon the Mover to reply.

**Sen. Kang'ata:** Thank you, Madam Temporary Speaker. First and foremost, I take this opportunity, on behalf of the Government, to console the families that have lost

their loved ones in Nakuru. As you are aware, today there was a major disaster in Nakuru. Solai Dam burst its banks and several persons have passed on. The Government is doing everything to ensure all those people, together with their families and relatives are adequately catered for. Therefore, we assure that everything will be taken care of. Whoever is culpable for what has happened will face severe action from the Government. The Government will ensure that what has happened today will not happen again. We shall not leave any stone unturned. Everything will be investigated to ensure that we do not have a recurrence of what has happened today. The relevant Ministry will assist the families that have lost their loved ones.

With those few remarks, allow me to reply. I wish to congratulate each and everyone who has contributed to this Motion. We have received good responses and contributions from various Senators. I also wish to congratulate the President for the good Speech that he made, which has been vindicated by the salutation from Senators. Therefore---

*(Sen. Wako walked into the Chamber)*

**Sen. Malalah:** On a point of order, Madam Temporary Speaker. A very respected elder in this country, who is chairing the Building Bridges Initiative, has just entered the House. I request that Sen. Kang'ata donates some five minutes to him, so that he can make contribution to this Motion, before he concludes.

**The Temporary Speaker** (Sen. Nyamunga): The hon. Senator has come too late when the reply has already started.

Sen. Kang'ata, please, continue.

**Sen. Kang'ata:** Madam Temporary Speaker, I was willing, but I am told that it is against the rules, given that I have already started my reply. However, I recognize the former Attorney-General and good Senator for Busia County.

The Speech by the President was good and needs to be celebrated by this House. It captured all the facets of what the Government wants to do for the next four years. In particular, there is the so-called Big Four Agenda. The Government wants to address the issue of housing, food security, job creation and healthcare.

The Government has taken into account the contributions by Senators. You have enriched the President's Speech and once the implementation phase commences, all those points will be taken into account. I wish to comment on one thing that the President said and which has been discussed at length by Senators. It is the issue of national unity and ethnicity. The President said that he wants to leave a legacy of a united Kenya. Senators have discussed the issue of ethnicity in a very elaborate manner. The problem of ethnicity is not limited to this country. Other countries, including the so-called developed countries are still grappling with it.

I refer to the long standing struggle in the UK by the people of Northern Ireland who wanted to have a separate republic or to join the other islanders to form another union. They wanted to break away from the UK. Although that can be deemed to have been a religious war between the Catholics and the Protestants, those who know how

ethnicity is defined can deem that struggle as ethnic based. Religion, just like ethnicity, is based on what is called “ascriptive traits”. These are traits we acquire at birth.

Madam Temporary Speaker, there is the ongoing struggle in Spain. People living at a place called Catalonia want to break away from the rest of Spain on the basis of a distinct language and culture. Even in other places, including small islanders like Guyana, there is a huge problem of ethnicity. That problem also bedevils several African countries, including Sierra Leon, where there was a civil war. In Somalia, clans are always fighting each other notwithstanding that they have same religion and language. The same problem is now bedeviling the people of Ethiopia despite huge economic strides. We are told their economy is growing at 10 per cent per annum. That problem is not unique to Kenyans. Lebanon has always been driven by the so called Shia-Sunni Muslim divide. Syria is currently having a Shia-Sunni ethnic struggle. So, it is a universal problem.

That is a complex problem. Several theorists have grappled with how to deal with it with less success. Some people are suggesting that we adopt a parliamentary system of Government as a way to cure the problem of ethnicity. I doubt that can be a remedy. In some of those countries, I mentioned with the problem of ethnicity have parliamentary systems of governments. For example, Ethiopia has parliamentary democracy, but Oromos are fighting other ethnics groups. Lebanon held their elections last week, but they are still struggling with ethnic parties. In Malaysia, Chinese and Malays have their different political parties.

Madam Temporary Speaker, this problem cannot be cured by a parliamentary or presidential system. It requires more innovative ideas which may include either creating a consociational government where everyone is in it. We can come up with electoral or centripetal incentives to moderate our politics. Currently, there are some discussions in the public realm about a parliamentary democracy. To me, it is too early for us to go back to electioneering mood. This country is not ready to use billions of shillings to hold it. The other day, we used Kshs50 billion for a repeat election. The first election also cost billions of shillings. We can use that money to build schools, hospitals and create jobs for young people instead of spending it on a referendum.

The other proposal of a third tier Government; national, regional and county governments will also increase bureaucracy. This country needs a lean Government. I urge the country to follow the advice of the President and the Deputy President. Let us ignore the calls for a referendum and concentrate our efforts on development. The President wants to leave this country better as opposed to lengthy electioneering.

Madam Temporary Speaker, contrary to rumours out there, the Jubilee Government is not split; it is strong and united. I have heard people alluding that we may be having some schisms in our party. This Government is more united than before. We are doing our things together.

*(Loud consultations)*

The party position of the Jubilee Government is very clear that in the year 2022, our presidential candidate is Hon. William Samoei Ruto.

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*(Applause)*

Some people have been asking the President to pronounce himself on this. On behalf of the Government, may I take this opportunity to say here that our presidential candidate in 2022 is none other than Hon. William Samoei Ruto. If people were asking for any other statement, that is the statement. Therefore, do not wait for any other.

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Madam Temporary Speaker. Is it right for the Hon. Member to drag politics into the Presidential Address? We are debating the Presidential Address. Therefore, we should not allow any political undertones to creep into this discussion. Let us stick to the agenda that we are discussing in this House. We shall not entertain the 2022 politics on the Floor of this House.

**Hon. Senators:** On a point of order, Mr. Speaker, Sir.

**The Temporary Speaker** (Sen. Nyamunga): No further points of order. Senator, you are out of order. Continue on the topic, please.

**Sen. Kang'ata:** Thank you, Madam Temporary Speaker, Sir.

With those few remarks, I congratulate every Senator who made contributions to this debate.

I beg to move.

**Sen. Sakaja:** On a point of order, Madam Temporary Speaker, Sir. It is not fair.

**The Temporary Speaker** (Sen. Nyamunga): No more points of order.

**Sen. Sakaja:** On a point of information, Madam Temporary Speaker. Just a quick one.

**The Temporary Speaker** (Sen. Nyamunga): What is the information? Whom do you want to inform?

**Sen. Sakaja:** Madam Temporary Speaker, I want to inform the House.

My twin brother, Sen. Malalah, stood here and told us that he is the Senate Minority Leader. That was okay. Sen. Kang'ata has just said that Hon. Ruto is our candidate in 2022. Why is one wrong and the other one is accepted?

