

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Tuesday, 29<sup>th</sup> May, 2018

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

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

### PRAYER

### COMMUNICATION FROM THE CHAIR

#### DEMISE OF MAMA VIRGINIA CIARUNJI NJOKA

**The Speaker** (Hon. Lusaka): Hon. Members, I have a communication to make on the demise of Mama Virginia Ciarunji Njoka.

Hon. Senators, it is with a heavy heart that I have learnt about the demise of Mama Virginia Ciarunji Njoka, mother to Hon. Justin B. Muturi, EGH, MP, Speaker of the National Assembly, which occurred on Saturday, 26<sup>th</sup> May, 2018.

The late Mama Virginia will be remembered for being a strong pillar to her family and the society, particularly for her endless generosity that touched many around her.

A requiem mass for the late Mama Virginia will be held at the All Saints Cathedral in Nairobi tomorrow, 30<sup>th</sup> May, 2018 at 6.00p.m, and she will be laid to rest on Saturday, 2<sup>nd</sup> June, 2018 at her Kirimari home in Kanyuambora location, Embu County.

On behalf of the Senate and, indeed, on my own behalf, I wish to assure my Colleague, the Speaker of the National Assembly and Chairman to the Parliamentary Service Commission (PSC) that we stand in solidarity with him and his family at this trying moment.

May the soul of Mama Virginia rest in eternal peace.

Thank you.

Next Order!

### NOTICES OF MOTIONS

**The Speaker** (Hon. Lusaka): The first Notice of Motion is by Sen. Moses Kajwang'. Is Sen. Kajwang' here? Let us proceed on to the next Notice of Motion by the Senate Majority Leader.

APPOINTMENT OF SEN. CLEOPHAS  
MALALAH TO THE SBC

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, pursuant to Standing Order No. 178 (d) and 182 (3) of the Senate Standing Orders, the Senate approves the appointment of Sen. Cleophas Malalah, MP, as a Member of the Senate Business Committee (SBC).

**Sen. Linturi:** Mr. Speaker, Sir, I beg to give notice of the following Motions:-

ADOPTION OF CPAIC REPORT ON FINANCIAL OPERATIONS  
OF KAJIADO COUNTY EXECUTIVE FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the financial operations of Kajiado County Executive for the Financial Year 2013/2014 from 1<sup>st</sup> July 2013 to 30<sup>th</sup> June, 2014, laid on the Table of the House on Thursday, 10th May, 2018.

ADOPTION OF CPAIC REPORT ON FINANCIAL OPERATIONS  
OF NAROK COUNTY EXECUTIVE FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the financial operations of Narok County Executive for the Financial Year 2013/2014 from 1<sup>st</sup> July 2013 to 30<sup>th</sup> June, 2014, laid on the Table of the House on Thursday, 10th May, 2018.

ADOPTION OF CPAIC REPORT ON FINANCIAL OPERATIONS  
OF TURKANA COUNTY EXECUTIVE FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the financial operations of Turkana County Executive for the Financial Year 2013/2014, from 1<sup>st</sup> July 2013 to 30<sup>th</sup> June, 2014, laid on the Table of the House on Thursday, 10<sup>th</sup> May, 2018.

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

**POINT OF ORDER**

DELAYS IN PROCESSING OF COUNTY AUDIT REPORTS

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

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

**Sen. Sakaja:** Thank you, Mr. Speaker, Sir. I know it is a matter of concern to all the Senators representing counties. We have just heard the Vice Chairperson of the County Public Accounts and Investments Committee (CPAIC) give notice of Motions on reports of the audited accounts of various county executives for the Financial Year (FY) 2013/ 2014. Our core mandate as a Senate is to play oversight over county governments, which include executives and assemblies. We are wondering why the reports being given now are for FY 2014/2014 and I am sure there other legacy reports.

Maybe, the Vice Chairperson can enlighten us; which reports did the previous CPAIC bring to this House? Secondly, do you expect in our lifetime in this Senate that we shall oversight the current governors and get reports of their governments?

Mr. Speaker, Sir, I want to get a report on the current County Government of Nairobi City not the one of the former Governor, Dr. Kidero. I am sure Sen. Murkomen wants the current report as well. Is there a matter that needs assistance? Is it the Auditor-General who is not preparing his reports in time or is it our Committee that is not doing its work? This matter is so crucial that we need to understand that we will play our oversight role as it is, and not in the accrual basis of FY 2013/2014 reports. Maybe we can get enlightenment. I am sure most of it is not the Committee's doing, but probably what they are getting from the Auditor-General.

**The Speaker** (Hon. Lusaka): Let us have the Vice Chairperson of CPAIC responding.

**Sen. Linturi:** Mr. Speaker Sir, allow me to shed light on the issues that have been raised by Sen. Sakaja, although the reports of the Statements of the notice of Motion that I have just given are self-explanatory. It is true that the notice we have just given is on the financial inquiry of these three counties for the year ended 30<sup>th</sup> June, 2014. I agree with him that it may appear difficult for the current Senate to give reports for all the 47 counties within the period of the next four years.

It is not the fault of this Sessional Committee. In fact, this Committee has done its best because these are reports for the three county executives for three years within a period of less than three months. This is because I think this Committee was constituted at the beginning of this year.

Mr. Speaker, Sir, we have been having housekeeping meetings within our Committee and we tried to structure ourselves in terms of how we could expedite this process and report to this House. However, it is also important to understand the kind of challenges we have as a Committee. We are not trying to cry foul in any way, however, since the month of April, we gave notice to the country and the governors that we would be having inquiry meetings and we have all through expected them to appear. However, since we started our inquiries, very few governors have attended.

I commend Governor Prof. Kibwana of Makueni County. When we were trying to come up with the programme, he was willing and he even requested that we schedule him as one of the first because he really wanted to engage with us.

Mr. Speaker, Sir, today, we were supposed to have a sitting with the governor of Trans Nzoia County. To our dismay, whenever we ask the governors and give them enough notice to appear, they only write letters of regret 24 hours or less before the

sitting. This is the issue and the challenge that we have. However, the commitment among the Members is so immense that we want to deal with the issues that we have, for purposes of reporting to this House on how public finances are being managed by the governors. We are trying to do our best. In the event that we may require support from this House in ensuring compliance with the summons by the Committee, then I believe, agree and hope you will come in.

Mr. Speaker, Sir, I ask all the Senators seated here to establish a good working relationship and rapport with the governors so that they understand that the kind of engagement that we have has a serious bearing towards achieving one of the very principle factors of governance on accountability. Governors should be aware that when they come to engage with us, we are not condemning them, but we just want to know. Our big interest is to know where we are able to assist one another for proper performance and accountability on the amounts of money sent to them. Kindly assist us by talking to our governors; let them be willing to engage. That is how, Sen. Sakaja, we will ensure timely reports are presented to this House.

I am sure the reason why you are much concerned about your county's reports, especially on Nairobi City County Executive, is because last time we had some engagement with the Controller of Budget and the Auditor-General. Nairobi City County is one of the counties that have the highest pending county bills of up to Kshs57billion. I know it is a concern and I am happy that you are raising these issues. We are willing to engage because we want to assist one another. This is so that the public at least gets to know what is happening. Those major problems that directly affect the public because of the manner in which governors are performing their functions can be put to light and we can manage the process.

Mr. Speaker, Sir, out of these pending bills, many business people have been auctioned. During our deliberations, whenever a governor appears, we first ask for an update on the pending bills within the county. I am happy that some of the governors have already set up their Pending Bills Committees, which have been verifying those bills. Without trying to cast aspersions, some counties such as Meru have reports from the pending bills verification committees. We had a pending bill of Ksh1.7billion and after verification, we are only supposed to pay Kshs200million. Therefore, Kshs1.4billion was fictitious. This will similarly be happening in other counties.

Kindly, when we approach you---

**The Speaker** (Hon. Lusaka): Order! Hon. Senator, kindly wind up.

**Sen. Linturi:** When we come to you for any kind of support be willing to engage. We will do our best to ensure timely reports are tabled before this House for discussion and adoption.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. I cannot help but comment on this, in support of Sen. Sakaja's concern. The distinguished Senator for Meru, who is the Vice Chair of the Committee, started by saying that he was going to shed light. He has ended up with a cloud of darkness on the issue. This is because, if we are now looking at audits of 2013/2014, then our oversight role is completely lost. Even focusing on pending bills is not an audit. We are not auditing what has not been spent or paid. We are auditing what has been badly spent. Those are the bills already paid.

I do not want my distinguished friend from Meru to adopt this apologist approach; begging for co-operation. Audit is not about co-operation. It is a constitutional duty. When you call a governor to come before you and he declines, you exercise the power of the High Court in summoning such a governor with consequences of a penal nature if he does not show up. So, we do not need any of these Senators to beg their governors, “please go and appear before the Committee.” It is their duty.

Mr. Speaker, Sir, this House, under Article 96(1), our cardinal duty is to protect the interests of counties and their governments, including but not limited to how the resources sent to or raised in the counties are spent for the furtherance of the good lives of Kenyans. So, I support Sen. Sakaja fully.

Mr. Speaker, Sir, I suggest that you direct the Committee, that, within the next two or three days, let them bring an entire catalogue of the levels of audits on each county so that each Senator, for example, the Senator for Elgeyo-Marakwet or Nyeri can know if we are only on 2013/2014, where are the rest and when are they going to be reached, other than saying, we appeal to you, please co-operate; ask him to come, which does not help.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I rise to support the position on the question raised by Sen. Sakaja and Sen. Wetangula. We need to find a solution. This is an embarrassment to the institution of the Senate and the Auditor General. As a Senate, some of us who were here during the last term should take responsibility and blame because the County Public Accounts and Investments Committee (CPAIC) should have expedited this process of looking at the audited accounts. We also know that some of the reports have not been submitted from the Auditor General’s office.

