

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Thursday, 17<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

#### COMMUNICATIONS FROM THE CHAIR

##### VISITING DELEGATION OF THE BUNGOMA COUNTY ASSEMBLY LABOUR AND SOCIAL WELFARE COMMITTEE

**The Speaker** (Hon. Senators): Hon. Senators, I wish to acknowledge the presence in the Speaker's Gallery this afternoon of a visiting delegation of the Labour and Social Welfare Committee from Bungoma County Assembly. I request each member of the delegation to stand when called out so that you may be acknowledged in the Senate tradition.

(1) Hon. Sifuna Ngana	Chairperson
(2) Hon. Simotwo Franklin	Member
(3) Hon. David Barasa	Member
(4) Hon. Eunice Kirui	Member
(5) Hon. Bethwell Mwambu	Member
(6) Hon. Fredrick Musebe	Member
(7) Hon. Joshua Sikuku	Member
(8) Hon. James Chesibok	Member
(9) Hon. Joan Ntukai	Member
(10) Hon. Nathaniel Aseneka	Member
(11) Hon. Christine Ngelech	Member
(12) Mr. Michael Kimwele	
(13) Ms. Martha Alaka	
(14) Mr. Levis Wanjala	
(15) Ms. Purity Mwasame	

*(Applause)*

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

I thank you.

VISITING DELEGATION FROM AIC KAVANTAZOU  
SECONDARY SCHOOL, MAKUENI COUNTY

Hon. Senators, I wish to recognize the presence of visiting students and teachers from AIC Kavantazou Secondary School in Makueni County. They are seated at the Speaker's gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.

*(Applause)*

Proceed, Sen, (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to support you in welcoming the Members of County Assembly (MCAs) who have joined us from Bungoma County. They have done a commendable job. We have interacted with them in the Committee on Labour and Social Welfare and we know that this is a vibrant team that will help us as we work towards devolution.

We did mention to them that we want devolution to work for us because it is a tool that is going to help us deliver to the people. I am commending them for coming to engage with the Senate.

Mr. Speaker, Sir, I also want to commend the students who have come here to interact with the Senate and to see what happens here. We need to mentor the young ones into leadership positions so that we are able to leave the leadership baton to the right people with the right minds. I, therefore, commend them for coming to join us.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Senators): Proceed, Sen. (Dr.) Milgo.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir. As the Vice Chairperson of the Committee on Labour and Social Welfare, I also want to add my voice in welcoming the Members of Bungoma County Assembly Committee on Labour and Social Welfare. I thank them for finding time to come and benchmark with the Senate Committee on Labour and Social Welfare. As my colleague has said, these are very vibrant members and we were able to learn a number of issues from them.

From our interaction, I realized that there are so many things that are not taking place in the counties. We encouraged them to come up with a number of issues that are bedeviling the MCAs for us to iron them out in our Legislative Summit in Mombasa. One notable one was the pension for the MCAs and we encouraged them to bring it to our Committee.

Mr. Speaker, Sir, I also want to take this opportunity to welcome the students and encourage them to work hard. One day they will also find themselves in the Senate, representing their counties.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Senators): Proceed, Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I also join you in welcoming the delegation from Bungoma and also to recognize the school. The name of the school is Kavantazou from Kaiti Constituency. They are actually at the Senate on my invitation on something that we had agreed on sometimes back. I have interacted with them the whole morning and I hope that they have learnt something from the Senate.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Senators): Proceed, Sen. Sakaja.

**Sen. Sakaja:** Thank you Mr. Speaker, Sir. I would also like to give a warm welcome to the MCAs from Bungoma County Assembly. We have interacted before through my Committee on National Security, Defence and Foreign Relations as we went to deal with the issues of security in Mt. Elgon Constituency. I am sure that they are happy with the progress that is being made since our visit. We also interacted with them over matters of land, settlements and the schemes there. I am glad that the area is a bit quiet and peaceful and we want to commit to them that we will make sure that all those allocations are done properly.

In commending them, I would also like to note that as a Senate, we need to strengthen our interaction with county assemblies. We are the big brothers of the county assemblies, so we need to hold their hands as we deal with devolution and accountability. I want to commend Bungoma County Assembly because of the quality of interactions. They did a wonderful Report on the issues and they handed it to us. I have not seen such a report being done in any other county assembly and I hope that they will interact with my county assembly of Nairobi for the time when they are in Nairobi.

Thank you and I am glad to officially welcome them to Nairobi County as the official host.

**The Speaker** (Hon. Lusaka): Thank you very much. Remember that it is also the county where the Speaker comes from and I was the first governor.

Hon. Senators, for the next Order, I ask members to remain within the Chambers because we shall have a Division later on.

Next Order.

### PAPERS LAID

**Sen. Dullo:** Mr. Speaker, Sir, I beg to lay the following papers on the Table of the Senate, today, Thursday 17<sup>th</sup> May 2018:-

#### REPORT ON THE FINANCIAL STATEMENT OF MACHAKOS COUNTY ASSEMBLY CAR LOAN SCHEME FUND

Report of the Auditor General on the Financial Statement of the Machakos County Assembly Car Loans Scheme Fund for the year ended 30<sup>th</sup> June, 2017.

REPORT ON THE FINANCIAL STATEMENT OF  
KAJIADO COUNTY EMERGENCY FUND

Report of the Auditor General on the financial statement of the Kajiado County Emergency Fund for the 15 months period ended 30<sup>th</sup> June, 2017.

I thank you.

**The Speaker** (Hon. Lusaka): Next order.

Proceed, Sen. Sakaja, Senator for Nairobi County.

**STATEMENT**

THE STATE OF NAIROBI CITY COUNTY

**Sen. Sakaja:** Mr. Speaker, Sir, I wonder who was on your mind.

I rise to make a Statement pursuant to Standing Order No. 46(2)(a), which states that:-

“A Senator may make a statement on a county issue or an issue of general topical concern;”

Following growing concerns from the people of Nairobi City County on the state of the county, and this included concerns from hon. Senators. Many of our Senators who are citizens and residents of Nairobi County have been raising concerns. I promised last week that I would make a statement on a myriad of issues affecting the County of Nairobi, which is a capital city.

Nairobi City County is the capital of our country and home to more than ten per cent of the entire population of Kenya; close to 5 million Kenyans call this home. More than 50 per cent of our country’s Gross Domestic Product (GDP) is generated in Nairobi. That means that if Nairobi does not work, then Kenya does not work. Nairobi must work because it is also the economic and diplomatic hub of East Africa. It is the face of the region and the face of Kenya.

There has been great concern over its state by residents on a number of issues, namely; the state of political and administrative structures, the state of infrastructure, roads, drainage, street lighting, provision of essential services like water, the state of the environment, garbage collection, security and lawlessness. It is in everyone’s knowledge that the long rains and the flooding that comes with it have exposed a very soft underbelly that our county sits on. Just like many parts of our country, we need to fix it.

Mr. Speaker, Sir, we must remain accountable to the millions who voted for us. Our rallying motto during the campaigns was to fix Nairobi and it is my belief that we still should and can do it. Our drainage systems and road infrastructure are a mess and need fixing as a matter of urgency. We have witnessed the destruction of property and impassable roads when it rains and floods.

It breaks my heart as I go to work every morning when I see school going children and women struggling to cross roads on “mikokoteni” and people’s backs, just as they try to get to their schools and places of work. We have also witnessed children getting stuck on their way home, ending up getting home even at midnight. We have had to evacuate entire schools, for instance Embakasi Girls, where students were marooned because of the damage.

The drainage, water and sewerage systems in this county cannot hold. There is urgent need to reclaim riparian reserves that have been grabbed in Nairobi as well as to overhaul the water and sewerage infrastructure in this city. I call upon the Committee that deals with infrastructure to help us come up with a solution that can support our county government in doing this.

The state of our infrastructure is wanting; perpetual traffic jams and bad roads hamper the productivity of our people. It is totally unacceptable that a majority of the residents in Nairobi who contribute to more than 50 per cent of the country's GDP continue to waste up to six hours of their productive time daily in traffic jams. We have seen certain proposals from the national Government but none is sustainable.

Mr. Speaker, Sir, painting red lines on highways will have the same effects as the "Kidero drums" on the roundabouts. We urgently need a mass transit system in the city that will incorporate both light rails as well as bus rapid transit systems that will ensure a clean, efficient and reliable transport system for the people of Nairobi. Some of these interventions are going to be done together with the national and county governments as well as this House in championing them.

We have also witnessed insecurity at the heart of the capital in a manner that we have not seen before. The fact that hardworking residents of Nairobi would get mugged in broad daylight, as we saw several months ago, was as disturbing an issue as any other. We watched it and got shocked at the sheer audacity of goons attacking innocent residents in broad daylight. Only recently, the Chairperson of the Nairobi Central Business Association was attacked as he went to give a press statement. I am glad that law enforcement has taken action.

There must be a partnership with the national Government and the security forces in making sure that Nairobi remains a city where the rule of law supersedes the rule of man and where impunity does not reign. Lack of water in our taps has become the norm, yet we have been receiving torrential rains over the past few weeks, not just in Nairobi, but in Ndakaini, which supplies water to Nairobi.

A litre of water in Nairobi is almost becoming as expensive as a litre of petrol. To make it worse, the people who live in slums; our citizens and electorate in this city end up paying more than 50 times for water than the hon. Senators are paying in their houses, wherever they are staying. The residents of Nairobi have suffered enough under the heavy hand of water cartels and poor management of this valuable resource. We will engage our committees, the county committees as well as the Nairobi Water and Sewerage Company to find out what exactly is the solution to this problem.

Mr. Speaker, Sir, living and doing business in such conditions has become unbearable for many residents and even as we continue to endure, we should not accept it as a norm. I put it to this House that it is, indeed, possible to fix this mess because, evidently, and after a long time, based on our Governor's assertion, we can see that the revenue collection in Nairobi is going up and this is the money that needs to be used to sort out these problems.

I have seen Sen. Nyamunga bring up the issue, in this House, of South C Estate. Sen. Kwamboka has also raised issues regarding different residential areas. Nairobi needs a marshal plan and to be helped by the Senate. I look forward to getting support from

other Senators because if 60 per cent of the country's GDP is coming from this county, let us not treat it just like any other county.

Mr. Speaker, Sir, the national Government, in partnership with the county government, has come together under the Nairobi Regeneration Project to address a lot of these issues. This is a welcome move. However, this must be done in conjunction with all elected leaders of the county from the 85 elected Members of the County Assemblies (MCAs), the 17 elected Members of Parliament (MPs) from all the political parties and of course, yours truly, the Senator and the Governor.

The Senate needs to create a proper framework for the realization of Article 189(2), which states that the Government at each level and different Governments at the county level shall co-operate in the performance of functions and exercise of powers. For that purpose, it may set up joint committees and authorities.

I would like to report to the House that just this morning, I held a meeting with the Nairobi Regeneration Team at the Ministry of Infrastructure together with small traders and vendors, to give the traders an opportunity to eke out an honest living. We will soon start a two-day car-free programme in a week in certain streets and parts in Nairobi to give those traders an opportunity.

Mr. Speaker, Sir, the private sector in Nairobi is not just those in suits and ties. Even our hawkers need respect; they need to be given a place where they can operate without interfering with the rest of the business in the city. We will also be engaging in all other areas outlined in the Nairobi Regeneration Plan, which aims to return our beautiful city to its lost glory.

It is imperative that the Senate plays a bigger role when it comes to intergovernmental arrangements between the national and county governments. This is to make sure that even as our county, especially the County of Nairobi is being assisted, that devolution is not compromised. I urge the Committee on Devolution and Intergovernmental Relations to spearhead this process to give life to Articles 186 and 189 of the Constitution.

We have also heard assertions that the County Government of Nairobi has increased its revenue collection from Kshs7 million a day to more than Kshs60 million a day. This is commendable and I must congratulate the Governor of Nairobi County, Gov. Sonko. This is attributable to the digitization of revenue collection, which must go on. Nairobi has more than 100 revenue streams and all of them should be digitized.

However, as much as the increasing revenue is commendable, what Nairobians are concerned about is services being delivered to them. Nairobians care less about how much you are collecting if they are not receiving services. The collection they are concerned about more is garbage collection and not just collection of revenue.

Therefore, for us to play our oversight role as a Senate, we are also concerned about revenue collection. Therefore, through the Committee on Finance and Budget, I will write to the Auditor-General to audit the revenue collection of Nairobi City County for the last nine months. I will also be requesting for an audit of Jambo Pay Limited, which has been collecting revenue on behalf Nairobi City County Government.

**The Speaker** (Hon. Lusaka): Hon. Senator, you have about two minutes remaining and so you need to finalize.

**Sen. Sakaja:** I am winding up, Mr. Speaker, Sir.

Mr. Speaker, Sir, as a Senator who was elected by close to a million residents, who I always thank, I made it my daily commitment to ensure that the county government delivers on its promises. I will aspire to form bridges to build synergy with all the stakeholders involved to ensure that the best interests of this great County of Nairobi are safeguarded and advanced.

Nairobi is too important to all of us to be inundated by daily sideshows and it must be taken seriously. It is not the time for political chatter. The county government must succeed. The success of the county government and Governor Sonko is the success of all the Nairobians and of our country, Kenya.

As I finish, Mr. Speaker, Sir, I note that the county government has taken quite some time to settle. Our county still lacks a substantive deputy governor or chief officers despite the fact that we have already created the legal framework through which a deputy governor is to be appointed. We are asking the Governor of Nairobi County to take the matter of appointing a deputy with the seriousness it deserves. Any Kenyan can be his deputy.

We have seen the nomination of one Mr. Miguna Miguna, who is also a Kenyan, and he can be the Deputy Governor – I am glad that he is coming back to the country – however, I know that it will not happen. That is why we are asking the governor to be serious and to fast track the appointment of chief officers of Nairobi County. Nairobi County still does not have chief officers.

Mr. Speaker, Sir, my office will continue to play its oversight role even as it strengthens and equips the Members of County Assembly (MCAs) of Nairobi to make sure that the county government is accountable to the electorate who voted for his leadership overwhelmingly. I look forward to the support of my fellow Senators.

Thank you, Mr. Speaker, Sir.

**Sen. Mutula Kilonzo Jnr.:** First, Mr. Speaker, Sir, I thank Sen. Sakaja for his statement about the status of Nairobi County. As we speak, Nairobi has lost its status because of the mess we have. Secondly, the mess in Nairobi is not the mess of Sen. Sakaja. We, as the Senate under Article 96, must take charge and make sure that this city is running like any other county. We have that obligation, and it is not Sen. Sakaja's alone. We work in unison and we work as a collegiate. Therefore, the Committee on Devolved Government and Intergovernmental Relations and the Committee on Finance and Budget must intervene.

Sen. Sakaja, on the question of a special audit under Article 229, if you notify the Committee on Finance and Budget, we can request for a special audit. There is nothing more required.

Lastly, Mr. Deputy Speaker, Sir, Section 6(6)(5) of the Urban Areas and Cities Act states that:-

“Subject to Section 2, the two levels of Government shall enter into an agreement regarding the performance of functions and delivery of services by the capital city.”

I want to underline the words ‘shall enter’. I witnessed the statement made by His Excellency the President about the hiring of youth to collect garbage in Nairobi. Sen. Sakaja, the law requires that there shall be an agreement in the city, between the national Government and the county government. This is a city where there are offices of diplomatic missions. We want to see the agreement between President Uhuru Kenyatta

and Governor Sonko about the management of services in Nairobi. That is the law and it says 'shall;' meaning it is not optional.

Therefore, when we start apportioning blame, we will do so as it is. If Nairobi County is contributing 60 per cent of the Gross Domestic Product (GDP), the national Government must be seen to be acting and not apportioning blame. Those that I believe are sabotaging governor Sonko must remember that we will deal with them. It is our work to deal with Nairobi because it is the capital city.

Lastly, the issue of nomination of Mr. Miguna Miguna is extremely controversial. This is because we do not know the basis on which he was nominated or whether he accepted; we do not know whether he was notified and how the letter is going to be delivered. The Speaker of the Nairobi County Assembly now says that Mr. Miguna Miguna must be vetted to establish whether he is a Kenyan or not. The charade in Nairobi must stop. We cannot continue like this.