These are statements of fact and agreements within political parties. That is our position. Sen. Malalah, we can relax.

**An hon. Senator:** We also want to say our candidate.

**An hon. Senator:** I will be a candidate.

**The Temporary Speaker** (Sen. Nyamunga): Order, Members!

Hon Senators, the Motion in question does not affect counties. I will put the question.

*(Question put and agreed to)*

Next Order.

**BILLS***First Readings*

THE COUNTY STATISTICS BILL (SENATE BILLS  
NO.9 OF 2018)

THE LOCAL CONTENT BILL (SENATE BILLS  
NO.10 OF 2018)

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

*Second Reading*

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

*(Sen. Mutula Kilonzo Jnr. on 18.04.2018)*

*(Resumption of Debate interrupted on 18.04.2018)*

**The Temporary Speaker** (Sen. Nyamunga): We resume debate.

**Sen. (Dr.) Zani:** Thank you, Madam Temporary Speaker. I stand to support this Bill from the onset and commend the Senator who has moved it. Its nexus is the issue of when counties are suspended, as almost happened in the case of Makueni County during the Eleventh Parliament, there came a realization that there had not been a particular legislation in place to ensure that such a situation is satisfactorily dealt with.

At that time, the county did not get suspended. However, we realised that the Senate- especially in terms of legislation- that it could happen. This Bill has been put into place to ensure exactly that, by bringing an amendment that after the Commission of Inquiry has looked into the various matters, it is able to report the recommendations and ensure that the whole process of dissolving that county are put into place.

Madam Temporary Speaker, I have looked at the Bill. It is a comprehensive amendment Bill that seeks to create order, especially within the counties. I want to go straight to Clause 10. It states:-

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

Madam Temporary Speaker, you will recall that in the Eleventh Parliament, we had many situations where counties, especially through the county assemblies, were impeaching their governors. These cases came to the Senate and a special committee was

put in place to look into the various issues. This was because I think the drafters of the Constitution, and rightly so, realised that if the county assemblies were allowed to make that final decision, we might have a situation where governors might be impeached at the whim of the Members of County Assemblies. This Bill was, therefore, put in place to ensure that there is a hierarchical and methodological way through the Senate to look at the various issues.

For most of the cases that came to the Senate in the Eleventh Parliament, the procedure was to form the special committee apart from one case where the whole plenary also participated. The rules in the Constitution are very clear about how that should be done. The part especially about “justifiable grounds” enhances the procedure.

The grounds for suspension of a county government have been also put very clearly in the Constitution. That, therefore, helps so that we do not have a situation where people have run to try to dissolve a county. In fact, going by the history for Makueni County, that tried to dissolve, they realised that even the Members of the County Assembly at that time would also have to go. With that realisation, they quickly got back on board and continued with the work of the county assembly. There would have been a possibility that at the end of the day, that process would have been enacted altogether.

Clause 11, which is very critical, says:-

“The committee shall, within fourteen days of receipt of the documents under Subsection (10), consider the documents and make its recommendations to the Senate on whether or not the Senate should authorise the suspension of the county government.”

Subsection 12 says:-

“An authorisation by the Senate under Subsection (11) shall be by a resolution adopted in accordance with the provision of Articles 122 and 123 of the constitution.”

The quorum for doing this has already been set at the majority of the specific Senators sitting at that time. That is very clear, well put and straightforward.

I want to just browse through this Bill because it is quite straightforward and indicates the specific issues quite clearly.

Clause 129(1) says:-

“Pursuant to Articles 199 of the Constitution, the Senate may at any time terminate the suspension of a county government.”

Clause 129(2) says:-

“A Member of the Senate may move a motion for the termination of the suspension under Subsection (1)”

Madam Temporary Speaker, this clause goes now to the actual processes which are two: One, the actual introduction of the need for a suspension within a county assembly. The Senate also communicates its approval to prosecute this, by having a Member moving the Motion for termination.

To ensure that this is orderly, there is clarity that it is going to be done by a movement of a specific motion and the Member should have already given notice under Subsection (2) to the Speaker of the Senate. The Speaker of the Senate should have referred the proposed Motion to the relevant select committee of the Senate to consider the proposed termination.

Madam Temporary Speaker, this is very clear in the sense that it is not just a matter that is going to be handled in half a day, or a couple of hours. The procedure is clearly set up to ensure that it can move from one step to another in a systematic way.

The Senate Select Committee under that subsection will report in ten days in terms of giving it time for processes, for people to think through that Motion, go through it like a referral process. This is just like the system we have for the Senate, for example, the report from the county assembly county assembly for the impeachment of a governor reaches the Senate, the Senate must, in seven days, act on the proposals. In the same way, the Senate is going to be given ten days for various processes to move on in terms of the planning.

Over time as a Senate, we have been able to put mechanisms in place. Since we have had some impeachment Motions coming to the Senate, there is regularity in the process and the way it was going to be enacted within the Senate. It became more streamlined.

My plea is that as a Senate, we pre-empt and begin to put this documentation in order so that we have a process that can run very well and fast so that all that can be done.

Clause 129(5) is very important because it brings in public participation. As it is with all other processes, this process is not just going to be something that will be discussed within the echelon of power, but also the people will come on board to discuss such a motion.

In Clause 129(7), if the Motion is supported by a majority of the county delegations of the Senate, the suspension of the county government shall stand terminated. That is the recommendation in this Bill but there are proposals that can be made. I would suggest a higher threshold given that dissolving a county assembly has various implications for the county. I propose that we make the threshold higher than a simple majority so that we can move to a two-thirds majority because of the critical nature of the issue.

This is a small Bill. Let me talk about the County Management Board, the governor and the deputy governor in terms of how they will be pre-empted to function and continue to receive benefits even after the dissolution of a county and the new county governors are in place.

Madam Temporary Speaker, as I conclude, I reiterate that we need to support this Bill. It covers a practical lacuna that this Senate experienced in enhancing legislative agenda for the counties. It will ensure that we do not have a lacuna when it comes to a particular issue arising in the counties as in the case of a proposed dissolution of a county. It will also ensure that such counties can still move on within a legislative framework.

With those remarks, I beg to support.

**Sen. Kang'ata:** On a point of order, Madam Temporary Speaker. I think there was an oversight. I seek to adjourn that Bill. Pursuant to Standing Order No.99, I wish to postpone to some future occasion further discussion of this Bill on the basis that the Mover is not with us and he ought to be here to hear the other side. That was the expectation, that this Bill would be skipped.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I will now put the question that pursuant to Standing Order No.99, the debate on this Bill be now adjourned.