Mr. Speaker, Sir, I request, under your direction, that the CPAIC invites the Auditor General, we have a sitting here with him to discuss this matter, in the presence of all Senators. The Committee may invite him on their own. In the past, we have had sessions where a Cabinet Secretary is invited to come to this House. We need to agree how expeditiously we can ensure that all the reports which are already in Parliament can be looked at by the Senate. In fact, we can even take a drastic measure if we want to clear the backlog. We have reports of 2013/2014, 2014/2015 and 2015/2016.

There is nothing that stops us under the Standing Orders. We can agree that as the Senate, we subdivide ourselves into *ad hoc* Committees to look at all the audited accounts, update them up to the last financial year, and then, we can let the CPAIC to continue from there. At that point in time, we summon all the governors as each *ad hoc* Committee sits in a separate room and looks at all these reports and updates. As Sen. Sakaja has said, we may not in our life time of the 12<sup>th</sup> Parliament, ever see what our counties look like if we continue with this process in this manner.

**Sen. (Eng.) Maina:** Mr. Speaker, Sir, I rise to support Sen. Sakaja. I am surprised that the Vice Chair of CPAIC has told us to go appealing, wailing, kind of looking nice to people we are supposed to be inspecting according to the Constitution. We are supposed to be monitoring. It is very unfortunate. This House must live up to its responsibility and show that we are following up on the use of money that is voted for the improvement of this country. When we are told, you better go and get your governor, appeal to them to

come to the Committee, surely, does it mean that, constitutionally, we have no authority to summon somebody just to ask them about expenditure of public funds?

Secondly, regarding pending bills, it is not enough to say that a Committee sat in Meru and came up with a certain figure. Auditors are supposed to audit public funds. If this House has to be effective in seeing that the resources of this country are applied in the right way, it has to begin with planning and budgeting.

I would have wished that we engage on this subject with the Auditor General and the National Treasury to see where we come in. We do not want to be post mortem people. We will just be crying that; “oh, you have done well, you have reduced pending bills from the previous difference of Kshs20 billion to Kshs4 billion”, which is serious theft! That does not help.

Therefore, we need to agree on what our role is and how this Committee, which looks toothless, conducts its oversight role.

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, I was not going to speak on this matter but I have been moved to do so after the contribution by the Senator for Nyeri. He has raised a very fundamental constitutional question. We have to decide whether or not we will perform our constitutional functions in accordance with the Constitution or we will look for a different framework outside the Constitution.

If I may just pause and ask the question; will we ever have a situation where the court, in exercise of its judicial function, would want to enter into some kind of understanding as to whether we should appear in court or come in a certain fashion? When you are required to appear, you are required to appear because it is a duty and the exercise of a constitutional function. The problem is that Parliament, and particularly, the National Assembly, appropriates funds to be expended. Leave alone the audit. You are the owner of the funds expended by the state. You are the ones who appropriate. It is not the Executive. So, it is not even the business of the executive as the governors to try and find out how that money was spent because you are the one who has appropriated it.

In addition to the role of the Auditor General, he is also required that in every Financial year, he should report to Parliament. He is only given six months at the end of each financial year. So, with these constitutional tools, we may want to have an approach in which we make governors and the counties feel comfortably when they come to appear before us, but in the exercise of our constitutional duty, we should not be seen to be ceding ground because that is what happens.

The moment you are seen to be ceding ground, the moment a governor knows that he can elect not to appear, for example, Sen. Linturi is saying the governor elected, 24 hours before the meeting, not to appear. That is a grave mistake. If you are summoned to a court and you send a letter there that you are not appearing, you will not be allowed to tell that story. You will be trailed to purge that contempt before you are heard.

Mr. Speaker, Sir, the governors should be told that this is an offence but in the exercise of our constitutional duty we will not have a debate or discussion. If they appear, well and good but if they do not appear, the Senate should use the tools at its disposal which are contained in the Constitution so that the work is done properly and in good time. Otherwise, we will be told that we are not exercising our mandate properly.

The problem is that when it comes to appropriation, the National Assembly has more powers but when it comes to oversight, the Constitution is precise that we shall carry out our oversight not only of counties but even of State officers. So, let us exercise those functions as it is in the law and the Constitution.

Sen. Linturi, if I may tell you through the Chair, be happy with governors like the one for Makueni County. You can give him latitude for good conduct but we should deal with the ones who misbehave in accordance with the Constitution and the law.

I thank you.

**The Speaker** (Hon. Lusaka): I think the sentiments have been heard.

Sen. M. Kajwang' who is the Chairman is here but before the Chairman, I will allow Sen. Cheruiyot little time so that we make progress.

**Sen. Cheruiyot:** Mr. Speaker, Sir, I will be extremely brief. The point I want to make is that the issue of why the backlog in terms of the years is a matter that we have canvassed before. I am a Member of the Committee on Finance and Budget and I was a Member of the Committee on Finance, Commerce and Budget in the previous Parliament.

In one of our reports that we brought to this House alongside the County Allocation of Revenue Bill, we had made recommendations to the Office of the Auditor-General. He should consider requesting for funding from the Treasury to hire auditing services to counties so that they catch up with the years because of the huge amount of work that is being done and lack of resources in that Office.

The Office of the Auditor-General complied with that report and this year they made that request. Unfortunately, the Treasury did not grant it. So, the culprit here is not the CPAIC or the Office of the Auditor-General but the Treasury which continues to underfund the Office of the Auditor-General despite the numerous requests that have been made for us to catch up; and Members of the Committee can bear me witness. What report will they bring to this House if the Auditor-General has not looked into the audit reports of 2015/2016, 2016/2017 and subsequent financial years?

It is important under Article 225 of our Constitution to consider what we can do as a legislature to compel the Treasury to comply with the report of our Committee on Finance and Budget that made that very specific request for funding. It is unfortunate that even today the Office of the Auditor-General has not complied with that. They do not have representation in county offices. Instead they are managed from regional centres like what you would have for rift valley in Nakuru and that kind of arrangement. It is a matter that we need to seriously think through and consider.

I thank you.

**The Speaker** (Hon. Lusaka): Sen. Olekina, be brief so that we make progress.

**Sen. Olekina:** Mr. Speaker, Sir, I notice that the Chair of CPAIC has just entered but I just want to shed some light. I want to assure this House that the CPAIC is working daily to table a lot of reports. I want to assure Sen. Sakaja that the amount of work that we have done is not equal to the amount of work that was carried out by the previous committee. We had a lot of work which had not been completed. The first time when we met, we worked day in day out to complete those reports. I assure this House that the

Chairman is doing what the previous committee did not do because of the number of court cases which slowed down the process.

The other thing is the issue that we have deliberated, which the Senate Majority Leader talked about, is dividing the Committee into sub-committees. We have already established sub-committees to work on the reports. I want to assure you that within a short time, we will table reports and move on. I assure Sen. Sakaja and the entire House that we will make progress.

We do not summon governors but we invite them first. When they fail to appear, we move ahead to summon them. The Chair can bear me witness that we have made a determination that when a governor refuses to appear before us upon the invitation, the next thing is to summon them.

**The Speaker** (Hon. Lusaka): I think the matter has been explained properly. I urge the CPAIC to move with speed because if we go by the speed at which they are moving, then we will not be able to discuss the reports in our lifetime. Therefore you have to look for a mechanism of getting everybody who is concerned on board, so that we make progress.

Yes Sen. M. Kajwang', although you came in a bit late.

**Sen. M. Kajwang'**: Mr. Speaker, Sir, I was following the conversation on radio. I just want to make some very brief remarks. It is a fact that this House in its five year life has never adopted a single report and the Notice of Motion by Sen. Linturi is the first attempt to move this House to adopt a report.

In 2010, we passed a new Constitution; in 2012, we did a new Public Finance Management (PFM) Act; and in 2015, we came up with very detailed regulations for the PFM Act but our framework for audit has remained the same. The CPAIC is looking at the same things that county assemblies are looking at. What makes it worse is that the Senate's CPAIC receives an average of 470 reports every year while county assemblies get about 10 reports. Each county that has established Funds such bursary Funds, mortgage Funds, women Funds and "monkey" Funds in some counties have to be audited and a report comes to the Senate.

I will not give this House an assurance that in our lifetime we will look at an average of 470 reports in a year and it has been my position that we are looking at the wrong things. There is no business for the Senate to do the same things that county assemblies are doing. We have not engaged the Auditor-General so that we come up with a different report---

*(Sen. Kang'ata consulted loudly)*

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Speaker, Sir. Did you realise that the Senator for Murang'a is not attentive and did not hear what the Chairman said?

This is a House of records. I would like the Chairman to tell us which county has "monkey" Funds.

**The Speaker** (Hon. Lusaka): Murang'a County has a Fund to kill monkeys. Proceed Sen. M. Kajwang'.



**Sen. M. Kajwang':** Thank you Mr. Speaker, Sir, for coming to my rescue. Indeed it is true that there is such a Fund and all these Funds have to be audited.

The Auditor-General brings a report to this Senate for the Senate to make a decision. There is no way we will make headway with that approach. The Auditor-General has assured us that they are implementing a new software called Team Mate Version 12 which allows them to produce consolidated reports. So, instead of sending us 10 reports per county, we will get one report that provides a dashboard of the financial and other affairs of a county. That will make the Senate useful.

There is a matter which probably we will discuss in the Senate Liaison Committee. That is the 2013/2014 reports. I have seen the kind of disappointment Members have when looking at those things. The CPAIC is a committee of the House and looking at the Agency Theory, could we make a decision that the CPAIC has got the competence and authority to review the Auditor-General's report and adopt it? The only thing we should be tabling so that we do not bring reports here for debate---

We should just table the reports here and once tabled, we close the chapter. Since it entails moving a Notice of Motion, then moving a Motion and doing debates for 47 reports for 2013/2014, we might not make headway. So, I will package that report appropriately so that we give the CPAIC authority to look at those reports and only table them.