This is something that we must intervene in as a matter of urgency because I would hate for Nairobi to go the Makeni way. If we are not careful, we will either have a by-election in Nairobi or, alternatively, we will have such a mess that the mandarins and the people who think that Nairobi should no longer be a county will have the fuel to say: "let us return the functions of Nairobi to the Central Government." That will never happen for as long as we are here.

Thank you, Mr. Speaker, Sir.

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

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

**Sen. Sakaja:** Mr. Speaker, Sir, I want to inform my good friend Sen. Mutula Kilonzo Jnr., that the reason we are saying the issue of appointment of the deputy governor must be taken seriously is because some have misconstrued that I do not want to support the appointment of Mr. Miguna Miguna. Anyone can be appointed but the manner in which it has been done, even Mr. Miguna Miguna himself has written to say that it is a malicious distraction. This is not a county for sideshows. This is the most serious part of the East and Central Africa Region.

I, therefore, want to inform Sen. Mutula Kilonzo Jnr. that as much as that has been said, I even posted on my *Facebook* and *Twitter* accounts saying that it will not happen. Mr. Miguna Miguna himself has not been consulted and he has said that it is a malicious distraction. Nairobi deserves better than malicious distraction.

**Sen. Seneta:** Thank you, Mr. Speaker, Sir, for giving me a chance to add my voice to the Statement that has been raised by the 'super' Senator of Nairobi County, who is our host. The state of Nairobi is a sad situation because the city not only hosts the Parliament of Kenya, but also big national and international institutions. In any budget that has passed through this House, we have always seen Nairobi County getting the biggest share of revenue allocation.

Nairobi County also has very big private institutions. It already has existing infrastructure, for example, tarmac roads. Therefore, the Nairobi County Executive and Assembly need to be serious in delivering services for Kenyans. Nairobi already has everything; we only want it to be clean and orderly. Apart from the issue of shortage of water, Nairobi has a lot of the infrastructure. Many of our other counties do not have tarmac roads. However, Nairobi County has tarmac roads, national schools, the Kenyatta



National Hospital (KNH) and many big institutions. Therefore, the situation that Nairobi is in today is a very sad affair to all of us, Kenyans.

Mr. Speaker, Sir, the governor of Nairobi County should take the existing laws seriously. In terms of appointments, he should know that there is a deadline in appointing the deputy governor and even the executives. This is because you cannot be running a county without a deputy governor and Cabinet Secretaries. You cannot be running an office alone.

Thank you, Mr. Speaker, Sir.

**Sen. Kibiru:** Thank you, Mr. Speaker, Sir. I also add my voice to support the Senator for Nairobi City County. In particular, he has talked about dry taps in Nairobi City. I happen to have been one of the pioneer commercial directors of the Nairobi City Water and Sewerage Company (NCWSC). It is an area that Sen. Sakaja would need to dig deeper. As we know, for the last one year or so, the NCWSC been without a board of directors.

At the same time, we also know that there are talks of privatising the company. I am privy to information that even the World Bank (WB) is pushing for privatisation. I do not know whether it is deliberate that it is being sabotaged so that it can be privatised. So, when the Senator for Nairobi City County is dealing with the issues of Nairobi City County, he should also let us check out on how that company is performing so that we can start getting water.

**The Speaker** (Hon. Lusaka): Let us hear from Sen. Kinyua.

**Sen. Kinyua:** Thank you, Mr. Speaker, Sir. From the onset, I want to support what Sen. Sakaja has brought to this House. As the Chairperson of the Committee on Devolution and Intergovernmental Relations, I want to assure him that I will take seriously what he has said. I will invite the Cabinet Secretary (CS) involved so that he can shed more light.

I want to be very honest that we are not getting water and when one does, it is very expensive. I am finding milk a bit cheaper than water. Therefore, in the near future, I am wondering whether I will be showering with water or milk.

*(Laughter)*

**The Speaker** (Hon. Lusaka): Thank you, hon. Senators who have contributed to Sen. Sakaja Statement. I now call upon the Senate Majority Leader to make a statement.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 29<sup>TH</sup> MAY, 2018

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. This is the statement from the Office of the Senate Majority Leader on the business of the Senate for the week commencing 29<sup>th</sup> May, 2018, pursuant to Standing Order No. 46(2)(c). I hereby present to the Senate, the business of the House for the week commencing Tuesday 29<sup>th</sup> May, 2018.

Hon. Senators, today I will be moving a Motion for the Senate to adjourn for one week in order to afford hon. Senators the opportunity to attend and participate in the Annual Legislative Summit scheduled to take place from 20<sup>th</sup> May - 25<sup>th</sup> May 2018 in

Mombasa County. The Senate will therefore resume its sittings on Tuesday, 29<sup>th</sup> May, 2018. That being the case, the Senate Business Committee (SBC) will meet on Tuesday, 29<sup>th</sup> May, 2018, to schedule the Senate business for that week.

Subject to further direction by the SBC, the Senate will on that Tuesday continue with consideration of business that will not have been concluded in today's Order Paper. On Wednesday, 30<sup>th</sup> May, 2018 and Thursday, 31<sup>st</sup> May 2018, the Senate will consider business that will not have been concluded on Tuesday 29<sup>th</sup> May, 2018 and any other business scheduled by the SBC.

Hon. Senators, the following Bills are at the second reading:-

- (a) The County Boundaries Bill (Senate Bills No. 6 of 2017)
- (b) The Office of the County Attorney Bill ( Senate Bills No. 3 of 2018)
- (c) The County Government Retirement Scheme Bill ( Senate Bills No. 6 of 2018)
- (d) The Public Participation Bill (Senate Bills No. 4 of 2018)
- (e) The Physical Planning Bill (National Assembly Bills No.34 of 2017)
- (f) The Irrigation Bill (National Assembly Bills No. 46 of 2017)
- (g) The Kenya Roads Bill (National Assembly Bills No. 47 of 2017)
- (h) The County Allocation of Revenue Bill (Senate Bills No. 11 of 2018).

There are also three bills due for Committee of the Whole:-

- (a) The Assumption of Office of The County Governor Bill (Senate Bills No. 1 of 2018)
- (b) The National Flag, Emblems and Names Amendment Bill ((Senate Bills No. 8 of 2018).
- (c) The Food Security Bill (Senate Bills No. 12 of 2017).

I commend the Senate Select Committees that have tabled reports on Bills referred to them. I encourage Senators to take this time to go through those reports to enable them to participate in debate and second reading from an informed position.

Mr. Speaker, Sir, I conclude, I wish Senators and all other Annual Legislative Summit participants fruitful deliberations this coming week in Mombasa.

I thank you, and hereby lay the Statement on the Table of the Senate.

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

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

**The Speaker** (Hon. Lusaka): What is your intervention?

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, on the Statement raised by Sen. Sakaja on Standing Order No. 46(2)(a) - "A matter of general topical concern" - I am not quite certain whether that statement was supposed to be noted without any action. I would propose that you offer some direction.

It would look weird that Sen. Sakaja can come to the Floor of the House, issue a statement, we thump our feet and that is the end of the matter without any point of action. Am I in order to propose that you offer some direction to at least two Committees to quickly summon whoever they need to so that we can tell Kenyans the true status on the health of Nairobi City County?

**The Speaker** (Hon. Lusaka): Hon. Senator you are quite in order. Given the serious issues raised by hon. Members, I direct that the matter be forwarded to the

Committee on Devolution and Intergovernmental Relations and that they summon whoever is relevant to the issues raised and report to this House within seven days.

*(Applause)*

**Sen. Sakaja:** On a point of order, Mr. Speaker, Sir. This is a matter for the Senate Committee on Devolution and Intergovernmental Relations and also the Senate Committee on Finance and Budget.

**The Speaker** (Hon. Lusaka): The two committees can handle the matter and bring a report within seven days.

Before we go to the next order, using my discretionary powers under Standing Order No.40(2), I invite the Chairperson of the Senate Committee on Finance and Budget to lay some report which had delayed being brought to the House.

### PAPER LAID

#### REPORT ON THE COUNTY WARDS DEVELOPMENT EQUALIZATION FUND BILL

**Sen.(Eng.) Mahamud:** Mr. Speaker, Sir, I beg to lay the report of the Standing Committee on Finance and Budget on the County Wards Development Equalization Fund Bill (Senate Bills No.5 of 2018), on the table of the Senate, today 17<sup>th</sup> May, 2018.

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

**The Speaker** (Hon. Lusaka): Hon. Senators, I notice we will be in Mombasa for one week. I therefore, add the Committees one extra week. So they will bring the report within two weeks. I think that should be adequate.

Next Order.

### BILL

#### *Second reading*

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

*(Sen. (Eng.) Mahamud on 16.05.2018)*

*(Resumption of Debate interrupted on 16.05.2018)*

**The Speaker** (Hon. Lusaka): We will defer that to another time as we go to the next order.

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

**The Speaker** (Hon. Lusaka): What is your intervention?

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, although this should have been done by the Chair, however, in my capacity as the Senate Minority Whip, we are trying to whip as many Members as possible. I request if you could stand down this Order for another few minutes as we try and get the numbers.

The Senate Committee on Finance and Budget had instructed the whips to ensure that we vote today.

**The Speaker** (Hon. Lusaka): That is why I directed that it be deferred to another time today.

Next Order.

## BILLS

### *Second Readings*

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

**The Speaker** (Hon. Lusaka): I notice that the Mover is not here. So, we go to the next order.

*(Bill deferred)*

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

**The Speaker** (Hon. Lusaka): Proceed, Chairperson of the Committee on Labour and Social Welfare.

**Sen. Sakaja:** Mr. Speaker, Sir, I ask for your indulgence to defer it to next week because we are still finalizing the report that is yet to be tabled. The report will inform Senators better because it is a very sticky issue on retirement benefits for workers in counties.

**The Speaker** (Hon. Lusaka): Since next week we shall be away, we will push it to two weeks from today.

*(Bill deferred)*

Next order!

## MOTION OF ADJOURNMENT

### ADJOURNMENT OF THE SENATE TO FACILITATE PARTICIPATION IN ANNUAL LEGISLATIVE SUMMIT

**Sen. Dullo:** Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to Standing Orders 29(4) and 54 (b), the Senate resolves to alter its Calendar (Regular Sessions), adopted on Tuesday, 20th February, 2018, in respect of the Second Part, to proceed on a Recess from Friday, 18th to Monday, 28th May, 2018, to afford Senators an opportunity to participate in the Third Annual Legislative Summit scheduled to be held from 20th to 25th May, 2018, and to resume its sittings on Tuesday, 29th May, 2018.

This function is important for this Senate. We have had this programme in the last Parliament. We are adjourning the House because we have to interact with the county assemblies since they are our core partners in the devolution process.

Of course, there are issues that we cannot address in the House, regarding our relationship and partnership, but this forum will give us an opportunity to interact one on one with the county assemblies and iron out the issues in terms of oversight at their level and our level.

Again, it is important for us to have this forum where we can share with the county assemblies how they should carry out their mandate in overseeing the county government functions.

We have also tried severally, as the Senate, to build capacity of the county assemblies and the secretariat at that level. It is important for us to understand whether the interaction and capacity building that we are carrying out has impacted on their performance. One of the Committees of the Senate last week had an interaction with the county assembly, especially public accounts committees of all county assemblies in the country. The Chair has just come in.

This is also an opportunity we can use to interact with those committees of relevant assemblies so that they can perform their mandates at the county level. Some of the assemblies' members are very new. In the last House, we tried as Committees, to bring to Nairobi or even visit them at the grassroots. We made efforts to build the capacity of those relevant committees so that they are able to deliver on their mandate. We do not know how much that has impacted on their performance. This one-on-one interaction between us and county assemblies will iron out the issues or gaps to make sure that we have corrected the situation in terms of how they are supposed to operate.

Mr. Speaker, Sir, I urge Members to take this forum very seriously because it is interactive. At the end of the day, as Senators, we have a mandate to ensure that those counties are operating properly. Members of County Assemblies (MCAs) are our younger brothers and sisters on the ground who make sure that whatever we have done at the national level has been implemented at the county level.

The last forum was impressive. We had very many interested partners who participated and gave speeches on what devolution is all about and what county assemblies are required to do. I believe we must have learnt something from the last

Summit which will inform this one. We should take it to a higher level so that we deliver on our mandate.

It is important for us to carry out audit; an analysis of whether we have done our work properly in terms of our partnership with the county assemblies. I did not see that in the last Parliament. We always participate in devolution conferences but what is important is: What is the purpose of these conferences, for example, the devolution conference? Is it a matter of us just going, bashing each other, giving very strong statements and walking out? An ordinary *mwananchi* would want to know what is on the table for them in terms of employment, development and service delivery.

This Senate should take this forum very seriously. We should hold conferences and make sure that they have impacted on the lives of Kenyans as mentioned by the President in his Speech when he gave the State of the Nation Address in the National Assembly Chamber two weeks ago.

Mr. Speaker, Sir, I hope Members will take this Summit and adjournment seriously and attend this forum to make sure that we have interacted well and assisted each other because it is a learning curve for the stakeholders. We are here in Nairobi. We do not know what challenges those MCAs are facing but when we sit at the same table, discuss and share ideas and interact well, we can understand where they are coming from and where we are also coming from and have that link to strategise in ensuring that devolution has worked both at the national level where the Senate is and also at the county level.

Mr. Speaker, Sir, I do not want to belabour so much on this. Much will be discussed in the forum. I request Sen. Mutula Kilonzo Jnr. to second this Motion.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I rise to second the Motion to adjourn the Senate for a week to enable Senators attend the Legislative Summit. I need not belabour the reasons to do so. There are three fundamental issues that will come into play at the Legislative Summit.

First, we are adjourning at a time when there is a Bill in the Senate on the Ward Equalisation Fund. A report has been tabled. It is important that this Senate, together with the Committee on Finance and Budget discuss in detail this issue so that by the time we are deliberating and voting on the Bill, the clamour for this fund is well understood from that perspective. We will inform them on the interactions we have had with the various Government agencies regarding the shortfalls and others about this. We will also try and advice, in advance, of what we think as a Senate, is a correct way of ensuring that there is true devolution of resources.

Secondly, we have now passed what is called the Kenya Devolution Support Programme (KDSP) which seeks to support county Governments on capacity building. This KDSP is supposed to capacitate executives only. It would be a good opportunity to listen to the county assemblies to know whether they have managed to interact with the county governments in terms of capacity building.

This morning, during the public hearing on Disaster Management Bill, Governor Amason Kingi informed the Senate committee that although they had passed their own Disaster Management Act, which requires that there is coordination in the county, there has been no coordination to the extent that when some of the county commissioners are

called to such meetings, they wait for telephone calls from their bosses in Nairobi. We would like to hear firsthand information in terms of disasters and floods in the counties.

The tie to it is the Section in the Public Finance Management (PFM) Act that governors told us that Members of County Assemblies (MCAs) have been taking lightly is the 2 per cent of revenue being targeted and set aside for disasters. It need not to be said that counties must prioritise disasters. We will also inform them on what we are doing with the Disaster Management Bill and what the intention is. In fact, we must go all the way and set aside a certain percentage of national revenue for purposes of disasters.

Lastly, while interacting with them, now that we have given the assemblies Kshs1.7 billion extra for purposes of sitting allowances and committee allowances, they should know that we want to reduce the work that is with Sen. M. Kajwang', where he sits with his committee day in day out, doing menial jobs. This is the time to tell county assemblies that they must stand up to be counted.

We want to make sure that they check the governors. If governors are not checked, Senators will have problems. We cannot continue having petitions coming here. Let us face the ladies and gentlemen out there whom we have given resources to check governors. The end must come. We need to have prudence in financial management and oversight. They need to know that the habit of "going to bed" with governors must end. That partnership can only be for good purposes.

I hope MCAs of Nairobi will attend because we need to ask them very serious questions about what they are doing when all these things are happening because that is their work. We give them the highest budget but we get the poorest services in Nairobi. I am surprised he was rated with a score of I think D plus. He should have been given a Z or not rated because what was he being rated for doing? The trees in Nairobi are growing on their own and there is nothing he has done about it.

Mr. Speaker, Sir, I support.

*(Question proposed)*

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, let me also contribute to this Motion. It is very important that the Senate will adjourn for one week to participate in the Legislative Summit scheduled to take place in Mombasa. It is the first time some of us will be participating and it will give us the opportunity to interact with MCAs of this country.