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

I will now defer Orders No.11, 12, 13 and 14 to the next sitting.

## **BILLS**

### *Second Readings*

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

THE OFFICE OF THE COUNTY ATTORNEY BILL  
(SENATE BILLS NO.3 OF 2018)

THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL  
(SENATE BILLS NO.6 OF 2018)

THE PUBLIC PARTICIPATION BILL  
(SENATE BILLS NO. 4 OF 2018)

*(Bills deferred)*

Let us move on to the next Order.

THE COUNTY WARDS DEVELOPMENT EQUALISATION FUND BILL  
(SENATE BILLS NO. 5 OF 2018)

**Sen. Kang'ata:** Madam Temporary Speaker, I beg to move that the County Wards Development Equalization Fund Bill (Senate Bills No.5 of 2018) be read a Second Time. I wish to alert Senators that my submissions will be divided into the following points:

- (1) The constitutional, policy and legal underpinnings of this Bill;
- (2) Outline of the Bill;
- (3) Benefits of this Bill;
- (4) Criticism against this Bill; and,
- (5) The proposed remedies for the Bill towards those criticisms.

I now start with the first item which is the constitutional underpinnings of this Bill. The constitutional underpinnings of this Bill can be found in Article 176(2) of the Constitution. Allow me to read it. It provides as follows:

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“Every county government shall decentralise its functions and the provision of its services to the extent that it is efficient and practicable to do so.”

I also cite Article 174 of the Constitution which states:

“The objects of the devolution of government are—

- (d) to recognise the right of communities to manage their own affairs and to further their development;
- (e) to protect and promote the interests and rights of minorities and marginalised communities;
- (f) to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;
- (g) to ensure equitable sharing of national and local resources throughout Kenya;
- (h) to facilitate the decentralisation of State organs, their functions and services, from the capital of Kenya;”

I re-emphasise Article 174(h).

This Bill intends to effectuate this provision of the Constitution. It is the role of this Senate to ensure we decentralise resources away from Nairobi, the Capital of Kenya; away from Kisumu City, the headquarters of Kisumu County; away from Kisii Town, the headquarters of Kisii County to places such as Kebirigo and Keroka. We must decentralise those resources. In Murang’a, for example, we must move resources away from Murang’a Town and put those resources to the deeper ends of Aberdare Forest up to the farthest corner of a place called Boro. That is a village in Murang’a County near the Aberdare Forest in Kigumo Constituency. That is the intention of this Bill; to move away resources from the centre to the furthest corner of this country.

Madam Temporary Speaker, let me now go to the policy underpinnings of this Bill. I cite His Excellency the Deputy President’s Speech at the Fifth Devolution Conference in Kakamega on 26<sup>th</sup> April, 2018 when it was being closed. He said that we need to move resources down to the grassroots level.

I also cite the speech of His Excellency the President of the Republic of Kenya, Uhuru Kenyatta which was made on 13<sup>th</sup> December, 2017 during the Council of Governor’s (CoG) meeting in Mombasa where he reiterated the Government’s intention and policy to move resources to the grassroots level.

I also reiterate and highlight various reports and policy documents which I will rely on. I have the County Governments Budget Implementation Review Report, First Quarter of the Financial Year 2017/2018 that was made in December, 2017. The reports I will rely on bring the whole idea of the importance of ensuring that we have resources at the grassroots level.

Again, I will rely on the Commission on Revenue Allocation’s (CRA) document on the Recommendations on the Basis for Equitable Sharing of Revenue between National Government and the County Governments for the Financial Year 2018/2019. That document was placed before the Clerk of the Senate through a forwarding letter dated 18<sup>th</sup> December, 2017. It was laid here as a Paper on 21<sup>st</sup> February, 2018 by the Senate Deputy Majority Leader.

Madam Temporary Speaker, I will also rely on the Ministry Policy Document on

Devolution which was published in 2016 to show the importance or what underpins this Bill that I seek to move today. This Bill also draws legal underpinnings from various laws; in particular we have the so-called, National Government Constituency Development Fund Act of 2017. This Bill is also inspired by the Controller of Budget Act of 2016, the County Governments Act, No.17 of 2012, the Public Finance Management Act, No.18 of 2012 and the Regulations that have been made pursuant to that law.

Madam Temporary Speaker, allow me to go to the next item on what this Bill provides for. This Bill is divided into several parts. Part I is preliminary where we interpreted various key aspects, showed the objects and purposes of this Bill and the guiding principle.

Clause 3 states that:-

“The objects and purposes of this Act are to—

- (a) provide for the equitable development in each ward;
- (b) provide a mechanism for the identification of priority projects in each ward;
- (c) promote the decentralisation of functions and provision of services by county governments to the extent that it is efficient and practicable pursuant to Article 176 of the Constitution;
- (d) to ensure equitable sharing of resources within the county;
- (e) provide a mechanism through which the county governments are able to promote the interests of marginalised communities within respective wards in accordance with Article 43 of the Constitution; and,
- (f) provide a framework for the participation of residents in each county with respect to the application resources and the identification and implementation of projects through monies obtained from the resources allocated.”

Clause 5 establishes this Fund, Clause 6 explains how the funds are going to be disbursed, Clause 7 provides for the establishment of bank account for the Fund and Clause 8 is about allocations of funds.

Part III is about the Establishment of the County Ward Development Boards. Allow me to read Clause 14 because it is crucial. Some people have been saying that if this Bill passes into law, the powers of the governors will be whittled down, something I disagree with. The board that will be established under Clause 14 will be a body corporate and it will deal mainly with the resources that will be handled there.

Clauses 15 and 16 states the functions and powers of that board respectively and Clause 17 provides for the composition of the board. Clause 17 reads as follows:-

“17(1) The Board shall consist of –

- (a) the chief executive officer in the department for the time being responsible for matters relating to county economic policy and planning;
- (b) the chief executive officer in the department for the time being responsible for matters relating to finance;
- (c) three persons, competitively recruited by the County Public Service Board with the approval of the respective county assembly; and

(d) the Fund manager, appointed under Section 21 of this Act, who shall be the secretary to the board and an *ex-officio* member without a right to vote.”

Contrary to propaganda that has been peddled regarding this Bill, we have not provided for MCAs to sit in the board. The people who will sit in the board are people directly from the executive arm of the county government in adherence to the principles of separation of power.

I also want to highlight the nature of projects that will be done under this Act. Clause 24 sets out the nature of projects that will be handled under this law and it states as follows:-

“A project under this Act shall –

(a) only be in respect of works and services falling within the functions of the county government under Part 2 of the Fourth Schedule to the Constitution; and

(b) be community based to ensure that the benefits are available to a widespread cross-section of the inhabitants of a particular area.”