Finally, we must also give county assemblies incentives for looking at the audit reports. I urge the Committee on Finance and Budget that in the PFM Regulation where it is stated that not less than 7 per cent of county revenues shall be allocated to county assemblies, we might need to amend that and say 7 per cent of county revenues as per the last audited accounts. That way, we will compel county assemblies to carry out audits and not just leave it to the Senate.

Thank you Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Finally, Sen. Sakaja.

**Sen. Sakaja:** Thank you, Mr. Speaker, Sir. It is good to hear the sentiments of other Senators on this. Parliament operates through its Committees for purposes of efficiency and to make sure that the work of the House is done effectively in its entirety.

The Senate Majority Leader has given a suggestion on how we can assist this Committee to be up to date. It is not usurping their mandate or taking it away from them in any way. We are not interested in seeing the reports of Bungoma County when it was under you; we want to see Gov. Wangamati's reports. We are not interested in former Gov. Kidero's reports; we want to see Gov. Sonko's report. We do not want to see former Gov. Munya's reports; we want to see Gov. Kiraitu's report. I wish you could rule on the suggestion by the Senate Majority Leader.

In as much as the Committee on County Public Accounts and Investments (CPAIC) gets ten reports, they can prioritise. We first want to see the reports on the county executives and assemblies and then they can look at the report on the other Funds that the Chairperson referred to, including the 'monkey Fund.' I almost thought that he was giving us another English lesson, but it so happens that, indeed, there is a 'monkey Fund.'

Finally, we have heard many Members say that governors are refusing to adhere to summons from this House. The summonses are not polite requests to attend; it is enshrined in law. This House has several Senior Counsels; in fact, it has the highest number of Senior Counsels that I have seen under one roof, because I have never been in court. Together with the Committee on Justice, Legal Affairs and Human Rights, can they give effect to the provision of the Constitution that says a summons by this House has the same effect as a summons of the High Court, such that we can have what we call “contempt of Parliament” that is punishable by law?

Can we create legislation because we keep on saying that we have summoned them. Since we have the same powers as the High Court, why are we acting like a toothless dog? The governors must be laughing wherever they are. Contempt of Parliament should be taken as seriously as contempt of court. The Committee on Justice, Legal Affairs and Human Rights, led by the Senator of Nandi, should lead that process.

We wish that you can give us a way forward from the suggestions that have come from the distinguished Senators.

Thank you.

**The Speaker** (Hon. Lusaka): Hon. Senators, I wish to push this matter to the Liaison Committee which will look at how we can expeditiously move forward because there are many issues that surround it. It is true that these reports need to be discussed in time for them to make sense. As a Senate, we need to remain relevant; otherwise, we will be discussing historical things. We will be looking at archives and that may not be what we want to do.

I refer the matter to the Liaison Committee that will look at the suggestions that have been given here and find out what is going to work faster for us.

We will now move to Order No. 8. Statements will come thereafter.

## 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): Hon. Senators, we shall now proceed to Division. I direct that the Division Bell be rang for two minutes.

*(The Division Bell was rung)*

Hon. Senators, I now direct that the Bar be drawn and doors locked.

*(The Bar was drawn and doors closed)*

I will now put the Question, which is, that the County Allocation of Revenue Bill (Senate Bills No.11 of 2018) be now read a Second Time.

Hon. Senators, confirm that you are logged in. You can now start voting.  
The manual voters should approach the Clerk-at-the-Table for assistance.

*(The Senators proceeded to vote)*

## **BILL**

### *Second Reading*

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

## **DIVISION**

### ELECTRONIC VOTING

*(Question, that the County Allocation of Revenue Bill  
(Senate Bills No.11 of 2018) be now read a Second Time, put  
and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Faki, Mombasa County; Sen. Haji, Garissa County; Sen. Halake, Isiolo County; Sen. (Dr.) Kabaka, Machakos County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. (Dr.) Langat, Bomet County; Sen. Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. M. Kajwang', Homa Bay County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. Malalah, Kakamega County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Olekina, Narok County; Sen. Orengo, Siaya County; Sen. Outa, Kisumu County; Sen. Sakaja, Nairobi City County; Sen. Seneta, Kajiado County; Sen. Wambua, Kitui County; Sen. (Rev.) Waqo, Marsabit County; Sen. Wetangula, Bungoma County and Sen. (Dr.) Zani, Kwale County.

**NOES:** 0

**The Speaker** (Hon. Lusaka): Hon. Senators, the result of the Division is as follows:-

**AYES:** 32

**NOES:** 0

**ABSTENTIONS:** 0

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The “Ayes” have it.

*(Question carried by 32 votes to nil)*

*(The Bill was accordingly read the Second Time)*

Next Order!

**The Speaker** (Hon. Lusaka): It happens. We will just have a repeat election.

*(Voting in progress)*

### DIVISION

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

*(Sen. Mutula Kilonzo Jnr. on 14.4.2018)*

*(Resumption of Debate interrupted on 15.5.2018)*

### ELECTRONIC VOTING

*(Question, that the County Governments (Amendment) (No. 2)  
Bill (Senate Bill No.7 of 2017 be now read a Second Time,  
put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Haji, Garissa County; Sen. M. Kajwang’, Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang’ata, Murang’a County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Langat, Bomet County; Sen. Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. (Eng.) Mahamud, Mandera County; Sen. Malalah, Kakamega County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Orengo, Siaya County; Sen. Seneta, Kajiado County; Sen. Wambua, Kitui County; Sen. (Rev.) Waqo, Marsabit County; Sen. Wetangula, Bungoma County; and Sen. (Dr.) Zani, Kwale County.

**NOES:** 0

**The Speaker** (Hon. Lusaka): Hon. Senators, the results of the Division are as follows:-

**AYES:** 28

**NOES:** 0

**ABSENTIONS:** 0

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The Ayes have it.

*(Question carried by 28 votes to 0)*

*(The Bill was accordingly read the Second Time and committed to a Committee of the Whole tomorrow)*

## STATEMENTS

### PURCHASE OF MAIZE BY NCPB

**Sen. (Prof.) Kamar:** Thank you, Mr. Speaker, Sir. I rise on Standing Order No. 46 (2) (a) to make a Statement regarding the current situation on maize buying by the National Cereals and Produce Board (NCPB) in the North Rift, Uasin Gishu County, in particular but I will touch on the rest in general.

Mr. Speaker, Sir, I am standing to give this Statement knowing very well that according to Schedule Four of the Constitution, agriculture is a devolved function except for policy on agriculture and veterinary. This means that this House must be seized of any issue on agriculture.

Mr. Speaker, Sir, as all of you are aware, I come from Uasin Gishu County. This area has suffered a lot. Hon. Members have seen a lot of complaints and debates in the media about the issue of maize buying.

I want to update this House on the current situation which is that farmers delivered their produce to the NCPB as usual but as we talk, majority of the farmers who delivered their produce have not been paid notwithstanding the fact that the stores were opened this season in an irregular manner. According to the farmers and those of us from the region, the NCPB mishandled the receiving of maize, resulting in very long queues. This led to closing down of the cereals storage, making farmers go back with their produce.

Mr. Deputy Speaker Sir, there are situations where farmers found themselves at a loss, because everybody sells in order to pay schools fees for their children and to buy inputs for the next season. The season for 2017 to early 2018 was completely complicated by the way the cereals were handled, particularly in the North Rift. Large scale farmers, in some instances, had to rescue small scale farmers by buying off their produce. Hence we found some of the large scale farmers being named as cartels and yet we know that some of them were actually rescuing the small scale farmers who could not afford to send their children to school. We, in fact, also have children who have dropped out of universities while farmers are owed a lot of money.

Mr. Deputy Speaker Sir, many farmers currently still have their produce in their stores because of the same delivery frustrations. One situation that has taken place is that the NCPB has stopped collecting maize, as we speak now. Therefore, all stores have been closed down nationally and this has created another problem and raised a number of questions. This is because the complications and frustrations in delivery actually led to very little produce being delivered. I want to say without fear of contradiction that only about 30 percent of the farmers actually delivered their produce.

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The Ministry of Agriculture, Livestock and Fisheries has told us that investigations are ongoing. In the preliminaries, we are informed that the produce that was received--There is a claim by the NCPB that the stores are full. The Ministry of Agriculture, Livestock and Fisheries has claimed that the stores were filled by non-farmers, which is another question that needs to be looked at. If the stores were filled by non-farmers, it therefore means that the privilege of selling maize at Kshs3200 which was given to farmers may have been enjoyed by non-farmers. This is something that this House must take note of.

Mr. Deputy Speaker Sir, there are a number of observations and questions that we have raised. We had a wonderful meeting yesterday between the leadership of Uasin Gishu County, parts of the North Rift and the farmers. One of the observations we made is that the storage capacity of the NCPB is normally over 20 million bags. However, the number of bags that were collected from the farmers, as per the data available and this figure of Kshs1.9 billion, show that not even a third of the storage space at the NCPB can be accounted for through the amount that has been paid. This leaves us wondering why the payments are much less than the storage capacity of the NCPB. Is it, therefore, possible that there is maize in the stores that was either donated or it came before this season?

Mr. Deputy Speaker Sir, we are also aware that an opportunity for importation of maize was given because of the shortage of 2017, and that the grain that was imported was zero rated. That importation was supposed to protect the food security as well as the millers. That privilege was supposed to have ended in October, 2017. However, we realise that, that did not end and the delivery of produce continued. In fact, there is suspicion that it went on up to January.

However, I will leave aside that issue, because the reason I am presenting this is because we need our Committee on Agriculture, Livestock and Fisheries to delve into this whole thing. However, it is true that deliveries from what was imported actually went on beyond October to December. Now, the question is; how was that authorised when the subsidy was supposed to have stopped by that time?