As the Chair of the Committee on Finance and Budget, we had the opportunity to interact with MCAs during the budget-making process. It is important to note that we listened to them and accommodated their views in terms of the ceilings that are put in the budget as far as the recurrent expenditure of the assemblies and the executives is concerned. Whereas the executives can get access to other funding in terms of recurrent expenditures, county assemblies normally do not get that.

We found that what the Commission on Revenue Allocation (CRA) proposed was not adequate. As I mentioned, we have further allocated Kshs1.7 billion for recurrent expenditure of the county assemblies taking into account the rents, salary increments and

other sittings. MCAs should carry the oversight role properly with that funding. They wanted Kshs2.7 billion but we gave them Kshs1.7 billion.

The other issue which we engaged in was the County Wards Development Equalisation Fund Bill, a very interesting piece of legislation but also a bit unique in the sense that it requires a lot of combing before it is put into law. It is constitutional but a lot of work has to be done knowing that some counties already have similar legislation and we have to be careful how we do it.

We interacted with the Society of Clerks-at-the-Table (SOCATT), MCAs of Nairobi and a few others. When we go to Mombasa, we will interact with them further to understand better. The Bill is at the Second Reading stage and today we will table the report of the committee. There are many good ideas we got after stakeholders' participation.

It is important for us to go and interact with them. This morning we were briefed about the programme and the sort of discussions that will take place.

The other day we attended the Devolution Conference in Kakamega and I think the Legislative Summit is equally important; not because in Kakamega governors and other high profile personalities were there. Let us also be attracted to the county assemblies. We should not downplay it but we need to attend the Legislative Summit to interact with MCAs, so that we can effectively manage our counties. Without effectiveness of county assemblies, counties cannot be properly managed.

Our interactions with them will help us know the issues they face, so that we assist one another because they are the persons at the grassroot level. We share the same constituencies and counties and it is important that we interact and see ourselves as people serving the same people and our agenda should be the same.

With those few remarks, I support this Motion which is timely. We should go and interact with our colleagues.

**Sen. M. Kajwang':** Mr. Speaker, Sir, I beg to support the Motion that the House do adjourn for purposes of the Legislative Summit. There are countries that have states or federalism, or what we call devolution. In the United States of America (USA), they have institutionalised the National Conference of State Legislatures (NCSL) which brings together all the 50 plus legislatures.

I hope that when we go to Mombasa for the Legislative Summit, we will help the county assemblies to institutionalise the union, so that it is not an annual talking shop but something that has got structures and which other countries can use to benchmark on devolution to understand the Kenyan experience.

My brief remark is that this week we had scheduled to have hearings of the County Public Accounts and Investments Committee (CPAIC). Just to inform Members, we have written to counties of Kakamega, Machakos and Uasin Gishu. Their governors were to appear before the Senate as we review the audit reports. We have written to the governors and asked them to appear at a different time to allow Senators to attend the Legislative Summit.

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



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

What is interesting to note is that Kakamega County has chosen in the past not to appear before the Senate but I hope this time it will appear. We have not seen an indications or a letter from Kakamega County showing that they have chosen not to cooperate with the Senate. This is the kind of spirit of cooperation that we want to build.

When we come back from the recess, I want Senators to be aware that we will be looking at three counties; Homa Bay, Trans Nzoia and Siaya. I want to encourage Senators that they be present when CPAIC is looking at accounts for their counties. We have asked our clerks to send the information out to Senators because sometimes they understand the local issues better than the CPAIC.

I support the Motion.

**Sen. (Dr.) Musuruve:** Thank you very much, Madam Temporary Speaker, for giving me an opportunity to support the Motion to adjourn the House for the purposes of going to Mombasa for the Legislative Summit. This Summit is very important for it is a follow-up on the Devolution Conference that we had in Kakamega. During this Summit, Members of the County Assemblies (MCAs) and Senators are going to interact. I believe so much is going to be brought on board by Senators and MCAs.

I know that MCAs already have issues to raise with us and we also have issues to raise with them. It will be an opportunity for the MCAs to know that they are empowered and that they have a role to see to it that devolution works at the counties. The whole country is looking up to them and so are we. We expect them to be transparent and accountable in whatever is happening at the counties. There is money that is disbursed to the counties and it is important for the MCAs to realize that it is their mandate to ensure that those monies are used very well and not misappropriated.

During the devolution Conference, it came out very clearly that devolution is the key thing and for it to work, MCAs must be on board to ensure that the Big Four Agenda is achieved in the counties. We are relying on them to ensure that money that is disbursed for health and housing is used appropriately. If MCAs take up their responsibilities, it will be easier for us to do oversight.

I also know that MCAs have their own issues that they would like to bring to the Summit. We interacted with some of them from Bungoma County and they said that they were wondering if they are also pensionable after their two terms. This will be a good forum for things to come out clearly and for them to be informed about the benevolent fund and what they are supposed to set up.

At the end of the Summit, they will know that they have to be impartial and not compromised by governors. They should play their role independently and diligently for we are looking up to them in making devolution work and it has to start with MCAs.

I support the Motion that we adjourn the House for the purpose of going for this Summit which will take us miles ahead with regard to devolution. Devolution is very important for the people of this Republic because it ensures that services are delivered to *wananchi* and our commitment is to ensure that this time round, we deliver.

The President has reminded us that we have to be committed to serving the people of this country. He also reminded us to be serious with our work and this Summit is going

to be an eye opener. We are going to have good sessions with the MCAs and I want to believe that we will have good reports after the Summit for the purposes of devolution.

Thank you for the opportunity.

**The Temporary Speaker** (Sen. Nyamunga): Very good.

**Sen. Sakaja:** Thank you Madam Temporary Speaker. The Senators here are surprised at the length of my name.

I want to support the Motion for adjournment that the Senate can alter its calendar and to proceed on a recess from Friday, to participate in the Third Annual Legislative Summit. I have spoken to a number of MCAs from across the country and they are looking forward to this Legislative Summit. As my colleagues said, there is need for us to embed and institutionalize the Legislative Summit and the interactions of the Senate with the assemblies at the county level.

In many assemblies, you will find that they have not been given the capacity and because of the interventions by their governors, the oversight role is not being played, yet the caliber and quality of our MCAs has gone up in most of our county assemblies. We have doctors, engineers and lawyers who are MCAs. The county assembly is the first port or station of accountability of the county government or the executive.

Most of us forget that the county government, according to the Constitution, is the county executive and the county assembly, but the county assemblies see themselves as an appendage of the executive, as if they are subservient. Many times, you find that they end up pandering to the whims of a governor as opposed to the needs of their people. We need to strengthen the county assemblies for without that, we cannot strengthen devolution.

Devolution as was said earlier today during the *kamukunji* with the Commission on Revenue Allocation (CRA), is based on subsidiarity and the more you can do at the lowest level possible, the better for devolution. When services offered at the lowest level are compatible with the benefit, then the leaders should be equipped at that stage.

As a Senate, we need to consider the Ward Development Fund (WDF) as we go to interact with the MCAs. I do not understand why anybody would resist the creation of such a fund if we can accept the existence of the Constituencies Development Fund (CDF). When it comes to separation of powers, the fund is administered by the county executive; that ensures that projects are identified by the community at the ward level. Most of the devolved functions will then be implemented through the executive, of course, not through the MCA for we will not give them money, but it is good for our people and for the country.

There are certain counties where the governors will only concentrate on the areas that gave them votes or where their clans are, in the counties that have deep divisions of clans. This is because they know that it does not matter what they do for the other clans, for they will still not be voted in. The Ward Development Fund makes sure that every single part of a county has some development going on.

Was the law made for man or was man made for the law? If there is a problem with the law such that it is preventing development that is coming from the county allocation to reach the people, then provide the law for it in a manner that you can have these specific functions to avoid duplication. What CDF does is different from what the governor does for it is a national government function. The Ward Development Fund

(WDF) should focus on certain county government functions and I want to be on record as having said that I fully support the creation of that and I want to urge other Senators to also support the creation of the WDF within our counties.

Additionally, the Session that we have just taken a break from has been very successful. We have seen a lot of business coming to the House. I think that all Committees are busy. I am engaging in different areas and the Senate is getting back its seat at the table. As I always say, when you are not at the table, you are in the menu. Previously, the Senate was on the menu but when it now comes to national issues, the first point of redress or the point from which Kenyans are seeking recourse or salvation is the Senate. I want to commend the Chairpersons of Committees who have been doing very well and that includes me.

*(Laughter)*

Sorry, that was on a light note. My Committee was even ready to Table the Report on Solai tragedy today and on behalf of the people of Nairobi, I want to say *pole* to the people of Nakuru County and Solai. Our Committee went there immediately. We were there on Sunday and Monday and we interacted with the people, the security agencies and the county leadership. Our Report is ready on what action needs to be taken.

That is the speed and swiftness that is an advantage of this House that has only 67 Members as opposed to the other House, where I was in, that is almost like a three stream high school with 350 Members; where getting work done is not possible. Let us take advantage of our nimbleness and the fact that we can get the work done. We are seen as objective and very capable Members in this House.

Madam Temporary Speaker, I hope that by the time we come back, we will have established a clear framework - I am glad that this is something that we are already working on with the Clerk's Office - that clearly defines the role or the interaction of a Senator with his specific county. That way, the County Assembly of Homa Bay will not just see Sen. M. Kajwang' when he feels like going there or whether or not he has a good relationship with the Governor or Speaker.

We will institutionalize and make formal the kind of interaction a Senator should have with his county. We will know what the expectations are, how often it will be done and how we will also upscale legislation that has come from the county that needs certain national prominence or is of benefit to other counties, and not just the county that it has come from. That relationship will move to strengthen devolution further in this dispensation that we are in. I hope that Members will come.

Madam Temporary Speaker, the only issue that we had - and I hope that it is being sorted out - is that during the Legislative Summit we have the pre-summit events such as the women's forum and all female MCAs have been invited to that forum, where I am sure that they will be interacting with the Senate's Kenya Women Senators Association (KEWOSA) and the Kenya Women Parliamentarians Association (KEWOPA). However, the only youth MCAs who have been invited to the youth pre-summit event are those who have been nominated to represent interests of the youth. Those are only two or three in a county, yet in effect, there are close to 500 or 600 MCAs who are below the age of 35 at the time of election.

I hope that next time – and I am glad that we will get a session later during the summit - we must allow the young people to have the pre-summit meetings because the issues that they are dealing with are those that affect the majority of Kenyans in this country. As the Chairperson of the Kenya Young Parliamentarians Association (KYPA), and I can see my able Members, Sen. M. Kajwang’ and Sen. Mwaura are here--- Sen. Ndwiga who is our patron.

*(Laughter)*

You know that even if you are young at heart or any other place, you can be part of us, as long as you can demonstrate that youthfulness

We would like to tell them how they should legislate and find their voice as young leaders. They should know how to distinguish themselves as leaders, deal with media and communication, and demands from the people. The youth are the trustees of our country’s posterity. If we cannot mentor those young MCAs, then how do we expect devolution to work? Most of our counties have very young MCAs who are in their 20s and 30s. We should guide them as we move ahead.

**Sen. M. Kajwang’:** On a point of order, Madam Temporary Speaker. My thing is not working.

**The Temporary Speaker** (Sen. Nyamunga): Which thing?

*(Laughter)*

**Sen. M. Kajwang’:** Madam Temporary Speaker, it is a gadget. I did not want to interrupt my brother and the Chairperson of the KYPA, Sen. Arthur Johnson Sakaja. However, having listened to him very carefully, I was hoping that he would correct his misdemeanour on this Floor.

Sen. Sakaja has been telling the Senate to go and empower the county assemblies to do their work. Is he in order to say those words, yet just today, in the duty that should be done by the county assemblies with regard to the nomination of a deputy governor for Nairobi, he has already decided that Dr. Miguna Miguna shall not be the deputy governor for Nairobi County? Is he in order to tell us to strengthen county assemblies when he has already taken a position that county assemblies should be taking on the matter of the deputy governor for Nairobi County?

**Sen. Sakaja:** Madam Temporary Speaker, I was clear earlier on that matter. Dr. Miguna Miguna is a great man. I have said it on this Floor that I hold the opinion that he is a Kenyan when I responded to a Statement once. What I will repeat is that Dr. Miguna will not become the deputy governor of Nairobi County because I know that his nomination is not serious. In fact, he said it today that it is malicious distraction. That is why I asked the Governor of Nairobi County to be serious about the nomination of a deputy. I cannot nominate Sen. M. Kajwang’ to be my deputy when I have not spoken to him, dealt with the issues that he is going through or even known where he is.

Let us be serious. Nairobi is a serious county and Dr. Miguna Miguna has the capability and capacity to be the deputy governor. However, if he has said that his nomination is a malicious distraction, Nairobi County does not deserve that. Dr.

Miguna Miguna can be the next governor. Given that he has vied for that position, it means that he can be a deputy governor if it is a serious nomination that is not a political sideshow or gimmick. We do not want sideshows. Nairobians want delivery of services and not sideshows, day in, day out.

I thank you.

**Sen. Mwaura:** Asante sana Bi. Spika wa Muda kwa kunipa fursa hii. Nasimama kuunga mkono Hoja hii ya kusitisha vikao vyetu ili twende kuhudhuria kongamano ambalo ni muhimu sana. Hata hivyo, kuna mambo tata ambayo yanajitokeza kuhusu vile serikali gatuzi zinafanya kazi zao. Hivi leo Gavana wa Nairobi, Gov. Mike Sonko, amependekeza kumteuwa Bw. Miguna Miguna ambaye amesema: *"I am not boarding."* Kwa hivyo, jambo hilo limetupiliwa mbali.

Inaonekana tulikosea mahali. Kuna magavana ambao wamejitokeza tayari kama mashabiki wazuri wa maendeleo. Kwa mfano, kuna Gov. Oparanya ambaye tulipokuwa katika kongamano la ugatuzi, tuliona maendeleo ambayo amefanya. Vile vile, Gov. (Prof.) Kivutha Kibwana amewapa watu wake afya huru kulingana na zile Ajenda Nne kuu za Serikali. Gov. Chepkwony pia hajawachwa nyuma katika maendeleo. Swala kuu ambalo tutapeleleza ni kwamba hulka ya yule ambaye anachaguliwa kuwa gavana wa kaunti ni muhimu sana kwa maendeleo ya kaunti hiyo na nchi yetu ya Kenya.

Bi. Spika wa Muda, nashukuru kwamba Sen. Sakaja amesema kwamba kiwango cha utendakazi cha MCAs ambao walichaguliwa kimeongezeka sana. Leo tulikuwa na kikao na wawakilishi wa bunge la Kaunti ya Bungoma na wametuonyesha dhahiri shairi kwamba wanaelewa mambo ambayo wanafaa kuyazungumzia katika kamati husika.

Ningependa kuzungumzia mambo au ajenda ya watu wenye ulemavu. Naliwakilisha kundi hili pamoja na dada yangu, Sen. (Dr.) Musuruve. Serikali gatuzi bado hazijatilia maanani vipengele vya sheria na sera ambazo zipo katika kiwango cha kitaifa kuhakikisha kwamba pia wanawahudumia watu wenye ulemavu katika kaunti zao. Ndiposa tutakuwa na kikao na wabunge wa serikali gatuzi siku ya Jumapili ili tuweze kuendeleza nadharia zetu na malumbano ambayo tulikuwa nayo katika hoteli ya Safari Park wiki iliyopita. Ni muhimu sana kuwa na agenda fika ya watu wenye ulemavu.

Hususan, lazima kuwe na sheria kuhusu watu wenye ulemavu katika kila kaunti. Nampongeza Mhe. Abuka ambaye anatuwakilisha katika Kaunti ya Nairobi na vile vile Mhe. Carol Agwanda na vile vile mwakilishi wetu katika Kaunti ya Homa Bay. Hata hivyo, tungependa kuona kila serikali gatuzi ikipeana nafasi kwa wabunge wao wa kaunti kupitisha sheria kuhusu watu wenye ulemavu na vile vile bajeti ambazo zitawezesha miradi ya maendeleo kutekelezwa na mawiziri husika katika kaunti.