In short, projects under this law will be things like footbridges, water, security lights and any other thing that falls under the purview of the county governments. The money will not be used, for instance, on education in primary or secondary schools. It will deal purely with issues falling under the purview of the county government.

I also want to highlight about Part V on the Project Proposal and Implementation Committee. Once boards are established at the county level, implementation committees will then be created.

Clause 28 states that:-

“28(1) There is establishment in each ward, a Committee to be known as the Project Proposal and Implementation Committee.

(2) Each committee shall comprise –

(a) the county government officer responsible for coordination of county government functions in the ward;

(b) one man and one woman, one of whom shall be nominated by religious groups, appointed in accordance with subsection (3);

(c) one person representing the youth;

(d) one person with disability nominated by a registered group representing persons with disability in the ward in accordance with subsection (3);

(e) the project coordinator, appointed under Section 32 of this Act, who shall be the secretary to the committee and an *ex-officio* member without a right to vote.”

Again there is no MCA here. We have respected the whole notion of separation of powers by ensuring that the power reposes with the executive branch of the county government. Therefore, this Bill does not offend the principle of separation of powers.

Part VI of this Bill is about Identification and Submission of Project Proposal. It indicates how people will identify projects and submit proposals for approval. Those projects will then be serialized in a certain list and then taken up to the board at the

county level which will then proceed to do the implementation at the grassroots level through the committee.

Part VIII is about the County Assembly Select Committee. Every county shall have a select committee whose work will be to oversight what happens. That committee will comprise MCAs but its role will be to oversight.

I have also come up with a provision that gives this Senate the power to oversight what will be happening regarding the projects to ensure that people do not steal money because we do not want people to misuse that money. Therefore, the Senate will have some powers to check what will be happening.

If you have a complaint, for instance, a mechanism is provided for in Clause 51 which provides that a person may lodge a complaint to the board and anyone found culpable can as well be taken to the police and be charged.

We have also ensured that the board will have the power to make regulations, to make better this Act to ensure it operates in a good manner.

The First Schedule is the Ward Projects Reallocation, meaning that if you make a project proposal, you can always seek to reallocate if you think that the original idea is not good. We have also the Second Schedule that sets out how to conduct business in the affairs of the board. The Third Schedule is the Ward Projects Submission Form and the Fourth Schedule is the Project Description Form.

We have ensured that there is no duplication of projects. Clause 45 of this Bill provides:

“The Board shall ensure that no duplication of projects occur particularly where it is prudent to combine efforts on projects designed to benefit a large section of a community which traverses two or more wards’ Therefore, duplication has been taken into account and there will be no duplication if this Bill is passed.

Corruption occurs in procurement and Clause 42(1) provides that:

“All works and services relating to projects under this Act shall be procured in accordance with the provisions of Public Procurement and Asset Disposal Act”.

Of course, we have said that projects whose cost is less than kshs500,000 shall be labour contracted. The idea is that if you have small projects, you can do what we call labour contracting and that is also something provided here.

On documentation, Clause 43 is very clear and it says that:

“The Committee shall compile and maintain a record showing all receipts, disbursements and actual expenditures, on monthly basis, in respect of every project under this Act’.

Therefore, we have ensured that there will be adequate documenting for us to check public wastage of resources in case this Bill becomes law.

What are the benefits that this country will accrue if this Bill becomes law? The first one is development, for it is going to spur economic growth at the grassroots level. I want to refer you to Clause 107(2) of Public Finance Management Act, 2012 which provides that at least 30 per cent of all monies that is in the hands of the counties, should go to development. That is the law but you will find that law being breached in several

counties. There are several counties where you will find that almost 90 per cent of the total revenue goes to pay salaries. We, therefore, needed a law that will secure money for development and this is one of the efforts of ensuring that we have money which goes directly to aid Wanjiku.

When you look at this country, it is tilted very unfairly towards poor people. It is a country that is tilted in favor of the people who are in employment or in Government or in some form of a job. To get a good illustration, look at our national budget. Out of 100 per cent of our national budget, 52 per cent goes to pay people's salaries and when you add what we call recurrent expenditure that is fuel, biros, furniture, that pushes the recurrent budget to almost 70 something per cent. When you look at the people who are being paid salaries, who are drawing the 52 per cent of the budget, how many are they? They are only 700,000 in a population of about 48 million. A total of 700,000 people are drawing 52 per cent out of that kitty and that is very unfair.

Therefore, as a country, we must always strive to put more money into development. That must always be one aim so as to ensure that more money is going into development and that is why we laud the Constituency Development Fund (CDF), which is an effort to devolve money to the people who are not in formal employment in the public sector. That is why we laud devolution. It is a good attempt but there is still a problem with devolution. A lot of money is being spent on paying salaries and as a result very little money is perforating into development.

By this Bill ensuring and guaranteeing wards some development money, it will be one effort of ensuring that at least some money goes directly to Wanjiku at the grass root. That point has been vindicated by the reports that I have. I want to refer you to this document by the Commission for Revenue Allocation (CRA). Page 29 of this document indicates the performance of county governments' revenues and what percentage is going towards paying salaries and how much is going to development. It shows that very little money is going to development. Again, the County Governments Budget Implementation Review Report shows the problem that we are having. I will read Page 294 of the report by Agnes Adhiambo for the Senators to understand how big the problem of having more money being used to pay salaries other than development is. It states:

“On Low Expenditure on the Development Budget, during the reporting period, the County Governments incurred an expenditure of Kshs.1.15 billion representing an absorption rate of 0.9 per cent of the County Governments' cumulative annual development budget of Kshs.134.78 billion. This performance was a decline from an absorption rate of 8.3 per cent, reported in a similar period of FY 2016/2017 when development expenditure was Kshs.13.96 billion. This low level of development expenditure was attributed to delay in release of funds by National Treasury. The low absorption of development funds denies Kenyans the benefits to be derived from development projects such as access to quality services in the health, agriculture, roads, and education sectors. The office, therefore, recommends that counties should prioritize implementation of development projects in order to improve the standard of living for its citizens”.

This Bill intends to effectuate these policy recommendations by guaranteeing development money at the ward level. As we speak, we do not have a single law that

gives the guarantee that every ward gets money and the money is purely about development. When you look at this Bill, we have ensured that bureaucratic costs are at a bare minimum. If it is money for allowances, we have capped that. If it is the people who can be employed to effectuate this, we have capped that in this Bill. If it is allowances, we have capped that to ensure that almost 99 per cent of what is going to be here goes to development. Therefore, this policy's objective of the Controller of Budget will be realized by this Bill.