Mr. Deputy Speaker Sir, this has left us with a lot of worries and questions. When we met, as leaders and farmers in Uasin Gishu yesterday, we made a number of resolutions and requests to the government. First, was that the true farmers be identified and be paid for the produce that they have delivered. This is very urgent because the farmers who have delivered cannot even plant. We know that one of the Big Four Agenda is food security. However, we might not see the food that we are talking about next year.

Our farmers are faced with an infestation of army worms, for those who have just planted. That menace, coupled with the fact that a lot of land has been left idle, is going to cause a lot of problems in this country. We are, therefore, appealing to the government that because it has been identified that the wrong people were paid, the real ones should now be paid so that they have their money; so that their children can go to school.

Mr. Deputy Speaker Sir, we are also appealing to the Government that it must collect the remaining grain that is with the farmers. Farmers in this country are planting, not for themselves, but for the food security of the country. Therefore, if they have grain in the stores – and I dare say that I still have mine in my stores –it is very important that

this is delivered. Therefore, one of the resolutions we passed is that farmers must be allowed to deliver whatever they still have. That might help next year's crop because, as I said, nobody knows what we are going to harvest this year. We had heavy rains, leading to late planting; now we have the army worms and the fact that people did not have inputs. Some of the crops were planted without fertilizer because the same farmers are still suffering.

Mr. Deputy Speaker Sir, we also think and strongly believe that there is need to do the investigations that the Government has initiated. As leaders and farmers, we truly support what the Government is doing and emphasize that the investigations must be very thorough. When we say that the investigations must be very thorough, we want the full list of everybody who delivered maize in this season from late 2017 and early 2018. This is because the list that we saw of 19 people was very small. It was not even accounting for 30 per cent of the crop that was delivered and, therefore, it is telling us nothing. We would like to see that full list so that all of us are satisfied on who actually delivered maize.

Mr. Deputy Speaker Sir, we are also saying that when we are dealing with this audit, the millers must also be audited. When did they use the privilege that was given to them and for how long was it used? This is because in all this fiasco, we have not heard any complaints from any miller, which means that they are also having full stores. That is why the NCPB cannot release space for the farmers who still have the grain. If that is the case, then we need to know who actually delivered the grain beyond October.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. (Prof.) Kamar, you have a maximum of ten minutes. That is number one---

**Sen. (Prof.) Kamar:** Mr. Deputy Speaker Sir, I have two minutes remaining.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Maybe less.

Secondly, Sen. (Prof.) Kamar, you should issue a statement under Standing Order No.46 (2) (a), and not deliver a speech.

**Sen. (Prof.) Kamar:** Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): You are a professor. I am sure you have appreciated. So, I will give you another two minutes.

**Sen. (Prof.) Kamar:** Thank you, Mr. Deputy Speaker, Sir. Unfortunately, I am also a farmer and a victim like everybody else.

In conclusion, we have discovered that there is need to have a thorough audit. We would like a few things to be unearthed; who supplied or delivered, when the exports expired and when it was stopped in reality. The Government should also devolve the NCPB. This will be important for us. As a Senate, we need to guard the farmers at the county level. It is not a policy issue. It is an implementation and management issue of the produce that we have. We feel strongly that we should do this. As that happens, our plea is that the farmers be allowed to deliver what they still have and moreover, they are paid for what they have delivered.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well. Thank you, Sen. (Prof.) Kamar.

I see a lot of interest. I know that the issue of maize is a matter of great importance. However, in the interest of time, I request that those who will be fortunate to

catch the eye of the Speaker should not take more than two minutes because it was Sen. (Prof.) Kamar's statement. It was not your statement.

Senate Majority Leader, you have two minutes. Declare whether you are a farmer or not.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, by virtue of my office, I plead for five minutes.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator!

**The Senate Majority Leader** (Sen. Murkomen): I plead.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): You said you plead?

**The Senate Majority Leader** (Sen. Murkomen): Yes.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Okay. If it is a plea, it is reduced to four minutes and the rest two minutes each. You and the Leader of Minority, if he is interested, will have four minutes each and the rest two minutes each.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Deputy Speaker, Sir, first of all, I thank the Senator for Uasin Gishu, Sen. (Prof.) Kamar, for making this very important statement. I am in full support of what she has said. There is a problem in the North Rift as we speak. Most of us are maize farmers. The former Minority Leader and Sen. Cherargei are maize farmers too. Most of us who come from Trans Nzoia, Uasin Gishu, Elgeyo-Marakwet, Bungoma and to a good extent, Nakuru County, depend on maize farming. Other counties have different crops but maize is very important for our region.

Secondly, countries all over the world, Europe and the United States of America (USA) included, offer subsidies to their farmers because of the important factor of food security. In fact, under the World Trade Organisation (WTO), one of the exceptions to the Most-Favoured-Nation (MFN) principle in so far as tariffs are concerned, is that countries are allowed, including in the subsidies and countervailing measures agreement, to subsidize goods for purpose of achieving national food security.

For that reason, NCPB has been mandated to buy maize from farmers, distribute fertilizer at a subsidized price and give maize farmers a standard price for their maize; in this case Kshs3,200. It is important for people to know that when you are subsidizing for farmers, in Europe and the US for example, the aim is to keep certain people in farming so that they can continue producing for national security.

In places like Uasin Gishu and Trans Nzoia and some parts of Bungoma, you need to maintain large scale farmers; those who have 1,000, 2,000 and 3,000 acres to continue producing wheat and maize for purpose of national security. Some of these farmers were quick to deliver their produce to NCPB. Some of them, like one of the farmers we were together over the weekend, were entitled to be paid up to Kshs200 million. As the people of the North Rift, we feel sad when those farmers who were sacrificing to feed the nation are called cartels. That does not mean that we condone other cartels and business people who have imported goods from other countries. We do not want to mention any country because of good neighbourliness. We are not allowed under our subsidy programme to subsidize goods from another country.

As leaders from the North Rift, we do not want to see an indiscriminate list, which is now in the public domain, that condemns all farmers. These are farmers that we



know. These are people we have known. They have fed this country for many years yet they are being called cartels without clear provision of the information as to who is a cartel and who is not. My neighbour in Trans Nzoia where I farm has about 2,000 acres. That farmer would have farmed another crop but because we depend on maize and wheat, these people continue planting these crops in the hope that they will deliver to NCPB and be paid on time. If it happens that they are paid Kshs200 or Kshs300 million, we should not castigate those types of farmers. That does not also stop us from questioning those who have imported maize.

In addition, we want protection for small scale farmers. I agree with Sen. (Prof.) Kamar that the only way you can protect the farmers with five, 10 or 15 acres is to devolve NCPB. The NCPB should have buying centres in every constituency. We urge the Ministry that they must do everything possible to ensure that in the next financial year, all the maize purchases are done at the constituency level, and to some extent, at the ward level because constituencies dealing with farming are not so many in the country. They can afford to collect the maize at a lower level.

Finally, it is unfortunate that when we are finding a solution to a problem such as the one of maize, we have friends and politicians whose only interest is to score political points. We would like to tell every citizen, politician and leader that we must make our contribution in the fight against cartels in the maize sector but without castigating those farmers who have worked so hard. I can mention their names here. They are so many in that list. I know them in person because we represent these people. They are actual farmers. To be castigated in public and be called cartels is the most unfortunate thing that has happened in this country.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Leader of Majority, although you have not told us who the cartel is. You have told us who is not.

Proceed, Leader of Minority. You have four minutes.

**The Senate Minority Leader** (Sen. Orendo): Mr. Deputy Speaker, Sir, cartels or no cartels, there is a crisis amongst the farming community, particularly in the two counties; Trans Nzoia and Uasin Gishu. Probably one can add Bungoma County. Cartels or no cartels, a solution is required.

Sen. (Prof.) Kamar was talking on the basis of trying to find a solution; not trying to witch hunt or look at who is being mentioned as a cartel or not. As national leaders, we should approach this on the basis that there is an outcry in which the local leadership took some steps. I was so happy to see a meeting yesterday, attended by the governor in which questions were being asked directly to leaders and the Government in order to resolve the crisis in Uasin Gishu, Trans Nzoia and Bungoma counties.

More importantly, this is not a problem for those three or four counties. It is a national problem because these areas have been identified as important and key areas for the production of food in this country. In fact, in the old days, even in the colonial days, they were so identified that even the scheme of Guaranteed Minimum Returns (GMR) was there for farmers, large or small scale, so long as you were selling your produce to the NCPB. It was evident that farming brought some returns. The crisis in those areas is that some people have done proper and legitimate farming but they do not get any returns on what they have delivered.

It will be a tragedy to use this debate to try to look for who were the “sheep” and who were the “goats” because there is a crisis. Sen. (Prof.) Kamar would not be talking to us the way she has if it was not a crisis of general concern in that area and the country at large.

I want to tell the Senate Majority Leader that if there is no maize in Trans Nzoia and Uasin Gishu, Siaya suffers and it forces us to go to Uganda sometimes to do black market trade. I think our sense of pride is kind of demolished if we depend on our neighbour to meet our food demands. Cartel or no cartel, there is a crisis in which the Government is a major player.

Sen. (Prof.) Kamar and the Senate Majority Leader have proposed a long-term solution but I think for now something needs to be done in order to address problems particularly affecting farmers who have delivered maize but they have not been paid. Talking about a change of structure or a new policy will not help the current crisis.

The problem of farmers in that area has a history. During the Independence Government, a Minister had to go home because of a similar scandal. Cartel or no cartel, it brought shame and a bad name to Government. We cannot continue to have a situation where farmers in that region are not being paid yet at the same time about Kshs9 billion was paid to people who did not deliver goods or services. In fact, the money that we give to the National Youth Service (NYS) should be stopped immediately and instead taken to farmers in that area. It will do a better service to the nation.