Ni idadi ipi ya watu walemavu ambao wameajiriwa na serikali hizi? Kipengele cha 54(2) cha Katiba kinasema asilimia tano ya watu wote ambao wako katika nyadhifa za uongozi ama uteuzi wawe ni watu wenye ulimavu. Jambo hili halijawahi kutendeka.

Hii warsha ni muhimu sana. Kuna maswala ambayo tutauliza kama watu wa Kaunti ya Kiambu. Kwa mfano, kwa nini serikali hii imetengewa kiasi cha chini cha pesa ikilinganishwa na mwaka uliopita? Pia tutaangazia swala la mvutano kati ya Wabunge wa Kaunti (MCAs) na magavana wao. Warsha hii itatupa nafasi kama Maseneta ya kuelewa sheria ambazo tunaweza kupitisha ili kuthibiti mfumo wa ugatuzi.

Ni jukumu la Seneti kutunga sheria ambazo zitawezesha serikali za ugatuzi kuyafikia malengo yao. Kama vile tunavyosukumana na wenzetu katika Bunge la Kitaifa

ni lazima tuwe na taasisi maalum na sheria ambazo zitawezesha Serikali ya Kitaifa na serikali za kaunti kufanya kazi pamoja. Tutatunga sheria zingine ambao zitasaidie mashirika yasiyo ya Serikali kufanya kazi na Serikali ya Kitaifa na zile za ugatuzi.

Kuna mambo mingi ambayo yatajitokeza katika taifa letu. Kwa hivyo, tunatarajia kusikia mawaidha mengi kutoka kwa viongozi kama vile Naibu Rais, Bw. William Ruto na kiongozi wa Upinzani, Mhe. Raila Odinga .

Ninaunga mkono Hoja hii ili tuweze kupata nafasi ya kushiriki kikamilifu katika warsha ijayo.

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM MOI PRIMARY SCHOOL, KABARAK; NAKURU COUNTY

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, this afternoon, I would like to acknowledge the presence, in the Public Gallery, of visiting students and teachers from Moi Primary School, Kabarak; Nakuru County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them.

On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

**Sen. (Dr.) Langat:** Thank you, Madam Temporary Speaker for giving me this opportunity to also support the Motion of Adjournment and to welcome the pupils from Kabarak Primary School to the Senate this afternoon. This is a school that has been doing very well. On behalf of my fellow Senator and neighbour, Sen. Gideon Moi, I welcome them. I would like to inform them that one of their teachers was my brilliant student in Moi University.

I support this Motion of Adjournment on the following grounds. One, it is time for all of us to interact with our Members of County Assemblies (MCAs).

**Sen. Sakaja:** On a point of order, Madam Temporary Speaker.

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

**Sen. Sakaja:** Madam Temporary Speaker, I hate to interrupt my good friend, the distinguished Senator for Bomet. I have heard him offering a hand of welcome to the students on behalf of the Senator for Baringo. As I understand it, this school is in Nakuru County. Should it be on behalf of Senator for Baringo County or Sen. Kihika? Could he kindly explain why he is offering unwarranted invitations from Sen. Moi?

**The Temporary Speaker** (Sen. Nyamunga): Continue, Senator.

**Sen. (Dr.) Langat:** Madam Temporary Speaker, Sen. Moi is associated with the school. As the Chairman of the Committee on Education, I welcome you on behalf of Sen. Susan Kihika, the Senator for Nakuru.

I thank my friend, Sen. Sakaja, for that correction.

As I said, I support the Motion of Adjournment because we need to interact with MCAs. MCAs are the people on the ground who understand a lot of challenges facing devolution. We need to identify gaps in legislation which are making our counties not to fulfil their mandate to our people. Our interaction with them will enable us to effectively

deal with county legislative matters in this House that will support development in our counties.

I want also to support what Sen. Sakaja said about the Ward Development Fund (WDF). This is because MCAs sometimes act as errand runners or messengers for the governors. MCAs do everything possible to please them, so that they can initiate development in their wards. If the WDF will not see the light of day, then we should look for an alternative. For example, we could give them oversight funding which will facilitate them to do their oversight role more effectively.

Madam Temporary Speaker, Kenyans are facing serious disasters caused by heavy rains. An MCA from Rangwe Constituency called me this morning to inform me of an Early Childhood Development Education (ECDE) classroom which collapsed and killed a number of children. It is time for us to strategize on how to oversight counties, so that we avoid such particular calamities in the future.

Besides that particular ECDE classroom, the MCA explained to me of a secondary school that was built by the governor last term whose money could have been used to build ECDE classes that are within our mandate and such a calamity could not have happened.

It will also be a time for us to strengthen our working relationship with MCAs. We need to empower them in all aspects. It is funny when you see what they are doing in the village. Whenever we go to fundraisers, their work is to praise their governors. I asked one in a particular county why they were do so and he told me unless they do so, no development will be initiated in their wards. It is time we did something to empower them so that they do not continue being messengers of the governor. We must make them understand their roles so that we develop our counties.

Madam Temporary Speaker, Sir, I support this Motion.

**Sen. Pareno:** Thank you, Madam Temporary Speaker for giving this opportunity to also support this Motion of Adjournment. This Motion would not have come at a better time because, from our last engagements with county assemblies, it begged for more time with them.

When we had the Kenya Inter-county Sports Association and Cultural Association (KIKOSCA) games in Machakos we were wearing our T-shirts printed The Senate. At several points, we were asked which Senate it was. I was taken aback because I only know of one Senate in this country. I wondered whether this meant that our MCAs do not appreciate the Senate. This calls for more engagements and a need to interact more with the MCAs.

We had side meetings alongside the games. As we were playing, they would raise concerns. We had staff from Kiambu County who called us by the side to tell us that they have a problem. Instead of us playing, we were handling issues affecting county assemblies. They said that they are being discriminated upon. They said that they used to be ward administrators, but now they did not have any duty to perform. We advised them to concentrate on games, we will take the matter to another level and follow up through other channels. That showed that we needed more room to engage with MCAs in terms of what they were going through.

We even made contacts during those games and the other day when we went as the Senate Committee on Delegated Legislation to Trans Nzoia, West Pokot, Bungoma

and Busia counties, some were just appreciated by the fact that we had met when we were doing the netball games and that we were meeting for more engagements. They felt more at home because of having engaged with us during the games.

Madam Temporary Speaker, the purpose of that county visit as the Senate Committee on Delegated Legislation, was particularly to meet our counterpart committee on delegated legislation. However, when we arrived, in some areas, one would find that we were not discussing delegated legislation but a lot of other issues that MCAs wanted the Senate to handle.

Madam Temporary Speaker, the issue of the “handshake” came up. The MCAs wanted to know our opinion yet we were supposed to have been doing delegated legislation. In every county assembly that we visited, they told us that the County Assemblies Ward Fund would either make or break devolution. They told us they were aware we were going to handle it, and that they were following up what we were doing. Instead of us doing the main activity that took us there, we discussed the Ward Fund. I am happy the Bill is before the House.

We also talked about car grants. We were there on another assignment but the MCAs wanted information about car grants and retirement benefits. I am happy that the Bills on the retirement and ward equalization fund are now before the Senate for deliberation. They even asked for our view on the proposed referendum. You therefore, go there and there are so many issues coming up about their welfare and what is happening around our duties and mandate. At the end of the day, that interaction would give us more room to help them.

If I looked at the little interaction we have had with the MCAs, they feel more protected by the Senate. They appreciate what we are doing. It is as if every complaint and problem can be handled by the Senate. I therefore, think that whoever came up with this Annual legislative Summit is keen to come and get what we need to do to protect the interest of the county assemblies. This summit will help us to affirm that we are there to protect the interests of the counties, listen to them and take their views into account.

You can imagine if the Senate was to visit the 47 counties, it would not be possible. However, a sample of the people that we are going to meet in this Legislative Summit will definitely give us a feeling as to what our counties are expecting us to do.

Madam Temporary Speaker, when I looked at the Devolution Conference, it was more about the Senate and governors. In fact, we talked much about governors, oversight and all that. However, the participation of the MCAs was minimal. I remember the person who dwelt so much on the MCAs was the chairperson of their forum. There was no much room for them to have taken their space and engage with the Senators. This separate Annual Legislative Summit is more about the MCAs and is a better place for them to interact with us.

Further, you remember we had a *kamukunji* here about whether we should go to the Devolution Conference. We agreed to attend since it had improved and we would have done well. We were happy with what was happening and the improvements. However, I remember one of the Senators saying that even if we never attended it, we would have our Legislative Summit. This is therefore, our space. It is like our own baby. I remember the Senators saying that even if we did not achieve what we wanted at the



just concluded Devolution Conference, we would still have our Annual Legislative Summit.

This is ours and I urge that we all be there. We will be happy to participate and I am sure we will come out with resolutions that are going to be implemented by this House and the MCAs in furtherance of devolution.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): Let us hear from Sen. Omanga.

**Sen. Omanga.** Thank you, Madam Temporary Speaker. I beg to support the adjournment Motion to attend the Annual Legislation Summit in Mombasa. It will be a great opportunity for us to engage the county assemblies on legislation and oversight. We know very well that our county assemblies are the backbone of devolution. They are on the first lane on oversight before it comes to the Senate.

Two weeks ago, the Senate Committee on Delegated Legislation travelled to some of the counties. We realised we have many challenges there. Most of the county assemblies told us that they wanted to build capacity for county assemblies and the executives. These are amongst the so many challenges that we need to go and talk about in this Summit.

I wish my colleague, Sen. Mutula Kilonzo Jnr. was here, because Nairobi City County is a casualty of these challenges. He said that Nairobi County should not have been graded. It is so unfortunate because my brother, Sen. Mutula Kilonzo Jnr., was the head of the “National Resistance Brigade” which delayed the business of this House. By doing so, we were not able to give counties money---

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senator, let us commit---

**Sen. Pareno:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): Order. What is your point of order?

**Sen. Pareno:** Madam Temporary Speaker, I do not think we have anything by the name of “National Resistance Brigade”. I want to inform my sister that we never had something like that which disrupted the business of this House. It is a right to participate or not. What disrupted the business of this House - if at all - was our own resistance movement which was called the National Resistance Movement and not “National Resistance Brigade”.

**The Temporary Speaker** (Sen. Nyamunga): Continue, Senator.

**Sen. Omanga.** Thank you, Sister Sen. Pareno. Yes, the movement decided to disrupt the business of the House. We were not able to form the Committees on time and to give the counties money on time. As you know, we had to repeat our presidential elections. This means that the political environment interfered greatly with service delivery in Nairobi City County.

Our governor being a first-time governor, there are those baby steps which we have to accept. There are cartels. Rumour has it that ghost workers are almost 30 per cent - He had to deal with all these.

It has been unfortunate that mother nature has not been fair to Nairobi. The rains we are experiencing in Nairobi City County have not been experienced for the last six or seven years. Even if the governor tries to make the roads, the rains are sweeping away everything.

**The Temporary Speaker** (Sen. Nyamunga): What is your point of order?

**Sen. Pareno:** Madam Temporary Speaker, is the Senator in order to discuss a matter that has been discussed and closed? We have since moved to the Motion on adjournment. She seems to be discussing Sen. Sakaja's statement on Nairobi. We are discussing a Motion of adjournment of this House. Is she in order?

**The Temporary Speaker** (Sen. Nyamunga): Senator, please stick to the Motion at hand.

**Sen. Omanga:** Madam Temporary Speaker, I am discussing the challenges facing devolution and our counties. I am giving an example of Nairobi County and the challenges which we will discuss in the Legislative Summit in Mombasa.

**The Temporary Speaker** (Sen. Nyamunga): What is your point of order, Senator?

**Sen. Mugo:** Madam Temporary Speaker, it is a point of information.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Omanga, do you need any information?

**Sen. Omanga:** Madam Temporary Speaker, it is okay. She is my senior. I oblige.

**Sen. Mugo:** Madam Temporary Speaker, I would like to inform the House that normally regarding Motion of adjournment, you can address everything because it is a Motion of adjournment that my sister is addressing. So, she is in order. It is not my job to say she is in order but it was a point of information.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator. Sen. Omanga, please continue.

**Sen. Omanga:** Thank you, my political mother, Sen. Beth Mugo. She is one of my mentors. I used to admire her when I was in High School. I was a small girl when she was a Member of Parliament (MP). I said that one day, I would get there. Today, we are together in the Senate. Thank you, Sen. Beth.

Madam Temporary Speaker, we have a challenge of garbage in Nairobi. We have to cultivate a culture of individual responsibility. When we go to European countries, you do not see people just throwing things out of car windows. In Nairobi, everyone is smoking around and littering. We have bylaws. They need to be enforced.

We have so many other challenges facing devolution. That is why I would ask some of our colleague Senators, because the Senate is supposed to defend devolution, we are supposed to give our governors time. They have been in office for only six or eight months. Let us give them one year. They should start their financial year and then we can judge them based on that.

Madam Temporary Speaker, we will talk more at the Summit. With those remarks, I beg to support.

**Sen. Faki:** Asante, Bi Spika wa Muda, kwa kunipa fursa hii kuchangia mjadala wa kuahirishwa kwa Bunge la Seneti ili tuhudhurie *Legislative Summit* mjini Mombasa katika Kaunti ya Mombasa. Kama Seneta wa jiji la Mombasa, Kaunti ya Mombasa, nachukua fursa hii kwanza kuwakaribisha nyote katika mji wa Mombasa wakati wa *conference*.

(Applause)

Nawahakikishia kwamba usalama umeimarishwa na tunaimarisha usafi. Pia itatupa fursa kujiondoa na matatizo ya Nairobi kwa muda fulani kwa sababu tatizo la Nairobi limekuwa donda sugu. Tulishuhudia wakati ule wa serikali iliyo tangulia ya Kidero na sasa ya Mhe. Sonko.

Hizi zote ni changamoto ambazo tutaziepuka wakati tutakapokuwa katika *Legislative Summit* kule Mombasa. Vile vile nilipata fursa hivi Karibuni kusafiri West Pokot, Trans-Nzoia, Bungoma na Busia tukiandamana na Kamati ya *Delegated Legislation*. Ni kweli kwamba waakilishi wa bunge za kaunti wana matatizo mengi kwa sababu hata kule West Pokot, ijapokuwa Spika ni mwanamke, lakini wale wabunge wa bunge la kaunti wanasema, “asante *Madam Speaker, Sir.*” Kwa hivyo hizi ni changamoto na ni kweli kwamba wale wabunge wa bunge la kaunti – namwona ndugu yangu, Sen. Poghishio ambaye ni mwenyekiti na Seneta wa West Pokot anatabasamu kwa jambo hilo.

Haya ni mambo ambayo lazima tutoe mwongozo kwa haya mabunge ya kaunti. Vile vile wale wabunge wa zile kaunti wanataka fursa ya kufanyiwa ile tunaita kwa Kiingereza “*mentorship*” kwa sababu wengi ni mara yao ya kwanza kuchaguliwa na wana hamu ya kuchangia katika bunge la kaunti lakini wanapata matatizo kadha wa kadha ya kutoweza kujitanasua ili wawezi kutoa mchango wao kikamilifu.

Bi Spika wa Muda, tumezungumzia kwa uchache kuhusiana na Mswada unaokuja wa *Ward Development Fund*. Hiyo haitakuwa tiba ya yale matatizo yote ambayo yako katika kaunti kwa sababu tunaona kwamba viongozi wana changamoto nyingi ambazo nyingine zinawashinda kujieleza kikamilifu katika mabunge ya kaunti. Hata iwapo sheria ile itapita, itakuwa ni vigumu wao kuweza kuhakikisha kwamba zile fedha ambazo zinatakikana kutengwa katika zile wodi wanazowakilisha zinaweza kufika kule na kuwasaidia kuleta miradi.