There is also the next point of oversight by Members of County Assemblies (MCA's). When you look at the Constitution, one of the roles of MCA's which is very crucial is the one of oversight. Kenyans have not benefited from this power which was vested in Article 185(3) which provides that:

“A county assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs’.

MCA's are unable to oversight governors because you find that governors can deny a ward development money and once they do that, the MCA will ultimately lose an election and because they fear that, they will keep quiet whenever there is fleece and corruption because they do not want their people to suffer.

The wards of the Members of County Assemblies (MCAs) who are supportive of the governors get a lot of development resources. To fight the fear that they must kowtow to the governor, we need to pass this Bill because it will ensure that whether or not an MCA supports the governor, their ward will benefit. By doing that, MCAs will ensure that there is no corruption or anything bad happening in the county because their wards will be guaranteed resources.

Madam Temporary Speaker, there is something called equality of development. I have been told of an instance where a certain governor decided to use 90 per cent of the entire development budget to tarmac a certain road. We need to respect the fact that he has been elected by the *wananchi* and the way they conceptualizes development differs. However, the problem with the decision he made is that, that road only passes through three wards out of about 30 wards in the entire county. Therefore, the balance of 27 wards in that financial year did not feel devolution. Only three wards benefited from that tarmac road.

Therefore, we need to ensure that even as governors come up with their grandiose ideas, they should consider all human beings living across all the wards. We are not suggesting projects that will cost a lot of money. This Bill proposes that only 8 per cent of the total money allocated to respective counties be utilized for this Fund.

For instance, the allocation for Murang'a County is Kshs6 billion. Therefore, 8 per cent is about Kshs500 million. The governor has the Kshs6 billion plus money from local revenues of about Kshs500 million. We are only proposing Kshs500 million to be guaranteed to the wards. Surely, that is a fair deal. The governor is at liberty do whatever he wants to do with the rest of the Kshs6 billion. Even if governors were to take away the recurrent expenditure of 50 per cent, they will be left with Kshs3 billion, which is a fair deal. They can do their roads but, at least, spare Ksh500 million for the wards; moreover, they will still have some power to direct where it will go. That is the rationale of this Bill.

Madam Temporary Speaker, the other issue is about creating a legislative framework for counties that are already implementing the spirit of this Bill. The County Government of Meru that is headed by the former Senator of Meru, Gov. Kiraitu Murungi, is currently implementing this idea. The County Government of Kiambu, which is also headed by a former Councillor, Hon. Ferdinand Waititu, *alias* Baba Yao, is currently implementing the tenets of this Bill. However, they have expressed in public that they need a legislative framework, which explains the procedure of how to disburse that money. Therefore, this Bill creates a legislative framework to take into account some of the counties, which have already come up with a system of ensuring equalization. Therefore, that will be one of the advantages, if we were to pass this Bill.

Madam Temporary Speaker, there is something called the absorption rate, which I alluded to when I talked about development. Allow me to highlight it again. From the reports by the Controller of Budgets (CoB), you will realize that we do not absorb development resources well. In the Financial Year 2017/2018, the absorption rate was 9.5 per cent. Therefore, we do not have a lot of money that percolates to *wananchi*. That is quite unfair because the *wananchi* need development. This Bill will ensure that the absorption rate goes high because there is some guarantee that some money will go directly to benefit *wananchi*.

Madam Temporary Speaker, allow me to discuss my fourth area of the Bill. This is what some people who do not support this Bill have raised. The first issue that has been raised concerns whether the Bill is in conflict with what we call the Public Finance Management (PFM) Act. There has been an argument that in that law, it is the County Executive Committee (CEC) member in charge of finance who has the power to create a fund. Therefore, if we pass this Bill, we shall be conflicting with that clause provided for in that law.

Madam Temporary Speaker, first and foremost, that argument is hollow and fallacious for several reasons. One, Parliament has the power to make and unmake laws. This means that if we made that law and now need to create another fund, we have the power to do so. This law was made by this Parliament. The idea that we should not make a new law because it conflicts with an earlier one is neither here nor there. Every law that we are creating today, more often than not, is always in conflict with an earlier law. To me, this is neither here nor there. It is the work of the Senate and the National Assembly to make laws day in, day out.

Secondly, this Bill is not creating a fund. We do not even have the power to create a fund as the Senate. I took into account the fact that it is the preserve of the National Assembly to create money Bills. This is not a money Bill because we are not appropriating new monies. We are only stating that part of the money that has already been allocated to the counties should go directly to the wards. Therefore, there is no conflict between this Bill and the original Bill that some people are raising an issue about. However, even if there was a conflict, my submission is that we have the power to unmake that law.

Madam Temporary Speaker, there is also an issue concerning separation of powers, which has been canvassed in court. Allow me to cite the following case. In the Court of Appeal in Nairobi, Justices Githinji, Okwengu and G. B. M. Kariuki sat on

Appeal No. 92 of 2015 in the case of the National Assembly of Kenya versus the Institute of Social Accountability (the first respondent), the Center for Enhancing Democracy and Good Governance; The Senate (the third respondent); the Attorney-General, the National Government - Constituency Development Fund (NG-CDF) board and the Commission for Implementation of the Constitution (sixth respondent).

This was an appeal against a judgment by Justices Lenaola, Mumbi and Majanja that was delivered on 20<sup>th</sup> February, 2013. That decision is dated 24<sup>th</sup> November, 2017. I will table it and ask the Sergeant-at-Arms to circulate it to the Members who are sitting here.

*(Sen. Kang'ata laid the document on the Table)*

Madam Temporary Speaker, first, allow me to give brief facts of this case. There was a time the High Court made a ruling that the Constituency Development Fund (CDF) Act is unconstitutional on the basis of separation of powers. However, the National Assembly appealed and the decision was overturned. It ruled that Members of Parliament (MPs) are not supposed to sit in CDF Committees. That finding of the High Court was upheld by the Court of Appeal.

I have taken into account to ensure Members of County Assembly (MCAs) do not sit in the implementation Committees of their assemblies. However, MPs and MCAs have the power to vet. That is provided for in this law. They have the powers to vet members of those committees and the boards. They can entertain a petition to eject members from those boards or even committees. That power is constitutional.

The other point in that judgment was the supremacy of legislation. Both the national Parliament and county assemblies have powers to make laws. We must always protect that right and powers to do so. I have taken into account this decision to ensure we do not offend the principle of separation of powers. That power is constitutional and cannot be taken away from the MCAs. It is their right and power to vet the people who will sit in this Committee and also oversight it. If there will be complaints regarding misuse of money, let MCAs oversight those funds. I have provided the same in this new law.