In the old days, if you wanted tea and coffee you went to Limuru and Kericho and if you wanted sugarcane you went to Kakamega and Kisumu. There was some kind of harmony and synergy even during the colonial days.

I want to challenge the Government using this Senate Chamber to resolve the problem of paying farmers not nationally but only in three key counties because sometimes they make payments which are not justified. They should pay farmers to make sure that we can feed ourselves. I should be able to wake up in the morning, go to a shop and buy a bag of maize. When maize was not there, some people were talking about the *Unga* Revolution. It is an important issue that the Government should address immediately.

I thank you, Mr. Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Senate Minority Leader.

Sen. Ndwiga, since you are the Chair of the Committee on Agriculture, Livestock and Fisheries, I will also allow you a maximum of four minutes.

**Sen. Ndwiga:** Mr. Deputy Speaker, Sir, I am happy that Sen. (Prof.) Kamar brought this issue because today it was top on our agenda in our committee meeting. In fact, we have asked the Ministry to come and explain to the Committee what exactly is happening. I concur with the other contributors that this is not a new problem. The issue about the NCPB has been there for some time. As we talk about the large-scale farmers, I know that small-scale farmers, not necessarily in the north rift but the rest of the country including the Speaker’s county, cannot deliver their maize. I am saying this because I cannot deliver my own maize despite the fact that there is a cereals store in Embu and I do not know why.

The problem we have in this country is that instead of bringing issues to this House like Sen. (Prof.) Kamar did, we are busy out there calling anything we find a

scandal. We do not address the real problem but something different. I have listened keenly to the Senate Majority Leader. Some of the farmers who have delivered their maize are being called cartels and so on. It is incumbent on the leadership of this country to address issues like this and we should follow due procedure.

As the Committee on Agriculture, Livestock and Fisheries, we have asked the Cabinet Secretary to appear before us and explain. We will come to this House and deliver whatever information we will get from them.

Having said that, we also have information that most of the maize in silos is from outside and that is very serious. For this country to sustain farmers, we must borrow a leaf from Israel where the key person is the farmer because the country must be fed and the farmer is paid promptly on delivery. When there is abundance of anything, farmers are told not to produce that commodity because there is enough in the stores.

The NCPB is the custodian of the national food reserve. So, we should always know when we have excess stock and when we need something, but most importantly, farmers must be paid upon delivery of their produce.

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

Sen. Wetangula, I think you come from a maize growing area. I will grant you four minutes.

**Sen. Wetangula:** Mr. Deputy Speaker, Sir, let me declare my interest. I am a maize farmer and I have got very close friends who are maize farmers, including the gentleman that Sen. Murkomen was talking about.

In the old days, we had three pillars of farming which were the NCPB, the Kenya Farmers Association (KFA) and the Agricultural Finance Corporation (AFC). A farmer could borrow money from AFC to go and do his farming; he took tools and fertiliser from KFA on promissory notes; delivered maize to cereals boards and the NCPB would calculate and pay KFA, AFC and the farmer. It was seamless. We did not have these problems. Today, the farmer is the most unappreciated person in this country. In fact, it is amazing that they farm year in year out. Right now, the maize is almost tasseling but the last year's harvest is in the stores.

I want to urge that the Government makes a serious attempt to fleece some expenditure elsewhere and pay the farmers. If we want to feed the country, we cannot continue hurting the farmer. That is why the statement brought by the distinguished Senator for Uasin Gishu is so apt. Uasin Gishu, Trans Nzoia, Bungoma, Nandi and Elgeyo-Marakwet counties produce three quarters of the cereal produce in this country. With good rains, the former eastern province and the area of the Chair produce about five million bags but in the western region, the rains are always there. Today, we are grumbling about how to help the farmer. The farming community has been taken away by goondas.

I saw the other day in the newspapers that somebody has signed an agreement to bring 6.6 million bags of maize from Uganda. I border Uganda and I have relatives in Uganda. You cannot get anybody in Uganda growing maize on more than 100 acres of land. Uganda cannot produce more than two or three million bags of maize in a year. They eat bananas more than maize. Therefore, it is criminals who are engaging in those

kinds of agreements and bringing in maize from elsewhere, when we have maize rotting in the farmers' stores.

Sen. (Prof.) Kamar's Statement is important, but this is a matter that requires a Motion for Adjournment for this House to demonstrate its disgust and support for the farmer. I no longer deliver my maize to the National Cereals and Produce Board (NCPB) because that is a highway to bankruptcy. I farm my maize, keep it at home and distribute it to those who I can for free. I even use them to feed my animals, which includes chicken where necessary. This is because I will not get any returns if I take them to NCPB.

Where do we go from here? We must strive to revive these institutions or their equivalent. The Kenya Farmers Association (KFA) or the Agricultural Finance Corporation (AFC) now lends money to people to buy houses instead of lending it to farmers to farm. I agree with Sen. Murkomen that we must devolve NCPB to the level where they mop up and buy maize from farmers up to the ward level. We sat in Mombasa and said that we were handing over NCPB to the county governments to manage them where they are. However, this has not been done up to now. The NCPB has now become another National Youth Service (NYS), where people are just delivering air. Kenyans are very ingenious; I have seen an advert by someone saying that the NYS has invited people to supply sunlight, air, water and wind and the amounts involved are billions.

I want to end by urging Kenyans to stand up for the farmer. Food security is not about importing rice from India and Pakistan or bringing maize from Mexico. It is about that farmer who toils and moils from morning to evening to feed himself and his neighbor and take the remainder of his crop in the market to feed other Kenyans. That is where our food security lies, but it will not come until and unless we appreciate, support and protect the farmer.

Thank you, Sen. (Prof.) Sen. (Prof.) Kamar, for bringing that Statement.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Wetangula. Suddenly, the interest in this matter has surged. There is no doubt that the matter is important and of great concern countrywide. There is also no doubt that agriculture and food security issues are devolved. However, I think that some of the suggestions that have been brought forward can be followed up and that includes a Motion for Adjournment. This is actually a Statement by Sen. (Prof.) Kamar. She went about it in a peculiar way and delivered a lecture instead.

Having said that, I can see so many requests, but I will restrict myself to four requests. Each Senator given a chance will have two minutes. I will start with the Senator for Nandi County. After Sen. Cherargei, I have Sen. Halake, Sen. Wambua and Sen. (Dr.) Musuruve. They will speak in that order.

**Sen. Cherargei:** Thank you Mr. Deputy Speaker, Sir, and Sen. (Prof.) Kamar for bringing this issue. Those of us from maize growing areas are having a difficult time because there is uproar from the farmers.

I call upon the Committee on Agriculture, Livestock and Fisheries to ensure that they follow up on the issues that we are raising. The Senators who come from those areas will give them the necessary support.

Secondly, I call for prompt payment of farmers, starting from this week. Thirdly, as you have heard, the people who are purportedly mentioned as cartels are not cartels,

they are people who mop up maize on behalf of all of us. The Cabinet Secretary (CS) said that there are names of bigger cartels and we are waiting for him to name them. If the CS and the Permanent Secretary (PS) do not do that in the next 14 days, they will have to take the political responsibility and must resign for us to address this issue once and for all.

If there is someone who is suffering in this country, like Jesus did, it is the maize farmer. This is because our systems are completely shut down. The diseases that are being treated in my county are blood pressure, diabetes and many other diseases due to the pressure on farmers to repay their loans.

I hope that this issue will be handled. I agree with my colleagues that we need to have a concerted effort once and for all to ensure that our maize and tea farmers have an opportunity to fulfill one of the Big Four Agenda, which is food security.

Thank you, Mr. Deputy Speaker, Sir.

**Sen. Halake:** Thank you, Mr. Deputy Speaker, Sir. As much as the opportunity has been provided by Sen. (Prof.) Kamar's Statement, I am saddened to see that this is just an iceberg of a bigger problem in our country. This is because there are problems in every sector that we can think of; be it forestry, land, health, NYS or even water. I have had informal discussions with you around Ndakaini and what is happening there and it begs the question: What is going on?

As much as we are talking about maize, which is our staple food, and we uphold the view that the farmers who are custodians of our food security have not been treated as such, we also need to appreciate that every sector seems to be crumbling by the rate of corruption in this country.

As we deal with the piecemeal problem of the agricultural sector, for it makes sense to break things into small sizes, I keep wondering if there is a sector that is not affected by this mega corruption. What is going on and what can we do as the Senate? We can change this Statement to deal with other sectors such as water, forests, health, NYS and what we are discussing would still be appropriate. The issue around cartels or whatever it is that we are talking about will still come up. Will we just talk or are there any other instruments that we can take advantage of?

Thank you, Mr. Deputy Speaker, Sir.

**Sen. Wambua:** Thank you, Mr. Deputy Speaker, Sir. I also want to congratulate my teacher, Sen. (Prof.) Kamar, for bringing up this matter. This problem is bigger than what we are dealing with now. It is not just a problem of farmers not having been paid this time round. It is a problem of treating farmers as lesser human beings or people whose contribution to the national economy is insignificant, yet we know that farmers in the North Rift and across this country play a very important role in not just feeding this country, but also ensuring that there is food security in the country and the region.

I had the opportunity of visiting a farming community in Xiamen, in the South-east coast border of China. The treatment to farmers, especially rice farmers, in that region is amazing. The minute a farmer expresses interest to establish a rice farm, the government takes responsibility to construct a road to the farm, supplies water and assures the farmer of ready market. The choice is left to the farmer as to decide whether

to sell their produce to the government or in the open market, but there is assurance of the market. This problem will only come to an end when we begin to treat our farmers better.

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

Last, but not least, Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to add my voice to Sen. (Prof.) Kamar's statement. I commend her because her Statement comes at a time when our farmers are frustrated. The other day I visited my home in the village and I was able to feel the helplessness of farmers who planted maize. They had nowhere to sell it and the prices are very low. Imagine a two kilogrammes of maize being sold for between Kshs40 and Kshs50.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Which village?