Hii ni kwa sababu, kwa sasa unapata kwamba, kwa mfano, hapa Nairobi, ijapokuwa Sen. Omanga amezungumzia kwamba kulikuwa na matatizo yaliyotokana na *National Resistance Movement (NRM)* lakini kaunti zote katika Jamhuri ya Kenya zimewasilisha baraza la mawaziri na yakapitishwa na sasa kuna *full complement* ya mawaziri katika kaunti zile. Lakini Nairobi hakuna *Deputy Governor*, hakuna Mawaziri. Kwa hivyo matatizo mengi ni yale ambayo yako katika kaunti ambayo ---

**The Temporary Speaker** (Sen. Nyamunga): What is your point of order, Sen. Omanga?

**Sen. Omanga:** Madam Temporary Speaker, it is a point of information.

**The Temporary Speaker** (Sen. Nyamunga): Senator, do you need any information?

**Sen. Faki:** Not at all, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): Senator, continue.

**Sen. Faki:** Bi Spika wa Muda, ni lazima tuweze kuzisaidia hizi bunge za kaunti ili wale Wabunge waweze kuchukua majukumu yao kikamilifu; ya kuweza kuangalia raslimali zinazokwenda kule zinafuatiliwa kikamilifu.

Tumeona kwamba katika kaunti nyingi Wabunge wale wako tayari kusafiri nje ama safari zingine katika Jamhuri lakini kukaa ndani na kuweza kuuliza maswali magumu yale ambayo yatakikana kuulizwa inakuwa changamoto.

Bi Spika wa Muda, ninaunga mkono Hoja hii ya kuahirisha Bunge na pia nachukua fursa hii kuwatakia Wakenya wote Waislamu Ramadhan Kareem na Saum Mubarak na Tutakutana Mombasa, kijaliwa wiki ijayo.

**Sen. (Dr.) Kabaka:** Madam Temporary Speaker, I thank you for spotting me. I have been waiting for a while. I take this opportunity once again to support this adjournment to enable hon. Senators to fully participate in the oncoming Legislative Summit in Mombasa.

A lot has been said this afternoon, regarding the happenings or shortcomings at the county levels, but one thing we have forgotten is that what we are fighting is a common enemy known as governors. If I was to do a book, I would do one entitled, “*The Anatomy and Arrogance of Governors in Kenya.*” if these governors were really reasonable, our work would be very easy.

When the Kenya Constitution, 2010, was promulgated, one of the things that Kenyans did not realise was that whereas we have the institution of the president which is from the English tradition, the so called governors are demi-gods. They are demi-gods because of the colossal sums of money in their perks but they do not know that it is the Senate that fights for them to get the money.

At times, when we go to the county, people wonder what we Senators are doing. They give examples of roads and other projects that have been done by governors but they do not understand what we do. That is why civic education is of paramount importance. A lot of money needs to be set aside for counties where civic education has not been conducted. That is the panacea to that problem.

I want to dissect deeper the character of governors in the Republic. With due respect Governor (Prof.) Kivutha Kibwana who is meek and contrite for his acts and who---

**Sen. Poghiso:** Point of order!

**The Temporary Speaker** (Sen. Nyamunga): On what Standing Order?

**Sen. Poghiso:** This is the first time you are asking about what Standing Order but on relevance.

**The Temporary Speaker** (Sen. Nyamunga): Continue.

**Sen. Poghiso:** Is the Member in order to digress to an irrelevant subject of anatomy of governors? We are discussing about the Legislative Summit and not the Council of Governors (CoG).

**The Temporary Speaker** (Sen. Nyamunga): Senator, try to be within the topic.

**Sen. (Dr.) Kabaka:** I am not an orbiter and I am not off the curve. At the opening of my remarks, I said that if governors were reasonable in this country, our work would be very easy. I hope he is not sleeping there.

*(Laughter)*

**Sen. M. Kajwang':** On a point of order, Madam Temporary Speaker. Is the Senator for Machakos in order to impute and imply that the Senator for West Pokot, Samuel Poghiso, who has been a Member in this House for a long time; a Member of the Cabinet and a man widely educated particularly in Uganda, is sleeping in this House? Is he in order to impute improper motives on Sen. Poghiso?

**The Temporary Speaker** (Sen. Nyamunga): Senator, please correct yourself.

**Sen. (Dr.) Kabaka:** I am sorry if I have offended my brother Sen. Poghisio. I withdraw and apologise to that extent but not what I said about the governors.

Let me say two things then I will sit down. I am a Member of the Committee on Finance and Budget and I think the Ward Development Fund has sent shivers down the spine of the governors because according to them, if funds are released to wards, MCAs will duplicate the duties but that is not the point. The point is that the essence of devolution, like everyone has said here, is that resources should devolve down to “Wanjiku” or “Otieno” for that matter. We do not see any conflict whatsoever.

Like Members of the Committee on Delegated Legislation have said, we also visited similar areas. One thing MCAs asked is our support and we told them to watch this space.

The other thing is that the role of MCAs is primary because we do a complementary role. Those are the people who interact with *wananchi* at the village levels but they have a challenge of resources. One of the areas we need to assist them in, and more so the committee which I am a Member, is the issue of car grants. MCAs need to be mobile so that they can interact with *wananchi* at the lowest level.

My last point is that we appreciate that a lot of donor monies or funding is channeled to the counties through the executives for capacity building. However, that money should stop being channeled to them and instead to the Senate, so that we do programmes which incorporate the county assemblies for capacity building on oversight matters.

I support the Motion for Adjournment. *Asante sana.*

**Sen. Seneta:** Thank you Madam Temporary Speaker for giving me a chance to contribute on the Motion for Adjournment of the House to enable Members to attend the Annual Legislative Summit which will be held in Mombasa. I am in support of this Motion because Members of this House need to interact with the county assemblies that are also in charge of devolution. We need to interact with them so that we understand whether there are legislative gaps that need to be addressed in this House, so that we help them to put them in place to ensure that devolution can see the light of the day.

County assemblies, being oversight organs of devolution in our counties, need to be supported. There is need for them to understand how to go about their budget-making process so that they, as they make their budgets, look into the functions that are devolved.

During our interaction with them, we found that counties allocate money to functions that are supposed to be under the national Government. That is where you get some functions being allocated very little money such that by the end of the year or term, there is no meaningful development that can be seen or felt by the common *mwananchi* because everything is allocated very little money.

My Chair of the Committee on Education has just spoken about education in our counties. The function of education has not been fully devolved to counties but the Early Childhood Development Education (ECDE) centres are underfunded. You will get counties allocating money in terms of bursaries for secondary education and for construction of dining halls and classrooms but they do very little on ECDE. They are supposed to work on ECDE infrastructure by ensuring that there are enough classrooms

for our children, offices and houses for their teachers, fencing the centres and do quality infrastructure.

Last week we received information about several infrastructures in many institutions that have been destroyed by the floods because of poor foundations. Our MCAs need to understand what we are allocating these monies to. As a Senate, we are going to allocate them the budget but how much is being allocated to the functions that are supposed to be performed by the county governments? On the same note, we have programs that are supposed to be done in our counties, for they are now county government functions, but there are policies that are not allowing the counties to perform those functions properly. Therefore, the interaction will help the MCAs to know the policies that they are supposed to make.

The other thing that we need to understand and make the MCAs understand is the issue of unfinished projects. Many counties have done projects that are not finished thus they are not helping the common *mwananchi* though they have been allocated a lot of money. They need to help us push for these projects to be finished for them to be of help.

We also need this time to look at how we can develop all the wards within our counties for we have issues of concentration of facilities within some areas. You will get that one area has been allocated money by the Constituency Development Fund (CDF), county government and other organizations, such that you have some areas that are well developed and others that are under-developed. We need to look at how we can speak out on the issue of development.

The Annual Legislative Summit will bring together the MCAs and the Members of Senate and it will be of great importance to this country, for the MCAs and the Senators will get time to talk and discuss on how they can oversight county development.

**Sen. Kinyua:** Thank you, Madam Temporary Speaker. From the onset, I am standing to support the adjournment Motion because the Legislative Summit is our baby, unlike the Devolution Conference where we were invited guests. We will be dealing with our colleagues in this Summit and will be discussing the issues of representation, oversight and legislation with our partners. We will be dealing more with oversight for it is our duty as Senate to ensure that the money that goes to the counties is properly utilized and used for the intended purpose.

The MCAs, being in the day to day running of the county at the local level, are better placed to do oversight such that things that come to the Senate are well probed. We can exchange notes when we are in Mombasa and interact with them as we get to know how to move forward. My colleague, Sen. (Dr.) Kabaka, talked about writing a book and I can assure him that I will be the first person to buy his book. He has one customer.

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

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

For the Senate to be successful, we have to make sure that we make the MCAs successful, for in so doing, we will be reducing the workload that comes to the Senate which is not well looked into. I support the Ward Development Fund (WDF) which will

be good and it will help the MCAs perform their oversight role. I join my colleagues in supporting the adjournment Motion.

**Sen. Poghiso:** Thank you, Mr. Temporary Speaker, Sir, for the opportunity to contribute and support the Motion of Adjournment. I want to congratulate my colleagues who have spoken ahead of me and to also state that it is a great excitement for us to go and participate in this Legislative Summit, for some of us, it is for the first time.

As I travel around the country into the counties I get more concerned about our legislative arms of the counties: county legislative assemblies. We stand to make it difficult for devolution to function not until we do something about capacity building in those houses. It is anticipated that the work that we do here, at the national level, is corresponding directly to the work that the MCAs do at the county level yet when you look at it; given the nature of a Kenyan voter, the turnover of MCAs in the last elections was extremely harsh.

It so happens that in some counties, the entire lot were kicked out by *wananchi* and a brand new lot came in, yet the brand new lot is expected to pick up immediately in appropriating funds and do all the things that we do here. We need to start thinking about the capacity in those houses by interacting with them. I want us to be more outgoing as a Senate and to visit more counties. In the recent visit that we took to West Pokot, Trans Nzoia, Bungoma and Busia, we said that we need to make more visits so as to help those counties.

During the Legislative Summit, we will meet speakers of the county assemblies and MCAs who are our colleagues. I want to ask us to be prepared to make great contact with the MCAs from various counties and to associate ourselves with their challenges so as to impart knowledge and wisdom to each other. The Bible talks of iron sharpening iron, or a Senator sharpening an MCA and vice versa. We should spend time learning about the role of the legislature.

Many times we find that the legislature is not given the place that it is supposed to be given even nationally, so we must go there and find the support that we can get. We have to make sure that the people in the executive, both here and at that level, understand the roles of that the legislative arms of government play.

We have to stand tall and firm so as not to be used in any way. I want to challenge our executive to know that it is a very important arm. The laws that we make should be laws that are strong and made by people who understand what they are doing. More money should be put in the hands of the county assemblies. There should be more money for training, benchmarking, even locally if the international ones are expensive for them to understand what they are supposed to do.

Let us allocate more money for training and benchmarking, at least, even locally, if the international ones are a bit expensive. This will ensure that they understand what they are supposed to do. For example, in the case of our Committee on Delegated Legislation, we are supposed to look at gazetted items, regulations made and so on. We are supposed to approve those regulations; pass or annul them. If the capacity to read through, understand and pass those regulations is wanting, regulations that will endanger other processes will end up passing. As we have discovered, we need to be strongly supported financially, so that the capacity of the counties is strengthened.

Mr. Temporary Speaker, Sir, the other reason we must have the legislative summits is that we are on the learning curve. It is, therefore, important that as we go there, we should strengthen the legislation making mechanisms that we have. We should also discuss the laws pertaining to strengthening of oversight. It is not that we hate anybody. However, if we go and see things that are not good we should make it known. We need interact with people who know that oversight is a role given to us by the Constitution. We should, therefore, do our roles without prejudice or personalizing. We will then understand our role as managers, as we manage quite a number of items in the devolution ecosystem.

I, therefore, wish all Members well as they go to Mombasa for this great gathering of legislators. *Bon voyage*, good travel and let us be of use to each other, and especially to those who come from our counties.

I beg to support the Motion for Adjournment.

**Sen. (Prof.) Onger:** Mr. Temporary Speaker, Sir, I would also like add my voice to this Motion for Adjournment to attend the Legislative Summit in Mombasa. First and foremost, this is a very important summit. The way I understand it in my previous work, a summit is held, when everything else is said and done, to make far-reaching decisions and not *ad hoc* deliberations. It is deliberations that will lead to substantive decisions that will guide the agenda and the legislation of both the county assemblies and the Senate sittings.

It is important that we interact at this level with the county legislators, who have a mandate through the Constitution. Sometimes that mandate is not very well understood. What I have noticed from a distance is that some of them are manipulated to arrive at a decision that is only beneficial to the occupant of that seat in that county. We must break them away from this tradition, so that they make long lasting decisions that will stand the test of time as the devolution process continues.

Mr. Temporary Speaker, Sir, the Legislative Summit is aimed at giving recognition that the county assembly, as it stands in our Constitution, is an important organ. Therefore, it is a recognition that is important and gives it a level of permanency; that they are the people of the moment when it comes to legislation on county affairs. They are also involved in the passing of certain legislations that are sometimes in conflict with the national legislation. That is an area where we can do internal audit amongst ourselves, particularly, on how a Bill is generated and processed until it becomes law.

That law should not be sectoral; when compared with other laws, it should be in tandem with the national legislation. It is an important feature that we need to entrench in our Summit. Every other year when we have this summit, we must review where we have come from and where we are going. That is one of the reasons we are having this summit; to give it a level of recognition and permanency.

The second reason this Summit is being held is to create conventions; that certain things and norms are done in a particular way. You do not just get out of the ordinary. Once you get out of the ordinary, you are in uncharted territory. You can come up with any decision that may be completely outrageous for that county and would bring a lot of untold miseries for that county.

Sadly, one of the things that I noticed in the last few days is the state of preparedness in the management of disasters. The counties stand totally helpless; they do



not know when to come in and how to come in. I saw that when we had a disaster in Kisii County. One of the buildings collapsed and I happened to be there. When I went to the site, I had to take command of how things must move in order to have an effective rescue of those who were trapped under the building.

Therefore, this Summit is a learning curve. How do we handle national disasters happening in different parts of our country? Some are in the form of mudslides. We need to train people on how to handle mudslides. Then, it will boil down to the revenue allocations to these counties. The two per cent that is being given at the moment is peanuts; it cannot handle a single emergency. When you apply that fund in one disaster, it ends up consumed. If you applied that fund in Tana River County, with the problems they have today, it will be used.

I was happy with one of the news reporters who went around with a boat to try and see how much they can do. Apart from the Red Cross Society, I literally see no movement of any other people around the scene. As I said earlier, this is an area that is a learning curve for every one of us; how to manage human disasters. That is the second level of this Summit.

Mr. Temporary Speaker, Sir, the third level of this Summit is to socialize. We do not know each other. We are total strangers to one another, yet we are supposed to be doing the same thing. This is an element that can only be brought about when we exchange across the floor or during the panel discussions or the committee discussions in the summit. I have looked at the programme of the Summit and I am convinced that if you get a mass of people in one corner in one room, they hardly reach any decision.

We should restructure the committee level to smaller panels that will bring out the meat of the elements of the Summit itself, so that we come out with something substantive and we do not have to repeat the same thing year in, year out. We can only audit and find out whether the decisions that we will arrive at the Third Summit are issues that were properly examined and agreed upon at the plenary as resolutions and way forward. Therefore, the element of socialization is very important.

One of the biggest impediments that we are experiencing, as Senators, is that when we request the Governors to appear before a committee, what automatically goes in their mind is that they are in for censure. That is far from it. We just want to exchange views, just like we shall be doing at the Legislative Summit. The Governors will come there freely; nobody will force them. Therefore, we must break that barrier of a feeling that they are in for censure and create a template where they feel that there is an interactive segment that will help them to advance the cause for which they have been elected and they have a mandate to discharge their responsibilities.

The other element that we must inculcate in most of these summits that we are going to is the responsibility of a legislative organ at the county level; the need to stand their ground when things are going wrong. They do not have to be induced with a particular plot or ward programme. This is because that tends to blur the image and independence of the county assembly. The other day, I saw an MCA being threatened of being expelled from a Committee because he did not listen to the governor. That is a wrong premise upon which to build these people. We should empower them to enable them to stand firm on the ground.

I am happy that the issue of the county wards fund is before this House. I will be one of the people to support it because it gives MCAs a certain level of independence. There is a notion going around that eventually, when this legislation is concluded, it will be equivalent to having MCAs running a fund. This is not the case. It is just a fund that will backstop any attempt to marginalize any ward.

Finally, I have noticed that in this same House and even at the MCAs level, the turnout is high. How then do we inculcate and incorporate the previous MCAs and Senators so that they are part of this Summit as part of capacity building and strengthening within and without? To me, this Summit will take a life of its own when we also bring them on board. We never know the same people who have had some form of training will come back again after another session. We should include them so that they are part and parcel of this Summit in a way that can help to concretize a situation for future posterity.