An issue was raised that this law may deepen inequality. In fact, it is proposing that everyone to get an equal amount. The naysayers argue that wards have different populations and differ in poverty rates. They say this Bill ought to have taken those variance into account. My responses to them is as follows: One, that is something debatable and we can change it during Third Reading.

Be that as it may, taking into account that it is only 8 per cent being provided under this law, a governor can take corrective measures using the balance which is 92 per cent. Therefore, the whole idea of 8 per cent equal is just a guarantee that, at least, every ward gets this amount. However, if the governor feels that there is a certain ward that has a very high population or with a major poverty problem, those issues can be corrected with the balance of 92 per cent. That clause is not cast in stone, though and can always be changed if this Senate feels so.

Madam Temporary Speaker, there is also the argument that the aims of this Bill can be achieved through the budget. Some people have argued that it is the assemblies who pass budgets. Why can they not say: “No, we want to equalize wards and ensure that ward get projects where everyone can feel the benefits of devolution?” My response is: What percentage does an assembly have? What percentage of a budget can MCAs change? It is just 1 per cent. There has been a contention that that percentage was increased to 10 per cent. I think that was done on paper. As I speak, it is still only 1 per cent. Therefore, the budget is not a sufficient tool.

In any event, we also need to take into account the political culture that underpins our assemblies. Governors have a lot of powers. If you think that you will tinker with the governor’s budget, you will be in problems. You will be blacklisted. It will be very hard to obtain consensus amongst your MCAs to be able to change the budget. We also know instances where county governments have operated without a budget when MCAs exercise their power and refuse to pass a budget. However, the county government still continues to operate. We are aware of several instances. Sometimes MCAs are helpless. Even the reverse is also true.

We need to flip that argument because if you allow MCAs to tinker with the budget, they can hold the governor at ransom. If you allow them to use the budget as a tool to achieve what this law is aiming at, they will frustrate governors. That will be very unfair. They may even torpedo development and argue that 90 per cent of the entire money goes directly to wards. Therefore, this Bill assists both of them. On one side, it assists governors by ensuring that they have their 8 per cent that is in the law and still the governor has the liberty to do whatever he wants to do with the balance. On the other side, it assists MCAs to ensure their wards are not discriminated. This Bill is a win-win situation for everyone within the circumstances of the political culture that underpins our assemblies.

Madam Temporary Speaker, another argument is about the 8 per cent and if it is sufficient. I also recall the Commission on Revenue Allocation (CRA) submissions before the Senate Committee on Finance and Budget that was dealing with this issue. The CRA said that if you said a certain per cent of the entire monies that have been devolved, you will find some counties struggling with a huge wage bill. So, if you say 8 per cent, it will be like you are taking the entire developmental budget from them. You, therefore, need to do simulations. I do not have a problem with that if CRA was to come and show us simulations. We either vary it downwards or upwards. To me, that is something that we can think of and change at the Third Reading stage.

My final area is the remedies; how we can improve this Bill? Upon publishing, I have listened to various ideas and they are within their areas for improvement. After listening to what Senators will say, we will consider areas that we can improve on this Bill. One is the issue of the percentage. Having looked at these documents; having also read the Public Finance Management (County Governments) Regulations, I have realised that the law provides that 35 per cent of the total revenue is what should go to wages. Looking at how much counties are harnessing locally, Section 29 of that law also gives CRA some powers over this issue. We need to change that and set a certain percentage.

For example, we could set aside 20 per cent of the development budget, but not of the total revenue.

The county assembly will also make an effort to ensure it checks the executive and reduces the wage bill so that they have more money going to the development vote. It will give an incentive to MCAs. They will also check on the executive and ensure the development budget is higher. The higher the development budget will be, the higher the percentage that will be going to the wards.

I know this is a popular Bill with MCAs. That is an area we can tinker with and maybe give 20 per cent of the development budget, instead of 8 per cent. MCAs will ensure the development budget is expanded and more money goes towards projects.

I have no problem with the argument of equal share that was raised by the Treasury. I have no problem with us changing this clause and probably taking into account: one, population, poverty rate and geographical coverage of a ward. There is a problem at times of using this formula; that once we bring these parameters, disputes can easily arise because some of these parameters are quite old. When was the last time we did a census in this country? It was in the year 2009. To me, it is unfair to use that one to allocate resources now that it is almost ten years old. It does not take into account demographic movements and shifts that have occurred for those last ten years. There are some wards that are now highly populated.

There are even contentions as to whether the poverty rate, as mentioned now is objective or subjective. To get out of all those arguments, we can just say equal share but if there are discrepancies, that can be addressed by the balance that is going to be left with the governors, because this money is only a small share of the total revenues of our counties.

I, however, do not hold a strong position on this. Contrary to the submission of the Treasury, we can sit and see whether to adopt that method, or retain what is proposed in this Bill.

There are also typographical, grammatical errors and incoherence which were flagged out by the Commission for Revenue Allocation (CRA). I agree that we can also take that into account. We are waiting for the report by the Senate Committee on Finance, Commerce and Budget to see what we can incorporate from those views that were raised during public participation.

Madam Temporary Speaker, finally, as I sit, the Council of Governors (CoG) did not make a presentation during the public participation meeting that was held by the Senate. They, therefore, did not oppose this Bill, unless they possibly did that through a written memorandum. However, going by the information that I have so far, I am not aware of any objection by the CoG against this Bill.

I say that because I have heard rumours that they are doing their very best effort to scuttle this Bill. I do not see how it is against their interests. There is a principle in law call *enstoppel* which means you are stopped from denying that which you originally supported. Therefore, the CoG did not object to this Bill, did not participate in the public participation unless they did so through written memorandum. I would therefore, urge them not to oppose this Bill in the event it becomes law.

I have also heard that they fear competition from Members of County Assembly (MCAs). There is a misconception that the MCAs may use this Bill as a platform for higher positions either to kick out Members of Parliament and Senators. One, we must embrace competition. We must be ready to compete with others and win or not. That argument, to me, is neither here nor there.

This Bill is good for the country and not Sen. Kang'ata's *per se*. If once passed it is going to ensure that money percolates to the grassroots. By doing that, we shall effectuate Article 176(2) of the Constitution which says that we need to decentralise our services to reach the grassroots.

With those few or many remarks, I beg to move and call upon the Senator for Nandi County to second.

Thank you.

**Sen. Cherargei:** Thank you, Madam Temporary Speaker. Before I second, I can make one or two observations. The County Wards Development Equalization Fund Bill (Senate Bills No. 5 of 2018) sponsored by Sen. Kang'ata is very important because it meets the objects of devolution, as per Article 174 the Constitution of Kenya, 2010.