**Sen. (Dr.) Musuruve:** Mr. Deputy Speaker, Sir, I am talking about Kakamega County, Lugari Constituency, Lumakanda Ward where I come from and I saw farmers were helpless. They planted maize, but have nowhere to take it because the price is so low. A two kilogramme of maize is being sold between Kshs40 and kshs50. They are desperate and they do not know what to do. I feel that we need to protect them because they play a big role in the economy of this country.

Some sugarcane farmers in Mumias shifted to maize farming. They thought this was a better option because it takes a short time to mature. However, they got frustrated because they could not get value for their sweat. It is very discouraging. There is need for this Government to intervene and ensure farmers are assisted.

We talk about Sustainable Development Goals (SDGs) in everything. If we go by SDG 1 of ensuring that we eliminate all forms of poverty, Kenyan farmers will remain behind if we do not do anything to assist them.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Senator. We are still on Statements. Is there another Statement? Is that all?

*(Sen. Farhiya stood)*

Sen. Farhiya, proceed.

**Sen. Farhiya:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. Before I proceed, I would like to express my condolences to the Speaker of the National Assembly who lost his mother.

#### POOR STATE OF ROAD NETWORK IN NORTHERN KENYA

Pursuant to Standing Order No.46(2)(a), I rise to make a Statement regarding the poor state of road network in Northern Kenya. It is a known fact that North Eastern Kenya, specifically Wajir and Mandera counties, have the poorest road network in Kenya. No Government has attempted to improve the poor state of roads since Independence. As a country, Kenya has experienced progress in infrastructure development and particularly construction of new roads. However, northern Kenya has seen little or none of this development.

Since the country adopted its Vision 2030 Strategy, emphasis has been placed on trade, industrial expansion and infrastructure development with an aim of not only providing a stable economic environment, but also transforming and solidifying the country as a middle income economy, Kenya's Vision 2030.

To realise this goal, there has been a consistent budget allocation and foreign investment into the county's infrastructure development and growth which has transitioned Kenya into the current explosive era of infrastructure expansion. However, northern Kenya is a region that has been pushed to the periphery by the central Government in their grand plan of infrastructure investment. As a result, the region lagged behind in all aspects of development.

The county headquarters of Wajir and Mandera counties have remained isolated from the rest of Kenya ---

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

**The Deputy Speaker** (Sen. (Prof.) Kindiki): No, I think that timing is incorrect because she has 10 minutes. So, she still has 8 more minutes. Is it a Statement?

**Sen. Farhiya:** Yes, Mr. Deputy Speaker, Sir. It is a Statement.

The lack of roads and other infrastructure in Wajir and Mandera has economically marginalised the region. Currently, the dilapidated state of infrastructure has been worsened by the rains. Travelers spend weeks as they endure the pain of travelling from one place to another. No one has ever bothered to tarmac these roads since Independence. Traveling to Mandera from Nairobi by bus takes about two days and costs about Kshs3,500 to Kshs5,000. During the rainy season, the journey can take up to two weeks as the roads become impassable.

Mr. Deputy Speaker, Sir, this sad state of affairs has cost the region a lot. The economic potential of pastoralism has remained stunted by lack of proper roads to take products to the market. Insecurity has become the order of the day with tourism holding sway. The poor roads pose a risk to Kenyans and our armed forces since our enemies can exploit the floods and immobility due to non-existent roads and that can lead to attacks.

The region is being crippled by the lack of roads for it to propel to the next level. Even with the massive investment in the counties, progress is slow because the dilapidated state of the roads. Northern Kenya counties cannot trade between themselves since they are cut off from each other.

Nonetheless, I must commend the Jubilee Government for showing commitment to improve road network and has initiated engagement with donors and other lenders to help in the construction of Nuno-Modogashe and Modogashe-Wajir roads. Today, northern Kenya has great potential to become the next unchartered frontier for immense opportunities. With the Lamu Port-South Sudan-Ethiopia-Transport (LAPSSET) project and other massive projects in the making, this region is set to become Kenya's next economic hub.

It is against this backdrop that I express my sincere gratitude to the consortium of development partners from the Gulf in the Middle East led by Kuwait Fund who have come together to rekindle the potential of northern Kenya region by investing in massive

infrastructural development. The Kshs13.6 billion loan will go a long way in opening up the region for business and reduce travel time between counties in the region. This coming immediately after the devolution has set the foundation is, indeed, a blessing for the region.

This infrastructural development will open up the region for investment and even increase Government presence to contain insecurity that has stalled development. I, therefore, once again, appreciate these development partners from the Gulf region for their support and acts of kindness in playing this critical role. We cannot thank them enough.

As we appreciate the noble gesture from our Gulf partners, I urge the Kenya National Highways Authority (KeNHA), the prospective contractors and their supervisors to observe and maintain quality work and stick to the strict deadlines provided. Many at times, due corruption, shoddiness has crippled such noble undertakings to realise its desirable objectives. Let us not downplay the nobility of this impressive investment by gambling with it. For instance, the construction of Nuno-Modogahse Road is taking long to be completed beyond the 48 months period in the tender. KeNHA needs to be strict with contractors and stick to the project timelines.

Finally, KeNHA should also consider empowering marginalised and special groups who are mostly discriminated against such as women, Persons With Disabilities (PWDs) and youth in the awards of these contracts. Let this investment benefit all and sundry even as we embark on the process of bringing northern Kenya at par with the rest of Kenya.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Senator. Next Order!

## BILLS

### *Second Reading*

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

**The Deputy Speaker** (Sen. (Prof.) Kindiki): I thought I saw the Chairperson of the Standing Committee on Justice Legal Affairs and Human Rights in the Chamber?

Is the vice Chairperson or a Member of this Committee present? Is the Committee ready to move this Bill?

**Sen. Faki:** Mr. Deputy Speaker, Sir, the Committee is not ready to move the Bill.

**The Deputy Speaker** (Sen.(Prof.) Kindiki): Then, why do you have it in the Order Paper?

*(Sen. Faki spoke off-record)*



**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator! You are not on record. You can use the Dispatch Box if you are okay with it.

**Sen. Faki:** Mr. Deputy Speaker, Sir, we were supposed to have a meeting this morning but it aborted due to lack of quorum. The Chairperson of the Committee is unwell. Only two Senators were in attendance. Therefore, the meeting did not take place.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): The less you say about it the better for you and the Committee.

*(Bill deferred)*

We move on to the next Order.

*Second Reading*

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

*(Bill deferred)*

We move on to the next Order.

**MOTION**

TEACHING OF KISWAHILI LANGUAGE TO LEARNERS  
WITH HEARING DISABILITY

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. (Dr.) Musuruve, are you ready to move?

**Sen. (Dr.) Musuruve:** Yes, Mr. Deputy Speaker, Sir. I am ready to move the Motion.

I rise to move the Motion that learners with hearing disabilities should be taught Kiswahili.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator. You have been here long enough. Your opening words should be “I beg to move the following Motion” then you proceed to read the Motion. After that, you can now give your comments.

**Sen. (Dr.) Musuruve:** Mr. Deputy Speaker, Sir, I beg to move the Motion that learners with hearing impairments should be taught Kiswahili---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator! Read the Motion word for word, from the beginning to the end. Can Sen. (Dr.) Musuruve be assisted by the Clerks-at-the-Table?

*(The Clerks-at-the-Table assisted Sen. (Dr.) Musuruve)*

**Sen. (Dr.) Musuruve:** Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT AWARE that Article 27 of the Constitution of Kenya guarantees equality of every person in enjoyment of all rights and fundamental freedoms and prohibits discrimination against any person on any ground including disability and language;

FURTHER AWARE that Article 24 (2) (a) of the United Nations Convention on the Rights of Persons with Disabilities prohibits persons with disabilities from exclusion from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

ACKNOWLEDGING that Article 7 of the Constitution of Kenya provides for the national language of the Republic as Kiswahili and the official languages of the republic as Kiswahili and English;

APPRECIATING that the Report of the Commission of Inquiry into Education in Kenya (the Ominde Commission of 1965) proposed that Kiswahili language be taught as a compulsory subject both in primary and secondary schools in Kenya with the aim of making the language a vehicle for literacy works relevant to community work of various kinds;

COGNIZANT that Kiswahili language has been recognized as a unifying language in the East African Community (EAC), hence making it a *lingua franca* in the region;

CONCERNED that under the new curriculum of education in Kenya that is being piloted, learners with hearing disability are not offered Kiswahili language in primary schools, secondary schools and primary teachers training colleges;

NOW THEREFORE, the Senate calls upon the Ministry of Education, Science and Technology and other relevant state agencies to:-

(i) offer Kiswahili language as a core subject to learners with hearing disability in primary schools, secondary schools and primary teacher colleges;

(ii) come up with an elaborate syllabus for teaching Kiswahili as a core subject to deaf learners in primary, secondary and teacher training colleges; and

(iii) come up with an elaborate syllabus for teaching Kenya Sign Language (KSL) as an optional subject for learners who have no hearing disability and for deaf learners.

Mr. Deputy Speaker, Sir, I am moving this Motion for the following reasons one, I am looking at learners with disabilities who are educable. We have learners who have severe impairment who are not educable but can access vocational training and life skills that will ensure that they get by with life.

There is also a category of learners who are educable. These learners are the reason why I am moving this Motion. They are able to access education just like anyone

else and benefit from formal education so that they can get jobs and be at par with the rest of the learners who have gone through the regular curriculum.

In Kenya, there are quite a number of policies that were formulated which dates to 1964. There was a policy that was formulated by the Mwenda Commission that touched on education of PWDs but it did not really look at learners with disabilities who can go through an education process. The Mwenda Commission looked at learners with disabilities from a social perspective.