We borrowed heavily from the American presidential system. They have a federal system of government. I would like to see a state level where each of the counties has a certain measure of independence of doing certain things in a manner dictated by the issues in their county.

Mr. Temporary Speaker, Sir, with those few remarks, I support this Motion of Adjournment and appeal to my colleagues not to miss this very important Summit.

**The Temporary Speaker** (Sen. Lelegwe): Thank you, hon. Senators. I confirm that there are no more requests. I, therefore, call upon the Mover, the Senate Deputy Majority Leader, Sen. Fatuma Dullo, to reply.

**Sen. Dullo:** Thank you, Mr. Temporary Speaker, Sir. I wish to reply to the Motion. First, I take this opportunity to thank those that have contributed to this Motion. I believed that it is has been stressed by each and every Member that this Summit is quite useful for engagements between the Senate and the county assemblies.

Mr. Temporary Speaker, Sir, many Members are really concerned about the ward development fund. This forum that we will engage with them will make us understand better why they need this particular fund so that when we come back to the House, we can deal with it from an informed point of view.

Mr. Temporary Speaker, Sir, we are prepared in terms of engagements with the county assemblies. The issues of capacity building have been stressed by Members who have gone on the ground. According to the programme, the first day is on sector engagement, especially the women forum. I hope that our sisters in the House will attend that forum so that we can assist the county assemblies' women representatives so that they are able to understand why they are in those assemblies.

Without further additional information, I beg to reply.

**The Temporary Speaker** (Sen. Lelegwe): Thank you, hon. Senators. I confirm that the Motion does not affect counties. I, therefore, proceed to put the question.

*(Question put and agreed to)*

Next Order.

**MOTION**ADOPTION OF REPORT OF THE WOMEN POLITICAL  
LEADERS ANNUAL GLOBAL SUMMIT

**Sen. (Dr.) Milgo:** Thank you, Mr. Temporary Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Senate Delegation to the Women Political Leaders Annual Global Summit held in Reyjavik, Iceland from 28<sup>th</sup> -30<sup>th</sup> November, 2017, laid on the Table of the House on Wednesday, 14th February, 2018.

*(Sen. Milgo on 22.2.2018)*

*(Resumption of Debate interrupted on 22.2.2018)*

Mr. Temporary Speaker, Sir, the women political leaders believe that progress happens by convening women who have the drive and interest to create positive change. This Summit brings together different communities among them women in Parliament, women European leaders, women Government leaders and women mayors internationally. The Summit attracted over 400 women from countries across the globe. The Summit took the form of plenary and policy sessions. There was a lot to learn from this Summit. Notable among these---

**The Temporary Speaker** (Sen. Lelegwe): Order, Sen. (Dr.) Milgo. There is a correction. You have 17 minutes for you to conclude moving the Motion and not 57 minutes as earlier communicated.

Proceed.

**Sen. (Dr.) Milgo:** Thank you, Mr. Temporary Speaker, Sir. I am advised. I hope I will find where I had stopped. However, I was saying that there was a lot to learn. Notable among these was the United Nations (UN) Sustainable Goals in particular Goal No.5: Gender Equality and Empowerment of Women and Girls. I wish to state here that despite parts of the world achieving progress in gender parity, women and girls continue to suffer sexual violence and discrimination. In Kenya, for example, we have forms of violence including discrimination and child marriages which are on the decline, but still present.

We also have harmful practices such as Female Genital Mutilation (FGM). Although it was outlawed, we have a section of people who want to bring it on board once again. This issue is still in court. I am calling upon all of us when this issue comes up, it should be thrown out.

Women have been affected by FGM because after girls undergo it, they would imagine they are already adults and that is the cause of school dropouts and early pregnancies. It also leads to another challenge in the society; the issue of divorce.

Mr. Temporary Speaker, Sir, while the number of women parliamentarians is important, women in leadership positions are still very few. The number of women in Parliament particularly in Kenya has increased steadily over the years. However, more

needs to be done to increase their numbers. We realise that in some parliaments, women are appointed to committees with very soft portfolios. The best example is in this House where every woman is just a vice-chairperson of the strong committees.

The number of women in the Kenya Parliament may not have the stipulated constitutional threshold, but then efforts are being made through legislation to ensure it is met. In line with this therefore, the Constitution of Kenya (Amendment) Bill, referred commonly as the two-thirds gender rule, was brought forward from the Eleventh Parliament did not sail through. We, as women, are really begging our male counterparts to assist us to pass the Bill and set history as one of the greatest Senate that gave women the greatest reward.

The global average of women on the political front in parliaments increased from 22.6 per cent in the year 2015 to 23.3 per cent in 2016. Based on this trend, it might take another 99 years to close the gender gap. I am not sure whether the women are ready to wait for such a long time.

Madam Temporary Speaker, women leaders, given the opportunity, can influence legislation and budgets in areas that affect women such as food security and health care. The Summit looked into these areas and encouraged various governments in the world to bring women on board to look at these challenges.

The Summit also highlighted certain issues of technology. For example, technology in Kenya is doing a lot. For example, the mobile money transfer (Mpesa) has given women a lot of businesses. In addition to that, technology also assists women to network and share ideas on job opportunities in businesses as well as leadership positions.

Mr. Temporary Speaker Sir, one other issue that came up in that Summit was on trade. It was noted that women are not able to trade effectively because of lack of finances. What came up mostly was the issue of access to finances. In most cases, institutions that give women credit, normally peg it on collateral which is quite a challenge to get.

One of the greatest achievements of the Women Political Leaders Global Forum was the Girl2 Leader Initiative. This is a kind of initiative that will call on all women to mentor young girls so that come the time, they will take up leadership positions. In most cases, if women particularly in the Senate would mentor girls, I am sure those girls would look up to the women as role models.

The main tool of communication is to use the social media with the aim of reaching out to as many girls around the world as possible. The key campaign is the International Day of the Girl-Child. How can Kenya gain from this initiative? It is by ensuring that women leaders in Parliament mentor girls through participation in democratic practices.

Mr. Temporary Speaker, Sir, in the African Continent, many countries are challenged with issues of gender parity. However, Rwanda is the champion in women representation. Today, it has up to 64 per cent of women in leadership in this region. Due to that, it was honoured to establish a regional office on the women political leadership in Africa. The meeting to open the office was held between 27<sup>th</sup> to 29<sup>th</sup>, May, 2018. Although Kenya has been in the forefront in many issues, Rwanda has already overtaken us in this case.

When we invest in women and girls, there is a ripple effect and everybody wins. Women and girls are drivers of development because they run homes, nurture families, work and influence community activities.

Mr. Temporary Speaker, Sir, a most important aspect in ensuring empowerment of women is inclusion of men. That is why I have already put it and asked our male counterparts in the Senate to assist us when we bring on board the gender Bill.

The Summit laid great emphasis on peace and security that is paramount for survival of humanity. When there is insecurity, women and children normally bear the greatest brunt. In most cases, it is important to include the women in areas where we are talking about security - we are very happy that the Cabinet Secretary (CS) for Defence, Amb. Rachel Omamo. There we are represented, but we still need more women to be brought on board. We realise that when we are recruiting the Kenya Defence Forces or other forces, there is still a lot of discrimination and disparity towards the female gender. Our prayer is that it will be looked into as a matter of urgency.

There were a number of other issues that were looked into in some small sessions notable among them was: Sustainable, fast and living today as if it was tomorrow and Labour Market Inclusion powered by digital. The Kenyan Delegation took up the focus on rape. Rape has been used as a weapon of war. In conflict, it is used by those in command as a strategic weapon to humiliate, demoralise and dehumanise the enemy, sow terror and destabilise communities. Recently, there was a notable case in Mombasa where a woman was raped to the extent of losing her life. The UN Security Council Resolution No.1325, recognises rape and violence against women as a crime against humanity. A case in point is the Rwanda Genocide where many women were raped.

Mr. Temporary Speaker, Sir, in Kenya during the 2007 post-election violence, many women were raped. The grave concern lies in helping the victims in this case to come out of the trauma and more particularly those who were unfortunate to get pregnant. Normally, children born out of this vice are neglected in the society. It is not the making of the woman. Here we are helping the victim to come out of this trauma, as well as treating those who might have contracted HIV/AIDS.

Another important point that was considered is health. I am quite happy that one of the Big Four agenda include universal health, and more importantly, maternal healthcare. I hope this will assist the women and those suffering from HIV/AIDS.

At the conclusion of the Summit, the Kenyan delegation made the following observations:-

(a) Female parliamentarians have a huge role in influencing the lives of women and girls in the areas of technology, health, peace, reconciliation and education through legislation.

(b) The establishment of the Women Political Leaders - African Region Office in Rwanda will go a long way in promoting the women agenda in the continent.

(c) The Girl2Child initiative should be replicated in African countries.

(d) To close the gender gap, countries need to ensure women are given opportunities in highly skilled employment and play a key role in decision making structures.

(d) Policy decisions for female entrepreneurs should be developed to enable women access loans and reduce trade as restrictions.

(e) Governments should rethink policies in assisting women aspirants by ensuring the campaign trail is safe.

Finally, we present the following recommendations to the Senate:-

(1) The Senate Standing Committee on Justice, Legal Affairs and Human Rights considers the World Bank Report on discriminatory laws, identify the specific discriminatory laws that relates to Kenya and propose relevant amendments for consideration by the Senate.

(2) The Girl2 Leader initiative be replicated in Kenya under the patronage of the Kenya Women Senators Association (KEWOSA). The initiative will prepare young adolescent girls (14 -17 years) to embrace leadership at an early age and create a forum for engagement with elected women leaders.

(3) The Senate form linkages with the Women Political Leaders Forum, Africa Region Office in Kigali, Rwanda. It was proposed that we should have a committee to follow up on Women Political Leaders Summits' so that in this case, be able to follow up on issues relating to women and girls.

(4) The Ministry of Public Service, Youth and Gender Affairs to make a report to the Senate at the end of each Financial Year on implementation of the UN Security Council Resolution 1325 on Women, Peace and Security.

Mr. Temporary Speaker, Sir, with those remarks, I once again, thank the Senate for according us the opportunity to attend that great summit. I beg to move and request Sen. Mary Seneta to second the Motion.

**Sen. Seneta:** Mr. Temporary Speaker, Sir, I thank you for giving me a chance to second the Motion that has been moved by my colleague, Sen. (Dr.) Milgo. From the onset, I congratulate her and the delegation which attended the Summit, and for having compiled a very important report and presented it to this House. I also commend them for putting forward recommendations to us, as a House, so that we can find out how we can implement the Report.

I support the Report. I thank all the supporters of this initiative; all international organisations. I also thank KEWOPA and the leadership of Parliament for giving, mostly women, a chance to attend these international summits and conferences so that we can learn. Most of these fora accord women leaders a platform to discuss women empowerment politically, socially and financially. They also give a chance for the women leaders to learn from each other, exchange experiences and learn different legislation that have been passed in different countries which empower women.

These fora also give a chance to the women leaders to also follow up on different conventional agreements and summit agreements that will go a long way in helping women to empower other women and our girls.

This is a very important Report. As a country, we also need to adopt different legislation and push for the implementation of the existing legislations that will go a long way in enhancing equity in our country.

The issue of political parties support for women aspirants also needs to be looked into. It should include mentorship of other women so that they can take up political positions.

With those remarks, I beg to second this Motion.

**The Temporary Speaker** (Sen. Lelegwe): Thank you, Sen. Seneta. I therefore, proceed to propose the question.

*(Question proposed)*

**Sen. Pareno:** Mr. Temporary Speaker, Sir, I rise to support this Motion. I thank the delegation for a job well done. They came back with a good report to the House, at least to tell us what this forum is all about. We are happy to learn that this forum was purposely created to give women in political leadership room to ventilate on the issues that affect them.

They went ahead to acknowledge many women leaders around the world and honoured them in a beautiful way. To me, that forum was more of role modeling because important leaders were called and honoured before a congregation of more than 400 participants. They gave their life experiences as leaders and that was a good thing. It was meant to create room for more women to enter into political leadership.

Today as I was reading this Report, I came across a quote that; “empowering women is a smart investment and a human rights issue”. It is a smart investment because it will give back. It means that if we invest in women, that is a smart investment because at the end of the day it will give back to society. There is a saying that when you empower a woman, you have empowered the entire society. That is not just a saying but it is real.

An example of Rwanda has been given as one of the successful countries in terms of women leadership. In the report, it has been indicated that Rwandan women receive antenatal care for free and because of the free antenatal care, 91 per cent of deliveries are done in health centres and that has contributed to reduction on mortality rate. Rwanda is one of the leading countries in terms of women leadership because 64 per cent of MPs are women. We just need to empower women and take care of their health and we will have a healthy women population and more women in leadership positions.

In the forum, it is said that there were testimonials from over 70 heads of states printed and displayed somewhere on a notice board; all of them justifying why we should have more women in leadership. Over 70 heads of states and governments cannot keep displaying and making testimonials to justify why we should have more women if that was wrong in this world.

I was a bit disappointed but I am now happy because my seniors are here. Initially when I looked round, I only saw women in this Chamber, except the Chair who definitely is in support of this particular Motion. I was wondering whether we do not hold this debate on women dear to our hearts.

Many of our male counterparts are not here but I am happy Sen. Omogeni and our role model in politics, Sen. (Prof.) Ongeru, are here to support the women. Otherwise I was going to say how disappointing this is because a topic that touches on women leadership is on the Floor of this House but only ladies come to support it. We cannot walk alone; it has to be a joint venture. After all, we are the women who give birth to all men and women. So, they should be here to support us.

We are not doing well as a country when it comes to women leadership. Even in this Senate, we are 22 out of 67 and that is not so bad but we can do better. We have

heard that Rwanda is at 64 per cent and, therefore, we are not doing well. When you look at the appointments for the Cabinet, how many women are there? We need to have more women in leadership positions. Even in our own small setup of our committees, how many women do we have heading committees of this House? Those are some of the small things that ensure that women take their space. So, as a country, we are not doing well.

What happened to the Bill on the two-thirds gender rule and where did it go? We keep shifting goals. We said that it should be done gradually but we are not doing much in terms of how to achieve the empowerment of women. If we are to empower women, then we should appreciate that empowering women is empowering the entire society.

I am particularly excited about the Girl2Leader Initiative which was talked about in the conference. Girls or women can lead the whole of this world and we need to campaign for them. It is my appeal to this House and especially Members of Kenya Woman Parliamentarians Association (KEWOPA) and the Kenya Women Senators Association (KEWOSA) to take advantage of the Girl2Leader Initiative. Is it enough for us just to attend the forum and come here and say what was launched? What are we going to do about it to implement that particular aspect of the forum?

We have a challenge as women leaders. We need to come out and in some way and start implementing the Girl2Leader Campaign so that we are also part of the world as we bring women to leadership. My challenge is on KEWOPA and KEWOSA but I know this House supports their establishments. Probably we will be reaching out to some partners to help us realise the objectives of this initiative.

It also came out in the discussion in this forum that a survey was done in 170 countries by the World Bank to identify the gaps in our own laws that restrict women empowerment especially in business. They are saying that the more you have restrictions to empowerment of women the more you have lower levels of capacity building in terms of leadership. So, we end up having low numbers of women in leadership because in the first place our laws are so restrictive.

Since the World Bank did a survey in 170 countries and they have identified gaps, it is time we checked for those gaps. I will still reach out to KEWOPA and KEWOSA Members in this House. Those gaps having been identified, we need to know if we have them as a country. If they are there, could we amend our laws to be friendly to empowerment of women?

They said where they have done the surveys, the more the restrictions, the more the number of dropouts in schools. The more the dropouts from school the less we have women in leadership. It is a chain. If you have restrictions, then you will have more dropouts. You will also have more deaths because mothers are not healthy and you end up having an unhealthy country as far as the issue of women leadership is concerned. It will be good to look out for the restrictions from these particular recommendations.

Finally, a number of recommendations were made and it will be good for them to be picked out. We will ask the Senate Committee on Justice, Legal Affairs and Human Rights to draft amendments in our laws when need arises and implement the Girl2Leader Campaign which we should start through KEWOPA. There is also need to create more linkages and possibly launch a Kenyan Chapter on this particular forum because that is a recommendation.