One of the objects is to ensure that we carry on with socio-economic development to the lowest level that we have. In the objects and the spirit of Article 174 and devolution, is that we should be looking at the possible ways we can devolve the functions as envisaged under the Fourth Schedule of the Constitution on the functions of the county government.

I therefore, think this Bill has been elaborated and the issue of oversight will be dealt with because we now have the boards and the project committees. The role of the MCAs has been delegated so as not to interfere with oversight, now that we have the County Assemblies Select Committee.

According to Clause 3(b) of this Bill, there is the issue of priority projects. All of us come from various counties that have uniqueness and different topographies that are very important going forward.

Madam Temporary Speaker, your county, Kisumu neighbours the lower parts of Nandi County, where I come from. Terik, Chemise and Chemelil wards are different from far-flung areas such as where we share with the former Western Province. Therefore, the priority areas of projects in such wards in Terik and Kenyelile ward in Uasin Gishu County is not the same.

County Wards Development Equalization Fund Bill (Senate Bills No. 5 of 2018) will therefore, ensure that every ward will hold its development agenda based on its priority. As we talk now, some areas are affected by landslides while others are not. You, cannot therefore, use uniformity to address development. This Bill will ensure equality and equity in development agenda across the counties.

Madam Temporary Speaker, the snapshot on that clause is the marginalized and minority groups. These groups will participate in development. For example, in my county, we now have a specific ward called Terik that is inhabited by the Terik people. The rest of the twenty nine wards are inhabited by the Nandi speaking people. It means that if we are not careful, one part of the county will be relegated because of the uniqueness of being a minority or marginalised.

Every ward will address its specific development needs and will cure the aspect of being marginalised or a minority group. They will now feel that they are part of the county. One of the objects and aims of devolution is to try to address the marginalised and minority groups; to make them feel that they are part of the socio-economic development at the lowest level that we have.

Madam Temporary Speaker, another aspect is that it will enhance public participation which we cannot elaborate more. I know my Committee is also considering the public participation Bill sponsored by the Attorney General *Emeritus*, Sen. Wako. The counties are now trying to struggle on how to achieve public participation.

Sometimes, not all wards, areas and villages are the same. Their development agenda and unique means of development can be captured in the County Integrated Development Plan (CIDP). The last Parliament passed the Access to Information Act of 2016. Going forward, now that the Senate, in its wisdom, will pass the Public Participation Bill sponsored by Sen. Wako, we will enrich that law and ensure that we enhance public participation. The best public participation is when the needs of development or socio-economic development projects are implemented.

Madam Temporary Speaker, according to Clause 3, another aspect is on the principle of Article 10 of the Constitution on national values and principles of good governance. We are giving opportunity to the lowest levels, for instance, wards, to participate in development matters at the lowest level based on their unique development agenda. This is very important because we are trying to actualize the national values and principles of good governance, of ensuring that devolution, public participation and democracy works.

In addition, at least 8 per cent of revenue is allocated to the county. This is important. I noted that during public participation, the CoG has not taken a position on this matter. We are not trying to “water down the powers” of the governors in terms of resource control. Therefore, this 8 per cent will allow more resources to be devolved. For the benefit of public consumption, Kenyans should understand that the 8 per cent of revenue allocated to that county does not mean it will interfere with allocation. The county executive is given an opportunity to allocate to all wards.

Therefore, the issue of 8 per cent revenue allocation does not in any way interfere with the powers of resource allocation or undermine the powers of the governor. There will be a select committee that will sit and decide. There are requirements. You cannot just wake up one morning and use the 8 per cent that is allocated, for example, in Nandi, Kisumu, Murang’a, Kisii or Nairobi County arbitrarily. There are stringent requirements in this Bill as proposed to ensure that there is no way these funds can be misappropriated.

There are other aspects. Let me run through so that I allow my colleagues to contribute also. We have bank accounts being approved by the county treasury. I do not know why they seem to water down the aspect of the county executive yet the bank account is approved by the county treasury. This will ensure that the signatories of this bank account will not be just people who are not approved. Therefore, it will ensure that it is cushioned against misuse of funds. We are fighting corruption. We are worried as the second Senate that there are so many demons of corruption that are rearing their ugly

heads at the lowest level of counties. This is one of the measures to ensure we cushion and protect resources from misuse.

There is also the budgetary process. The opponents or critics of this Bill have created a perception that the 8 per cent allocated for the Ward Development Fund will just be put on the table and somebody will just scoop the way they want. There is a budgetary process that will ensure that it goes through administration.

Madam Temporary Speaker, I am happy that in the history of running affairs of the Government, any money that is unspent is normally remitted back to the National Treasury. This is the first law that says any unspent money be used to undertake either new or ongoing project. It is worth noting that new governors are refusing to finish previous projects initiated by their predecessors. The same applies to MPs. The issue of unspent money can now be put into ongoing projects so that *wananchi* or *wanjikus* can get the value for their money. This ensures that we do not do a project, for example, a project of Kshs10 million for an ECDE Center, and then when somebody else comes in after an election, he cannot finish the project. This is very important.

Another aspect is the new projects. There are so many challenges at our ward and village levels. So, this unspent money can still be applied. However, our people should know that in as much as this is unspent money, there are requirements and processes needed to utilise it.

Madam Temporary Speaker, in Clause 14, we have the development board. I think Sen. Kang'ata has highlighted it. Therefore, those are the boards. Then there are project committees. There is the implementation Committee. This is very important so that we do not approve projects that cannot be implemented. We will have follow up, audit, and reports need to be submitted.

Clause 46 of this Bill is on the County Assembly Select Committee. This is very important because the MCAs will have an opportunity to ensure that any process or projects that are being passed are followed up through the County Assembly Select Committee. Therefore, for purposes of audit, this Select Committee can get annual reports on the implementation of projects.

There is the vote by delegation which is very important so that we do not have cases where the governors or somebody tries to influence. Penalty for offences has been created but I hope it will be enhanced.

The MCAs across this country should be very grateful to the sponsor of this Bill because governors will not intimidate or blackmail them for not towing the line. Therefore, they will have an opportunity to ensure they spur development in all areas. These issues of taking orders from specific governors or being blackmailed because they do not support governors will come to an end. All MCAs should be excited. I hope we will pass this into law.

Madam Temporary Speaker, allow me one or two minutes. I also join my colleagues to pass our deepest condolences to the people of Solai, Nakuru County and our Senate colleague, Sen. Kihika, for that tragic loss of over 32 lives. Many people have been displaced. If there is any negligence, the Government should move with speed and ensure those lives are not just lost. Somebody must be held accountable. Life is so sacred. I hope the Government will declare the ongoing floods a national disaster.