Mr. Deputy Speaker, Sir, in 1964, the Ominde Commission was formed. It recognized that there are children who have special needs and they were learning with the rest of the learners. This Commission felt that there is need to retain the learners with the special needs in the regular schools but address their issues. However, this was not done.

The National Commission on Education (the Gacathi Report of 1976) also came up. It found that there was need to come up with resource centers so that learners with disabilities are recognized at an early stage and intervention is made so that they benefit from education.

The Gachathi Report said clearly that there is need for identification of the learners and there is need for them to be placed in the rightful place so that they eventually benefit. That is how resource centres came up and that was a good milestone.

Mr. Deputy Speaker, Sir, even as we talk about the Gachathi Report, there is also the Mackay Report that came out in 1981. This report was addressing the issue of learners with disabilities; in fact it was addressing all learners. It stated clearly that Kiswahili was supposed to be made a compulsory subject. This report did not exclude learners with disabilities.

Mr. Deputy Speaker, Sir, when the 8-4-4 system was started in Kenya, it was for all learners, regardless of whether they had a disability or not. Quite a number of Committees have come up to address issues of disability. However, when it comes to the practical aspects on the ground, this is not really so. Article 7 of the Constitution states clearly that Kiswahili is a national language. By this provision, we are, indeed, saying that when you go to Mandera, Machakos, Kitui or Kakamega Counties and you speak Kiswahili, the people should understand you and you will communicate.

This is because Kiswahili is a national language, it unifies all people in this Republic and it should also unify Persons Living with Disabilities (PLWDs). When it comes to Kiswahili language, we find that the Coast people could be having a different dialect and the same is true for all other places. However, they will be able to communicate because Kiswahili is being used to unify them.

Mr. Deputy Speaker, Sir, even apart from being a National language, Kiswahili is also an official language. This means that when you go to the law courts, it will be perfectly okay for the lawyers to communicate in Kiswahili and the message will be passed. We are also saying that in the classrooms, Kiswahili will be used. The standard dialect of Kiswahili is the one that will be used in the law courts and institutions of learning. When we say that Kiswahili is an official language, it means that everyone who is educable should learn the official language.

In doing so, it means that people would have an edge if they are able to speak competently in Kiswahili. That is why I feel that it is important for learners with

disabilities who are educable to access this language and be able to use it effectively in forms of signing and writing, so that they benefit like everybody else. When we are talking about the importance of Kiswahili, we see that it is also recognised in the African Union (AU). It comes out strongly as a unifying language.

Mr. Deputy Speaker, Sir, looking at Article 43(1)(f) of our Constitution, it comes out clearly that education is an economic and social right and not a privilege. It is mandatory and it is enshrined in the constitution that everyone must have access to education. That being the case, it means that the hearing-impaired child should also access Kiswahili language because it is a requirement in the constitution. It comes out clearly that everyone has a right to free and compulsory education as a basic requirement. Article 54(b) of the Constitution also comes out clearly that even children with special needs should be able to access education that is compatible with their needs. Therefore, learning Kiswahili is compatible with the needs of the hearing impaired. Children with hearing impairment have a linguistic challenge. If they do not access Kiswahili at an early age, they will then be disadvantaged. What happens then? When others climb up the ladder, they will not be able to climb the ladder and they are going to fossilize somewhere.

Mr. Deputy Speaker, Sir, education is also very important when we want to address issues of poverty, even among PLWDs. There is no way we can address the issue of poverty among them and their families if we do not address the issue of education. It is this education that will help them break the chain of poverty that revolves in their families.

Mr. Deputy Speaker, Sir, education is quite important as an agent of socialization. This means that even the hearing impaired will need to be socialised in order to relate with people beyond their category. They should not only relate with the hearing impaired. Education is a way of expanding their minds so that they are even able to relate with those who are not hearing impaired.

The world is a global village. If we access education, it also helps us to access the rest of the world. It also helps in creating positive change in people. Children with disabilities have an issue because from the onset, they are marginalised, even in their families. However, when they access education, they look at things positively and even the society will view them positively. A person with disability and an education comes out differently compared to one without an education because they can mingle very well with the rest of society. If it was not for the education that I got from my early childhood, I would not be here, because nobody would understand me. That is why we are saying that it is only fair that this House helps to ensure that fairness in education is given to the hearing impaired children so that they can access the Kiswahili language.

Mr. Deputy Speaker, Sir, education gives us a platform to be in the workplace and in the marketplace. If the hearing impaired children are not given that quality education, there is no way they can get a job. That is why we have very many children who are hearing impaired dropping out of our universities and many of them not working because of the background they have. They do not have the right education that would place them in the world market.

It is important that this House actually ensures that there is fairness in the lives of children with disabilities by giving them access to Kiswahili. There are good reasons why Kiswahili is being taught as a language. One of them is to enable learners to market themselves. After learning Kiswahili, learners can take up very many jobs such as interpreters, human resource managers and even work in media houses. There are very many jobs that people can do after learning a language just by virtue of being able to communicate well. That gives them an edge to get a job.

Mr. Deputy Speaker, Sir, everyone has an innate ability to acquire language; even the hearing impaired children have that ability. However, if this ability is not reinforced, it becomes difficult for them to acquire a language. Language acquisition is natural. Even when hearing impaired children join school, they are not a blank slate because they already have a language in mind.

Some of them go to school when they know some form of Kiswahili, because they probably have been communicating with their siblings, parents or children of their neighbourhood. Therefore, by the time of going to school, they already have a language. The school is supposed to encourage this language and help the hearing impaired to master the essentials of language. That is how they can mingle with others. The school is, therefore, supposed to enhance this language.

Mr. Deputy Speaker, Sir, children with hearing impairment have a linguistic challenge that can be addressed in the school environment. It is important for teachers who teach them to go through the training that will help them to acquire the essentials of Kiswahili language.

It is important for teachers who teach learners with hearing impairment to go through the training that will assist them help these learners acquire the essentials of Kiswahili language.

Mr. Deputy Speaker, Sir, the new curriculum sets Kiswahili as an optional subject to learners with hearing impairment. That is very unfair to these learners or those with linguistic challenges in Kiswahili because they will not even learn the language. They will not be keen about learning the language. The language will fossilize. If the language fossilizes, what happens? At the end of the day, they will also be affected. They will not be able to be in the world of work. They end up getting vocational jobs yet there are children who would have even got white collar jobs.

We have Prof. Ndurumo, who has hearing impairment. He is a professor. He went, learnt and acquired language, mastered the competence and right now he is a professor. He has been teaching at the University of Nairobi. It is important for us to be fair to our learners who have linguistic challenges. Let us see how they can be taught to acquire this language.

Mr. Deputy Speaker, Sir, there is need also for these hearing impaired learners to be considered in terms of job placement. Of course, they cannot be considered in terms of job placement without a language.

As I wind up, if we want to eliminate all forms of poverty among persons with disabilities, it is important that we start from the school environment. It is important that we give the hearing impaired children the right skills from early childhood, primary to secondary level so that at the end of the day, we can say, they do not have a job because

they did not learn but it would be unfortunate to say they cannot get a job because they lack academic papers.

All children in public schools are taught Kiswahili as an examinable subject. When I was growing up, there were particular days when students were supposed to speak Kiswahili.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator! Organise your thoughts. You have less than two minutes.

**Sen. (Dr.) Musuruve:** How many minutes do I have Mr. Deputy Speaker, Sir?

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator! You have less than two minutes.

**Sen. (Dr.) Musuruve:** Mr. Deputy Speaker, Sir, in all public schools, there are always arrangements for our children to learn Kiswahili. Some schools reserve one day for speaking Kiswahili the whole day, and maybe English will be spoken for four days, and so on. Those are mechanism put in place to ensure that children learn Kiswahili.

Mr. Deputy Speaker, Sir, this Motion should go a notch higher; become a bill and eventually a law so that we can have positive impact on the education of hearing impaired children.

Mr. Deputy Speaker, Sir, with those remarks, I beg to move and request Sen. Faki to second the Motion.

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

*(Sen. Faki stood in his place)*

Order, Sen. Faki.

Sen. (Dr.) Musuruve, please have your seat. You have spoken well but you need to improve on moving skills. Also, you may want to learn about managing your time. This idea of having time limits was introduced at some point when the former Member for Butere, the late hon. Martin Shikuku spoke for seven days in Parliament nonstop. As you spoke, I feared that we might be in for a seven day contribution. So, 20 or five minutes is a lot of time. Organise your thoughts. Otherwise, well done.

Proceed, Sen. Faki.

**Sen. Faki:** Asante, Bw. Naibu Spika, kwa kunipa fursa hii ya kuunga mkono Hoya ya Sen. (Dr.) Gertrude Musuruve. Kwanza kabisa, Kiswahili ni lugha ya taifa kulingana na Katiba. Ni haki ya watoto wetu wenye ulemavu wa maskio kufunzwa kwa lugha ya Kiswahili. Hiyo ni haki yao ya Kikatiba. Sisi kama Bunge la Seneti tunapaswa kuwahakikishia kwamba haki hiyo inatimizwa.

Jambo la pili ni kwamba ukosefu wa mtaala wa Kiswahili kwa wale ambao wana ulemavu wa maskio ina maana kwamba tunawanyima haki yao ya kikatiba kufunzwa kwa lugha ambayo wanaitaka. Katika sehemu nyingi katika Jamhuri ya Kenya, watu wanazungumza Kiswahili kama lugha yao ya kwanza. Hii ina maana kwamba wale ambao wanakwenda shule wakiwa na ulemavu wa maskio wanakosa kupata fursa ya kufunzwa mtaala kwa lugha ya Kiswahili. Pia inamaanisha kwamba mbali na kuwa wanabaguliwa kama walemavu ama wasiojiweza, ina maana pia wanabaguliwa katika kufunzwa masomo shuleni.