We have the regional office in Rwanda which is our sister country. We can have a Kenyan Chapter of the same so that we are able to articulate issues even as we report to the regional office. The Ministry of Public Service, Youth and Gender Affairs should prepare an annual report to the Senate at the end of each financial year on the implementation of the United Nations Security Council resolutions on women, peace and security. If we can pick these things from such forums, then it will be useful for us to go to these forums. However, it will not be useful for us to be there, come write reports and table them but have nothing to implement. I urge that we implement the recommendations.

I support this Motion.

**The Temporary Speaker** (Sen. Lelegwe): Thank you Sen. Pareno. Sen. Imana Getrude Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for the opportunity to add my voice to this Motion. I am Hon. Sen. (Dr.) Getrude Musuruve Inimah.

The Iceland Summit was not a waste of resources. It was good that Kenya was represented in the Summit whose goal was to look at issues of women. It was also a platform for one to see the best political practices in the world concerning women. When you attend such summits, you can borrow one or two things that you can use to help women in your country. I commend the act of awarding the female presidents for it was motivational and inspirational for the women leaders. When one gets an award, it is a reinforcement to repeat what made them get the award. We should borrow a leaf from that by awarding female leaders who have served for so long for it to motivate upcoming leaders.

What also came out is that Rwanda is doing very well in terms of women representation. They have a representation of about 64 per cent in Parliament which is commendable and I am sure that Kenya is going to reach there with time. That is also a challenge for us, as parliamentarians, for we need to see how we can implement the two-thirds gender rule because when that is done, women will move a notch higher in political representation. They are not well represented at the moment.

The problems that were talked about in Iceland are problems that affect all women. Generally, women go through similar problems globally when it comes to violence and economic under-representation. It was a very good platform for the leaders who went there to see the emerging trends in female political leadership. Most women go through economic constraints that hinder them financially.

When it comes to finances, a number of women do not have economic independence and that is why women and their children are rated among the poor. Factors of production such as land, capital and labour, which women do not easily access, are some of the things that bring them down. This is because they do not have title deeds for the matrimonial land that can give them collateral to borrow loans from banks to do a certain project. They can, therefore, not do big projects that will help them to be economically liberal.

Land in Africa is patriarchal and you will find that most women do not get that inheritance even when the law is clear that the girl-child should be given inheritance. In

some cases, the girl-child is not given the inheritance and some girls in Africa are even forced to get married. If their parents are not there, their uncles share the property.

The female leaders also shared their experience which was good for those experiences are spring boards for other female leaders to learn what is not working and what is working. You will find that the problems that women face globally is negative branding such that when things go wrong, it is always the woman being blamed. This was a good platform for our female leaders for they heard of the problems that women encounter and that will help them think of how they can come up with legislation and policies that will help empower women politically, economically and also help them have a good social standing.

Issues of rape also came up. I remember when I was watching television in India, I saw a girl who was raped but was shocked to learn that the focus was on the girl who was raped yet the rapist was covered. I felt bad for the girl-child because the rapist would even be covered when he was being taken to court for people not to see and by so doing; they were still protecting the rapist. When it comes to rape issues, the raped girl may be affected psychologically that she may not know how to express love when fully grown. She may not know that a man is innocent when he loves her or even smiles at her because she might be thinking of the rape incident. I, therefore, want to ask us to legislate policies that can help the girl-child overcome such stigma.

I made an observation on issues of the Summit and it is a concern that should be given an international platform. The issue of women with disability was not addressed and if it was addressed, it did not come out forcefully. We have women who are marginalized further and these are women with disabilities. When you talk of economic empowerment, most women with disabilities are economically poor thus not able to sustain their families, take their children to school or get into what other women are getting into. This affects them fully and the cyclic nature of poverty continues in the lineage. This is an issue that needs to be addressed globally and all nations should know that we have a segment of women who have been abandoned and have not been given the voice.

This is an issue that needs to be addressed globally. All nations should know that we have a segment of women that has been abandoned and not given a voice.

Women should run with issues of disabilities because when it comes to political representation, women with disabilities are disadvantaged. For example, people with disabilities were not represented in 17 counties. Forums of this kind and magnitude are worth investing money in because we can get the best practices that are happening globally and borrow a leaf that will help us come up with the policies that will help empower the women.

I beg to support this Motion and commend the Kenyan delegation that went to Iceland. They did a good job in getting the best practices. I am sure that when they were in Iceland, they were able to get the political agenda when it comes to women in leadership issues. I am sure that even as we continue interacting, Sen. (Dr.) Milgo will engage us further and set the agenda on women leadership.

I thank you.

**Sen. (Prof.) Ongeri:** Mr. Temporary Speaker, Sir, I thought that I was going to be excluded in this debate. I may not be in a position to pontificate the deeper issues of what

our fair ladies have said. However, I am in sympathy and in tune with them because I believe that they are fighting a wider cause for liberating humanity to understand, appreciate itself and know that coexistence is the way forward. Anything short of coexistence is courting disaster. Therefore, I congratulate them for the meeting in Iceland. They went there at a time when it was winter. I do not know how they survived that winter - Reykjavik is a very cold place. Nevertheless, they made it.

The one thing that I learned from this world forum, which was also a summit, is that there are issues that were discussed there which have a great import on how we conduct our businesses in our respective countries. I remember way back, when there was the Beijing meeting, wives lost their husbands and husbands lost their wives. It was such a cantankerous and disruptive conference. When women went to Beijing, they came out and wanted to lord over their husbands. That is where the problem started and a number of women in Kenya fell victim. I am glad that we are over that hump. As time has gone by, we have been able to overcome those impediments and more so, when we were able to promulgate our Kenya Constitution in 2010. I am happy that it is one of the experiences that we learnt.

When I was the Minister for Education, I was in for a very difficult time. We had just gone through the post-election violence and you could see the kind of helplessness that the women society faced in that crisis. To get them out of that crisis, one of the things that I had to deal with is the question of a girl-child who was completely and totally marginalized. We had to even create special slots during the transition period, so that they could be offered certain places in our schools. I expected this to be a progressive programme and not a one-off programme. I think that one of the things that we need to do is to look at where a possibility of marginalization of the girl-child is likely to occur and take affirmative action.

Mr. Temporary Speaker, Sir, in the same breath, I also noted that the boy-child was being marginalized, particularly in the Maasai land. I do not want any reaction on this matter. It was a personal observation that I made when I was there. We soon realized that the boy-child was being locked up in *manyattas* and going out as morans. They were, therefore, absconding from attending classes. It was important to bring the boy-child back to school because an interactive level was very important.

When I looked at the sex ratio of attendance in schools, in some areas like Central Province and Nairobi, the ratio of girls in schools was more than that of boys. That was a good thing. If you notice, in the last three or four years, when the national examination results have been released, the performance indices have shown that girls have the capacity to perform better than the boys. That does not mean that I have marginalized the boys. I think that in a competitive field, that is the way that it should be; one leads and another one follows. The leadership roles would also be exchanged.

A section that always perturbs me is the women marginalization in access to healthcare. I experienced that during my formative years as a medical officer in remote areas like Wajir. That was quite an experience of its own. Whenever you went, you would be the doctor, anaesthetist, surgeon and nurse. The paucity of the number of staff that I witnessed in those areas was unimaginable. Therefore, I hope that our county governments will take seriously the issue of maternal child health. The death rate per every 100,000 births is very high. We still need to work on bringing the percentage down.

Mr. Temporary Speaker, Sir, I would like to echo the good work that is being done by the First Lady. She took a very bold step to attend to the issue of child healthcare and mothers during delivery. I know that we have the traditional birth attendants who have their role in some of our remote areas where health workers may not be able to reach. Unfortunately, some of their methods are now becoming outdated. They need to be in-serviced in terms of experience on the new methodology of handling women. The psychological thinking of women and men has changed immensely because of the impacts of social dimensions and difficulties, poverty and loss of family members in a very rapid succession. These are issues that we cannot run away from. We are more educated today and that is why a conference of this nature is able to take more time to look and take stock of what is happening in the area of gender.

I was in Rwanda and saw that the gender parity is in favour of women than men. I feel that the men are an endangered species in Rwanda. However, they have given us a model and we should try as much as possible to achieve it. Even when we were creating this Constitution in 2010, we realized that in Kenya, it may not be possible to achieve gender parity in that rapid succession. We should understand that in some areas it will be easy to achieve the gender parity, while in others it will take a bit of time. This is because we have to educate somebody in the interior of Samburu, for instance, on why a lady should lead. That is an important social element that we need to attend to. We cannot just wish it away. Similarly, in Kisii for a long time it has been a taboo for women to be elected to any position. It is only recently that we have begun to see women being elected to offices reluctantly. This is because the preponderance of young people now is more than the elderly people who have fixed minds and ideas. That is why women are now being elected to Parliament. I think that the society is loosening up in a better way.

We must put a caution where we are loosening up. That caution of the natural and normal respect for one another in society is gone. It is no longer easy. For instance, in the past, your neighbours would have disciplined your child if they saw him or her doing something wrong. The child would gladly accept to be disciplined by them. However, these days, even parents, are unable to discipline their children. Today, we have children who have are engaged in anti-social activities which are not good for this nation.

As a developing nation, we must have a working population which must respect each other whether male or female. It must be a population that understands each other. However, it is unacceptable for a developing population to have wayward social elements. That is where there is a point of convergence and synergy. As we support them in this progression, we should also know that there is another element on the other side that we need to bring together so that this nation can move forward.

This afternoon, as I was coming from lunch, I saw a restaurant in town that I have never seen before. My aid told me that there is a drinking place upstairs and I asked him who goes there. He told me that is where the young people drink all day long. That is an acceptable because young people have a lot of energy.

If someone wants to save money, they should entrust it to a woman because they will save it. If you give it to your young son, they will say that you got that money for free and so they will spend it with less care. However, that does not mean that you discriminate against the boy-child. We should take them together as individuals and teach them values of the society. We have put values in our Constitution, but we have not

applied them in our societies. We should put them in place and not look at them as souvenirs. We need to change our mindset.

I am in full support of these conferences. Women should attend more of them. However, they should also translate their resolutions into legislative agenda which is non-offensive. It will be subject to public participation and they should not be offended when men stand up to oppose it. That will be a normal reaction. For any action, there must be a reaction. We should take it in that stride and move forward together and be conquerors.

I support this Motion. I hope to see more of these delegations; do not get the pageant of trying to displace us wherever we are. Leave us alone to also survive in that mode.

With those few remarks, Mr. Temporary Speaker, Sir, I support this Motion.

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, I also want to go on record in support of the report of the Senate delegation that went to the Women Political Leaders Annual Global Summit that was held in Iceland from 28<sup>th</sup> to 30<sup>th</sup> November, last year.

When I was a young attorney in the 1990s, we would represent members of an organisation called the Federation of Women Lawyers (FIDA) and Coalition on Violence Against Women (COVAW), as volunteer attorney. We did so many pro bono cases fighting for the rights of the most marginalized and disadvantaged women in this country. I have a long professional association with issues that deal with women. I urge Sen. (Dr.) Milgo to consider recruiting some hon. Members to some of these delegations so that we can push your cause. I congratulate the deliberations that went on in Iceland and support the adoption of the Motion.

Mr. Temporary Speaker, Sir, there is no better time in the history of this country to be a woman. Even if our mothers have ably gone to school and are PhD holders, we have never had the opportunities that women of post-2010 are being accorded. I remember a time not so long ago when there was no single woman judge sitting in the Court of Appeal. However, as I speak today, when I appear to do any pro bono case before the Supreme Court, I have faced two distinguished women. One of them is the Deputy Chief Justice of the Republic of Kenya. Another one is a judge of the Supreme Court. If you appear before the Court of Appeal, you will find that the bench has a number of women. So, we have made good strides.

Mr. Temporary Speaker, Sir, this morning in our *kamukunji* we were addressed by the lady who determines how we share resources in the country. That is one of the most powerful positions one can hold. Imagine that under our leadership, it is her who will determine which county will receive what resources. It is her who will determine whether Nyamira County qualifies to get Equalization Fund or not. It is her, through a professional assessment, who determined that my neighbouring County of Kericho, which I thought had made a lot of development with beautiful tea estates, will get the Equalization Fund. That is how far we have come as a country.

That is a statement to our daughters that they have space for leadership in our political and professional spheres. The Controller of Budget, Madam Odhiambo is also a lady. You will never get money disbursed to any county unless you convince her. In my own professional body, the Law Society of Kenya (LSK), the person who can give me my licence to practice law every year is a lady.

I applaud the people of Kenya for enacting the Constitution of Kenya, 2010. I played a key role when we were passing it. I was then serving as the President of the LSK. We played an integral part to ensure that we put in the chapter on affirmative action that deals with human rights. So, I am already a convert.

Mr. Temporary Speaker, Sir, I should go on record that two great women have played a great role in my own journey of life that I have gone through. I lost my father when I was still in school. It was my poor uneducated mother who worked as a casual in a health centre in Keroka, who took over and educated me all through to university to make me what I am today. Women do great things. With her little resources, she ensured that I finished school and got all the educational opportunities to be who I am today. So, when Sen. (Dr.) Milgo speaks about the importance of women, she speaks and touches me. When she finished the job of ensuring that I finish school, I was handed over to another great woman in my life, my wife Jackline. It is through her support throughout my professional life that I have been able to rise and serve this country as the President of the Law Society of Kenya (LSK), Chairperson of the Ethics and Anti-Corruption Commission (EACC) and finally make it to this House as a Senator.

I, therefore, value and honour our women. They have touched me in my life. In my campaign towards becoming a Senator, I had a team of passionate, honest and genuine women who could not cheat or flatter you. They meant it when they told you that they were there for you, or liked you as their prospective Senator.

Mr. Temporary Speaker, Sir, I want to be on record in saying that we should never look back. There are opportunities that we gave to our women in the Constitution of Kenya, 2010. We should value, appreciate and have a concerted effort to ensure that we do better.

I applaud His Excellency President Uhuru Kenyatta. For the first time under his leadership, this country can proudly say that it has got six women serving in the Cabinet. Those are good strides. We take some of these developments for granted because there were times when we would hardly get one female Cabinet Minister then.

In the Senate, we have 16 wonderful women. If you look at their curriculum vitae across the Floor, we have PhD holders like Sen. (Dr.) Milgo and I believe Sen. Seneta is also a PhD holder. Coming to this side, Sen. (Dr.) Musuruve is a PhD holder. The lady in front of me, Sen. Pareno, was my classmate at the University of Nairobi and a renowned lawyer. She is now serving as a Member of the Speaker's Panel. The two most powerful positions that can ensure that the business of this House is done are occupied by women, these are the Chief Whip of the Senate Majority and the Deputy Whip of the Senate Minority Side. We should applaud the developments that this country has made and can do better. I encourage the 16 nominated Senators to break the barriers. Next time, we should visit them as governors in their counties.

*(Applause)*

There was a time President Museveni of Uganda made a statement that, "Your playing small does not help the world." Three women: Governors Hon. Ngilu, Hon. Waiguru and Hon. Laboso stepped out in faith, ran for governorship and made it. They

now sit in the Council of Governors (CoG) as the only three elected governors. We had none in the 2013, but now we have three.

I am told that Governor Waiguru is serving as the Vice Chairperson of the CoG. She was the convener of the Devolution Conference that was held in Kakamega. I read about it in the newspapers as I was out of the country. However, I was told it was one of the most successful and well organised Devolution Conferences. Therefore, women have what it takes to offer leadership and leave a mark. We want our daughters to enjoy the benefits which are guaranteed by the Constitution of Kenya, 2010.

Mr. Temporary Speaker, Sir, I do not want to take a lot of time. I support those who are fighting for the empowerment of our women. We can never get it wrong when we support our women. This country will be much safer when we incorporate women into our leadership. I wish you well, and I want the women to know that you have a great friend in Sen. Omogeni from Nyamira County.

I support.

**The Temporary Speaker** (Sen. Lelegwe): Thank you, hon. Senators. There being no other Senator who wants to contribute, I therefore, call upon the Mover to reply.

**Sen. (Dr.) Milgo:** Thank you, Mr. Temporary Speaker, Sir. I thank all the contributors to this Motion, specifically two great men, our Senators. Thank you for supporting the women.