Madam Temporary Speaker, I beg to second.

*(Question proposed)*

**Sen. Were:** Madam Temporary Speaker, I rise to support this Bill and to say the following. This Bill will help us deal with issues that MCAs go through in the counties. They are being compromised by the governors because they have to play nice in order to get funds for their wards. With this law, they will access funds and it will also allow them to offer the primary oversight in the county government.

Clause 9 of this Bill states that the funds to the wards shall be retained. This will help to deal with wastage at the county level. What is happening is that if money remains on a project, it is taken back to the Treasury and you are not sure whether other money will be released to fund that project. Initially we had so many unfinished or abandoned projects because of funds being returned to the Treasury. This law will allow funds to be taken back to the wards Fund, so that it is either reallocated to a different ongoing project or a new one or a project that had not been completed.

In this Bill, administration expenses will be limited to only 1 per cent. That means that there will be more focus on development rather than what is currently happening. County governments spend 70 per cent of funds or even more on recurrent expenditure like paying salaries.

There is a proposal to have a ward account in any commercial bank approved by the county treasury. I suggest that we amend this so that it is not risky because commercial banks are risky to put public funds. Banking regulations that are in the Public Finance Management (PFM) Act should be adopted in the establishment of the accounts.

I also have an issue on the signatories of the Ward Development Fund Account. It is proposed that we will have the Fund manager, the committee chairperson, the project coordinator and one member appointed by the committee. I suggest that this one member should be a prominent, eminent or respectable resident of that ward to be appointed or elected by members of the public in that ward. That will offer some accountability and respect towards expenditure of the funds.

The critics of this Bill have been asking the question of; who will oversight the Fund? The setup of the Ward Development Board is a good thing. Just like the National Government Constituencies Development Fund (NG-CDF) Board at the national level offers oversight for the NG-CDF, this board will also offer oversight for the Ward Development Fund.

In Clause 17, we are told that the board will consist of several members. Clause 17(c) states that there will be three persons competitively recruited by the CPSB, which is basically part of the county executive. That means that the county executive will be involved in the running or management of this Fund.

Madam Temporary Speaker, with those few remarks, I beg to support. I thank you

**The Temporary Speaker** (Sen. Nyamunga): Very well. Let us now have Sen. Seneta.

**Sen. Seneta:** Madam Temporary Speaker, thank you for giving me a chance to also contribute to this very important Bill. Before I do so, I request for your permission to

also condole with the families who lost their loved ones in the Solai floods. Just like many of my colleagues have already said, the Government should declare floods a national disaster and treat it with a lot of urgency. They should put more emergency funds and aid to assist people in all the parts of this country that have been affected. It is not only Nakuru County which is mourning today but also the same is experienced in many other counties like Taita-Taveta, parts of Narok County and many other parts of this country.

It is sad that we do not learn. We only mourn when something happens. We need to learn from it and treat the same by putting more mitigation measures as a country to prevent these kinds of disasters from recurring.

Going back to the Bill, this is the spirit of devolution according to the Constitution. When you talk of devolution, it is a constitutional spirit that wants to see every part of this country get a piece of revenue allocation from the national cake. Therefore, to have equal shares to all our wards, this means every person in this country will feel what devolution is. This will also help us to make sure that county governments do not only allocate funds according to the priority of the executives, parties with the majority in the county assemblies or any favour but according to the law. Therefore I congratulate my colleague Sen. Kang'ata for having thought deeply about our wards.

This Bill will go a long way in seeing that every part of this country develops, because when we talk of wards, we are talking of every ward represented in the county assembly; these are the smallest units of devolution. Therefore all of them will enjoy the allocation that this Bill seeks to establish.

Another thing I admire in this Bill is the issue of the county wards development boards. Our representatives in the wards will be represented. Most of the time, those people do not have an opportunity to go to Nairobi or where national Government sits to say what they need in their wards. With the creation of wards development boards, those who know exactly what the wards miss in terms of development will be brought on board. These are the representatives of the common *mwananchi* who cannot come and speak on ward development in Nairobi or the national Government.

Another thing I want to talk about is the implementation committee which will ensure that everything is implemented. Many a time, we allocate money in this country that goes to very big projects that are not completed because there is no implementation committee and the common *mwananchi* is not empowered. They may not even be heard or even get a forum to talk about the uncompleted projects.

Today we have projects where a lot of money was put but they do not provide any service to the common *mwananchi*. Therefore, implementation committees in our wards will help us to make sure that whatever monies that will be put in any project in the wards, which are our smallest units in devolution, will make meaning in our people's lives.

I also like the fact that there is a small percentage that will be put in the law for our Members of County Assemblies (MCA's) for them not to be beggars. They will get their ward percentage through the law rather than getting it for doing a favour to the governor or being in the same party with him. Therefore, the creation of the framework by law is very important. We have some units, small villages or wards in this country that

are not attended to by any Government official or elected politician because they did not vote for him or they did not vote for any party that is in Government at that time. This makes people to lag behind. This Bill will go a long way in making our people feel important and it will equalize development in our country.

There are a few demerits when I look at this Bill. I foresee a situation where the MCA will require a Ward Administration Fund to determine the projects to develop. I foresee duplication of roles where the MCA will build classrooms and the Member of Parliament (MP), the governor and the Ministry will also build the same. This is something that we need to think about so as to avoid duplication of roles using the money that goes to our counties.

We are suffering in many counties because people cannot cross from one place to another, for there are no bridges. The bridges are now considered to be under the county government but when you ask the county government, they will say that the road is not theirs. The MCA and the MP will say that the road is not theirs or that they are not supposed to build a bridge while the national government will say that it is a county government road. We need proper clarification of these roles so as not to create so many funds that will confuse people.

Therefore, this Bill will go a long way in empowering the role of the MCA's thus making us have strong county assemblies that will not only do the oversight role but will also develop their areas. I say this because when one is elected as an MCA, MP or Senator in Kenya, you have to show your people what you can do.

I support this Bill for it is very timely.

**Sen. Pareno:** Thank you Madam Temporary Speaker. I beg to move that the debate on the Motion be now adjourned to the next sitting. This is a very interesting Bill that needs a lot of time and attention. If we do that, we will give this Bill the maximum time that is required. It is an important Bill to all of us and this House needs to address itself to it properly.

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

*(Debate on the Bill was adjourned)*

## ADJOURNMENT

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, having concluded the Business of the day, it is now time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 15<sup>th</sup> May, 2018 at 2.30 p.m.

The Senate rose at 6.30 p.m.