Mr. Temporary Speaker, Sir, one serious problem is legislation. We realise that the Constitution of Kenya, 2010 gave us what we have achieved so far. As Sen. Omogeni said, I was taking stock of what the leadership in this country has done. We are only saying that it should be a continuous process so that we can achieve the gender parity that we are talking about and particularly the two-thirds gender Bill. I am sure it is the law that in this case will propel women.

I loved what one speaker mentioned particularly on the issues of women. You realise that radicalisation and drug addiction have come because of the fact that women may not have been around. However, if we would have assigned duties to women, radicalisation and drug abuse would be reduced since women will nurture the children.

Finally, we are simply lacking the mindset. The moment we change the mindset to feel that women will also contribute something good, I am sure we will not feel as Sen. (Prof.) Ongeru mentioned that the two-third genders rule was jeopardised by the 1985 Beijing Conference. It was felt that the Conference came with issues of wanting to topple men. I am sure that was just a feeling because nobody wants to topple men. Women are always proud when men are there which is why all married women always love their husbands.

In replying to this Motion, I thank all the Senators for the contributions. With these recommendations that we were given from that Forum and whatever we have presented today, I wish something would be given from that Chair so that it can continue propelling the issue of women. We do not want this Report to gather dust in the shelves. I trust that our recommendations will be implemented to enhance some of the activities we are going to do. For example, we were encouraged to set up a committee to follow up on these issues. I wish something can be mentioned on the issue of the Girl2 Leader Initiative. I hope something will be done from the Speaker's desk to assist us to continue with our mission.

With those remarks, I beg to reply.

**The Temporary Speaker** (Sen. Lelegwe): Hon. Senators, the Motion in question does not affect counties. Therefore, I proceed to put the question.

*(Question put and agreed to)*

**The Temporary Speaker** (Sen. Lelegwe): Next order.

ESTABLISHMENT OF OFFICES OF THE CAJ  
AT THE COUNTY LEVEL

THAT WHEREAS Article 59 of the Constitution establishes the Kenya National Human Rights and Equality Commission to among other functions investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct;

AND WHEREAS Parliament enacted the Commission on Administrative Justice Act (No.23 of 2011) to restructure the Kenya National Human Rights and Equality Commission and to establish the Commission on Administrative Justice pursuant to Article 59(4) of the Constitution to provide for the membership, powers and functions of the Commission on Administrative Justice and for connected purposes;

AWARE that the function of the Commission on Administrative Justice among others is to investigate any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice; including investigating complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector;

FURTHER AWARE that the Commission is expected to carry out its mandate in accordance with the values and principles set out in the Constitution and other laws of Kenya;

COGNIZANT that the right to access public service and fair administrative actions is critical to delivery of services to the people both at the National and the county levels of government and in other related public institutions;

CONCERNED that the Commission has its headquarters in Nairobi with satellite offices in the counties of Mombasa, Kisumu, Isiolo and Uasin Gishu;

FURTHER CONCERNED that the absence of the Commission offices in the rest of the Counties has made it difficult for members of the public to report allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehaviour, inefficiency or ineptitude within the public service;



NOW THEREFORE, the Senate calls upon the Commission on Administrative Justice to urgently establish satellite offices in all other remaining counties to decentralize its services to facilitate members of the public to interact with the Commission and report allegations of maladministration in the public service with ease.

*(Sen. Were on 15.5.2018)*

*(Resumption of debate interrupted on 15.5.2018)*

**The Temporary Speaker** (Sen. Lelegwe): Sen. (Prof.) Ongeru, you have 10 minutes to contribute.

**Sen. (Prof.) Ongeru:** Mr. Temporary Speaker, Sir, last time when I stood on this Floor, and in accordance with this Motion, it was quite clear that it derives its spirit and mandate from Article 59(4) of our Constitution. We should put in place a legislation that establishes such offices in one, two, three or four places. The Office of the Ombudsman is only available in some of the four regional centres. The main or national one is in Nairobi.

We need to appreciate that when Article 10 of our Constitution, the National Values and Principles of Governance was settled, it had key issues. It was an issue of governance. Every officer whether it is a governor, President, Principal Secretary, Cabinet Secretary or another state officer has to comply with the interpretation of this Constitution. One of the fundamental issues that Article 10(2) provides is the National Values and Principles of Governance, which among others, include patriotism, national unity, sharing and devolution of power. The other section of it talks about human dignity, equity, social justice, inclusiveness, equality and human rights. Then (c) talks about governance and sustainable development.

Article 47 of our Constitution talks about fair administrative action. It gives full effect to Article 232 of our Constitution where what is expected is high standards of professional ethics, efficiency, effectiveness, economic use of our resources, involvement of the people in the process of policy making, accountability for administrative acts and equal opportunities for everybody to participate. When these fundamentals of life which deal with the normal general conduct of our business in society are ignored, misused or misapplied, it is the right of every citizen to stand up and voice dissent on these issues. Where do they run to? If they go through the process of litigation, they encounter many problems, for instance, a missing file, the motion has not been properly put before the court and high legal expenses.

Therefore, for example, the ordinary poor young person, an elderly person in a village who has a burning issue, somebody who is offended where his or her right or existence in a given area or a boundary has been overshoot by somebody with impunity coming with the high and mighty of dealing with these individuals getting rid of them; at that level, you need a voice somewhere which will stand for the rights and privileges of this person. This will allow us to effect the full values as enumerated in Article 10 of our Constitution. This will give full effect as elaborated in Article 232 of our Constitution

and again the methodology in which we go through the Office of the Ombudsman for complaints.

Obviously, one of the biggest deterrents is the distance involved. Therefore, there is a case made here. One of the things that this Senate can do is to decentralise these services to the lowest units for the time being, to every county in this country so that the people can have access to this very important service.

First of all, it is free. You just have to make a complaint and they investigate. Secondly, they are accessible and thirdly, they cannot be cornered because even if they are located in the governor's office, the checks and balances by the community around will make them a bit careful. It will not be run over by the organs or by state officers who are resident in that county.

Therefore, I fully subscribe to it. I thank Sen. Were for bringing this very important Motion. I hope it will soon be translated into a Bill so that it can become a substantive legal framework that we can use to help our people in the rural areas and even at the headquarters, to deal with this menace of flouting openly and in a very arrogant manner, some of the principles and values that we have so painstakingly put in our Constitution to guide us and the conduct of every Kenyan the way they should live.

Mr. Temporary Speaker, Sir, with those remarks, I beg to support.

**The Temporary Speaker** (Sen. Lelegwe): Proceed, Sen. Pareno.

*(The Temporary Speaker (Sen. Lelegwe) consulted with  
the Clerk-at-the-Table)*

Senator, take your seat. Let us have Sen. (Dr.) Gertrude Musuruve.

**Sen. (Dr.) Musuruve:** Mr. Temporary Speaker, Sir, I thank you for giving me the opportunity to contribute to this Motion. It is important, especially, for this nation. I support this Motion with a number of reasons.

The Office of the Ombudsman, in my view, works as the watchdog for justice and fairness. Sometimes you would want to know how justice was delivered. There are times when justice is perverted. This office being a watchdog, I am looking at its core values. The core values look at issues of fairness.

A case in point on the issue of fairness is a situation where someone goes to the office and all of a sudden just realizes that he or she has been laid off. He or she does not have a job anymore. I remember there was a time I was reading a newspaper where a lady was really crying. She was laid off without any notice. She is a mother and has children who go to school. That was very unfair. Sometimes it happens that people lose jobs without any grounds. So the issue of fairness is important especially for workers.

At times people's land is grabbed and that is unfair. One of the core values of the Office of the Ombudsman is to see that there is fairness in everything. If land has been grabbed, the Office of the Ombudsman will try to see that the issue is solved.

Another thing that makes me feel that the Office of the Ombudsman is a watchdog of justice and fairness is that it is concerned about accountability. When you talk of accountability, we are looking at a situation where civil servants are in office and they have to account for what they do. When someone occupies a public office, they have

to act with integrity, be transparent and accountable for whatever they do with regard to actions, finances and even the utterances they make.

Another core value of the Office of the Ombudsman that makes a watchdog of justice and fairness is diversity. That office acknowledges that people are diverse and if people are diverse, they have to be accepted with their uniqueness. The core values of the Ombudsman translate to making a leader a servant. That is the commitment we need to have when we take up public office. We have to be committed to serving the public and be the servants of the public. That is why I feel this office is important.

The office has a scope which cannot go unnoticed. They will be looking at issues of maladministration for instance in a situation where there is delay in getting identification cards, birth certificates or visas. They will ensure that officers account for what they are supposed to do. That means that public servants will be efficient in delivery of services and that is the essence of devolution; to ensure that services are provided and reach *mwananchi*.

They will also look at administrative justice. For example, they will be looking at situations where someone is not acting when he or she is supposed to. I remember an incident happened to a school in Mombasa where a head of a school did not arrest a situation in good time. They released a bus to take students for a school trip but the bus was faulty and in the process a child died. That is something that the head of the school needed to arrest in good time. This scope of the Ombudsman will allow servants and leaders to do what they are mandated to do.

Another is the issue of misconduct and integrity. As public servants, we need to have integrity in whatever we do. When we talk of issues of integrity, we are concerned about ethical issues even at the workplace. We have had many situations, some of them in the media, where headteachers have affairs with their students. There are also cases where lecturers have affairs with their students for marks and that is unethical. The Office of the Ombudsman will help to address such situations.

Another issue is capacity development. When you talk of capacity development, this is where public officers are trained on how to handle problems that citizens face. Officers need to be trained so that they know how to handle issues in order for them to be addressed.

I also want to talk about the issue of performance contracting. The Office of the Ombudsman will help in seeing that officers do their work. For example, when you talk of performance contracting, an important question would be to know how many complaints have been taken to the office and if they have been addressed. That can be an indicator to know whether public servants are working or not.

Finally, another important scope is on alternative dispute resolution. There are cases where people take cases to court and they take forever to be resolved. Instead of taking a case to court and it takes five years, there are other alternative methods like arbitration or negotiation that can be used to solve problems. Information has to reach the people or problem that people encounter on a daily basis need to be addressed in an amicable manner in a way that people will still live in a friendly manner.

I support this Motion which should go a notch higher and translated to a Bill to become a law. We even need to have a kitty for the Office of the Ombudsman to help in oversight.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, I want to begin my contributions on this very important Motion by urging caution. We all live in this country and we are aware of the debate that is ongoing regarding the use of the tax we collect in terms of what we allocate for development and what goes to support the public wage bill. Already this country is suffering because of a ballooning wage bill which economists are telling us that it poses a great risk to our aspirations for developments in this country.

I have read the Motion which is before the House and the initiative by Sen. Were is commendable. However, as leaders, we need to ask ourselves what our priorities are and where we should be channeling our resources to.

**The Temporary Speaker** (Sen. Lelegwe): Order, Sen. Omogeni, time is up.

I will use the Chair's powers under Standing Order No.31(1) to extend the sitting for 10 more minutes.

Proceed Senator.

**Sen. Omogeni:** Thank you, Mr. Temporary Speaker, Sir.

We need to take stock. Creating an office of Ombudsman in a county government requires resources. When you allocate resources to running an office of the Ombudsman in a county government, you will be taking away money that could have been used for development in that county.

We were here in the morning and I was moved when I heard the report by the CEO of the CRA, that there are places in this country, including Isiolo, where you can get a teacher who has never had access to a mobile handset which we use daily. That we have some parts of this country where it is a dream to talk about clean piped water and that we have places in this country where our women can never dream of getting access to maternity services. We have places in this country where our children can never dream of getting quality education. In this country, we have places where you risk spending days and nights on the roads because of the poor infrastructure of our roads.

When we move a Motion in this House saying that we want this important Commission to have presence in all the 47 counties, we should move with caution knowing that we are going to spend more resources that could have been used in provision of services to our people and instead of doing that, we should open regional offices. I am told that the office of the Ombudsman has an office in Mombasa, Kisumu and another region. More importantly, there is debate that is going on within the National Assembly to merge these bodies and there is an agitation which I think that is being spearheaded by the Kenya National Commission on Human Rights (KNCHR).

The office of the KNCHR, the Ombudsman and the National Gender and Equality Commission (NGEC) should merge and form one commission. We are doing this initiative because we want to reduce the wage bill that is used by these constitutional commissions. The cry of the Kenyan *mwananchi* has been - this has been very consistent - that when we enacted this Constitution, we did not do a proper audit of what it will cost the tax man. It has now emerged that they are eating into money that could have been used for development projects in this country. I want to urge my good friend, Sen. Were, to rethink the wording of the Motion so that instead of having these commissions spread in 47 counties, it should probably have presence in the former provincial commissions. We can probably have eight offices because 47 offices will be too costly to the taxman.

Let us also audit the work of this Commission. If you read the Constitution, and that is the framework under which these commissions were supposed to operate, they were meant to do key human rights abuses investigations and present reports for us to feel change in the mindset and culture of people who are serving in the public sector. However, I am disappointed for I have not seen any action by the Ombudsman that has created tremor in the people who are serving in the public sector, the police force or even in the county governments. They have a mandate both at the national and county level.

Two years ago, I was one of the Attorneys for the Pangani six; the Hon. Members of Parliament (MP) who were locked up in Pangani and those suspects, who were MPs were denied basic constitutional human rights. Their families could not give medicine to those MPs. This is because they were denied access by the Officer Commanding the Station (OCS). The MPs could not get access to their own attorneys, yet that is a constitutional right that they enjoy under the Constitution that we enacted in 2010. In essence, with impunity, the officer in charge disregarded and clearly abused their powers in the treatment of those hon. MPs. I was surprised that although a report in form of a complaint was lodged with the Office of the Ombudsman, to date, we have never received a report of any findings.

On Saturday, the Hon. Member for Bobasi, Hon. Obiri, was having lunch at a restaurant in Upper Hill and, in a very embarrassing and unceremonious manner, he was picked by police officers, roughed up and even lost his diabetes medicine. He was carried by police officers and locked up at Central Police Station. He was driven at night to Kisii Police Station and denied bail for an offence that is bailable under the Constitution. The timing was that they arrested him on Saturday and locked him up to Monday; just to deny him bail pending his appearance in court.

**The Temporary Speaker** (Sen. Lelegwe): Order, Sen. Omogeni. The reason the Chair has extended the Sitting for ten minutes is to give the Mover the opportunity to reply. I, therefore, request that you conclude your contribution and give time to the Mover to reply.

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, I am sorry; it is just that issues of human rights are very passionate to me. However, I respect the advice of the Chair.

With those observations and my proposed amendments to my good friend, Sen. Were, I beg to support the Motion.

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

**Sen. Were:** Mr. Temporary Speaker, Sir, I beg to reply to this Motion that seeks to establish offices of the Commission of Administrative Justice at the county level. I would also like to thank all the Members who have passionately contributed to this Motion, even those who think we need to amend parts of this Motion, as we proceed to draft a Bill to amend the Commission of Administrative Justice Act.

On the issue of lack of resources to decentralize, we cannot put a value or an amount on proper provision of services to *wananchi*. Proper public service delivery cannot be quantified in terms of value. We were told that we lose a third of the monies that we collect to corruption. If a little of that was used to establish the office of the Commission of Administrative Justice at the county level, even if it is in the regions that

Sen. Omogeni is suggesting, it would be a good start and a long way towards holding people accountable.

When services are provided to the satisfaction of *wananchi*, in their public participation, then even corruption will be dealt with and resources will be put to good use. Establishment of these offices at the county level will also help us monitor the two-thirds gender rule and ensure that at all levels of governance the two-thirds gender rule is followed.

I thank the Members who have contributed to this Motion. As we move forward to draft a Bill to amend the Act upon which the law is enacted, we will incorporate all the issues that have been suggested.

I beg to reply

**The Temporary Speaker** (Sen. Lelegwe): Thank you, hon. Senators. The Motion in question does not affect counties. I will, therefore, proceed to put the question.

*(Question put and agreed to)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. Lelegwe): Hon. Senators, it is now time to adjourn the Senate. The Senate, therefore, stands adjourned until Tuesday 29<sup>th</sup> May, 2018, at 2.30 p.m.

The Senate rose at 6.45 p.m.