Ni aibu kwamba kwa wakati kama huu ambapo lugha ya Kiswahili ni moja ya masomo ambayo yanatahiniwa katika darasa la nane na kidato cha nne hadi chuo kikuu, hatuna mtaala wa Kiswahili ambao unaweza kufunzwa wale ambao wana ulemavu wa maskio.

Bw. Naibu Spika, haki ya elimu pia ni haki ya kikatiba. Kwa hivyo, tunapowanyima fursa hawa wanafunzi wenye ulemavu wa maskio kufunzwa masomo fulani kwa lugha ya Kiswahili, ina maana kwamba tunawanyima pia haki yao ya kupata elimu kwa lugha wanayoweza kuitaka.

Kama alivyotangulia kusema Sen. (Dr.) Musuruve kwamba lugha ya Kiswahili ina nafasi ya kuiunganisha Kenya nzima, ikawa tunazungumza kwa lugha moja kama ndugu zetu Watanzania ambapo zaidi ya makabila 100 yanazungumza lugha ya Kiswahili kama lugha yao ya mama. Hapa nchini Kenya, lugha ya Kiswahili kinatumika labda kwa biashara ndogo ndogo lakini ni lugha ambayo ina uwezo wa kuiunganisha Kenya nzima ikawa tunazungumza kwa lugha moja. Hata hapa katika Seneti, ni aibu kwamba hii *Order Paper* haijatafsiriwa kwa Kiswahili. Kuna watu hapa ambao wana uzoefu mkubwa wa lugha ya Kiswahili na wangependa kujadili na kuchangia Hoja kwa lugha ya Kiswahili.

Bw. Naibu Spika, tungependa kuona kwamba Hoja hii ambayo imeletwa na Sen. (Dr.) Musuruve inatiliwa maanani na mtaala wa Kiswahili kwa wale ambao wana ulemavu wa maskio unachapishwa na wanafunzwa mpaka chuo kikuu iwapo watakuwa na uwezo wa kusoma hadi chuo kikuu.

Jumamosi iliyopita, tarehe 26, nilibahatika kuwa na mikutano na walemavu katika eneo la Bombolulu, Mombasa. Kwa hakika hali yao ni ya kusikitisha. Inakuwa shida kupata vitambulisho vya walemavu kwa sababu hawawezi kulipa ada ya vitambulisho hivyo.

Kuwapa fursa ya kuzungumza kwa lugha ya Kiswahili pia kutawasaidia wanafunzi katika shule ambazo wanasomea. Tuwasaidie walemavu pia waweze kupata ajira na vile vile kuanzisha biashara ndogo ndogo ambazo zitawasaidia kuendesha maisha yao.

Ni aibu kwamba maseneta wengi hapa hawana walemavu katika ofisi zao. Hiyo inamaanisha kwamba wakati walemavu wanapokwenda katika ofisi hizo kutafuta huduma na kukosa mtu kama wao, inakuwa shida kujiamini wanapohudumiwa kama raia wengine.

Hoja hii imekuja wakati mwafaka kwa sababu mtaala mpya wa elimu utanzishwa nchini. Hii ni nafasi mwafaka ya kuhakikisha kwamba watu wenye ulemavu wa kusikia wanapata fursa ya kusomesha lugha ya Kiswahili kama wanafunzi wengine.

Naunga mkono Hoja hii.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Asante sana Sen. Faki. Order Paper inaitwaje kwa Kiswahili?

Order Senators, I now wish to propose the question.

*(Question proposed)*

**Sen. (Dr.) Langat:** Mr. Deputy Speaker, Sir, I support this Motion that Kiswahili Language should be taught to learners with hearing disability. Language is very

important and research has shown that Kiswahili is spoken in east Africa by around 100 million people. Therefore denying a set of people this particular chance to learn Kiswahili is reducing their cultural and social development within the East African Community (EAC) and beyond. Failure to do it is discriminatory in nature and discrimination is what our Constitution is against.

I am a linguist. I did English and so far there is no scientific research that supports the idea that Kiswahili Language cannot be learnt by people with hearing disability. Since there is no scientific support, therefore there is no reason why the Kenya Institute of Curriculum Development (KICD) should not develop a syllabus to support the teaching of Kiswahili Language to these people. Kiswahili is a national language and a regional language within east Africa. Therefore, these people, being part of this particular great region, should learn this particular language.

Language is a vehicle for expressing ideas, human feelings and creating friendship. Therefore, denying these people a chance to learn Kiswahili is equal to denying them the opportunity to express their feelings, make friends among other Kiswahili speakers and express their ideas.

Language is also a socio-cultural identity that differentiates us from other animals and other groups of people. Therefore, for these people to realise their full identification within the east African context and feel good that they are part of this particular language domain, teaching of Kiswahili to them is paramount.

Multilingualism has been proven to be an advantage socially, economically and also during the times of disaster. People who can speak more languages have got more survival strategies during disastrous periods. Therefore, as one way of addressing this, these people should also learn the language.

Language also creates an instant connection network with other people. It is always said that your network equals your net worth. Therefore, reducing the network of these people is reducing their value net worth. Therefore, I really support particularly because there is no scientific backup towards failure to teach them.

Language is a vital tool for economic empowerment. Therefore, teaching these people Kiswahili is expanding their economic influence in our region. They can move around. The definition of a language is that it is a formal system of gestures, verbal expression and writing. Therefore teaching them Kiswahili does not necessarily mean for them to speak but just to express themselves in Kiswahili effectively through gestures hence expanding their language influence within the east Africa and beyond.

I stand to support this particular Motion unless somebody proves scientifically that it is not possible. From my simple research, I have learnt that there are some professors---

*(Sen. (Dr.) Musuruve spoke off record)*

I was teaching with Prof. Ndurumo at Moi University and he was a lecturer of psychology. It has been proven and there are already professors---



**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. (Dr.) Musuruve, when you have information to give, you do not give it across the aisle like you would do in a market place. You need to press the intervention button and say: "Point of information."

Proceed, Sen. (Dr.) Langat.

**Sen. (Dr.) Langat:** Thank you, Mr. Deputy Speaker, Sir. Forgive Sen. (Dr.) Musuruve and I because we are still learning and induction continues.

I support this Motion.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Well spoken, Sen. (Dr.) Langat. Listening to you, one can easily recognize that you are at home on this one.

**Sen. (Dr.) Langat:** Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Therefore, your claim that you are a linguist is verified.

Sen. Kasanga.

**Sen. Kasanga:** Thank you, Mr. Deputy Speaker, Sir, for this opportunity. Allow me to congratulate Sen. (Dr.) Musuruve for this wonderful Motion. She is not only representing people with disabilities, but also creating awareness for we tend to live in our own bubbles and fail to understand the challenges that other people go through.

We need to recognize Article 27 which states that we are all equal. As an hon. Senator mentioned, Article 54 (1) (b) prohibits exclusion of persons with disabilities from access to education. I feel that Kenyans are blessed for we are naturally multilingual. We speak English, Kiswahili and our mother tongues, which are three languages that we learn from an early age. In fact, I am surprised that we do have part of our population that does not interact in Kiswahili. As the Mover has said, there is no reason they should not be taught Kiswahili. It is a beautiful language and it was joyous to learn Kiswahili in primary and secondary school. Therefore, it is sad that we have people in our country who are not enjoying this.

It goes without saying that we are multilingual and nobody should be left behind in this unique aspect about Kenya. In the spirit of inclusion, Sen. (Dr.) Musuruve could also recommend that the other students learn some basics of sign language from an early age to enable interaction. Sen. (Dr.) Musuruve should expand this Motion and have us learn some sign language for it is imperative that inclusion should be in both ways.

I support this Motion.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Well spoken; short and direct.

Sen. Nyamunga.

**Sen. Nyamunga:** Thank you Mr. Deputy Speaker, Sir, for giving me the opportunity to support the Motion that has been brought by Sen. (Dr.) Musuruve. It is unfortunate that I was not aware that there is no sign language in Kiswahili, yet it is our national language. This is a learning cycle and we learn new things every day. I have learnt of the exclusions that we have in our schools that need to be addressed. This Motion has been brought at the right time when we are overhauling our education system, from 8-4-4 to a new one which I have not mastered very well. It is the right time and this should be taken very seriously and included, so as not to have further amendment to the education system.

We all know that Kiswahili is our national language, yet some of us never considered Kiswahili to be important. As a result, we have suffered up to date. I cannot express myself well in Kiswahili, yet it is our national language because some of us believed that Kiswahili was a language for people who did not go to school. We could not even allow our teachers to teach us Kiswahili, and we are now paying for it. We do not want our children to go through the challenges that we have gone through.

As a nation, we should have an identity. Kiswahili is our identity and that of East Africa. Whenever you travel out of this county, you feel at home when you hear somebody speak in Kiswahili. You feel that there is somebody that you can relate with. Kiswahili should be taken very seriously and be incorporated at all levels starting from Baby Class, Nursery, Primary and even University for it is important.

We lack many things in Kenya and do not even have a national language. We say that Kiswahili is our national language, yet a good percentage of our people do not know it. Something should be done about it. If you go to West Africa you will see that they have their national attire but in Kenya we tend to copy things; we do not have something that we can identify ourselves with. We do not even have an attire that we can identify with. It is important that Kiswahili is taught at the right time, more so to people living with disability.

I have learnt today that there is no sign language in Kiswahili, yet we have it in English. How can we have it in English, yet we do not have it in our own national language? It is important that we do it early enough and have everybody on board. It is not just about going to university. How can people living with disability communicate in the market place and in their daily lives if they do not learn Kiswahili?

I agree with Sen. Kasanga that it is important that even the students without disability should learn the Kenyan sign language. If it is left to only those who do not hear, how will they communicate with the rest? If I meet somebody with a hearing disability right now, I will be so lost. I would not know how to communicate with them, thus, it is important that everybody learns it at every level. It should not just be taught at the primary level or nursery school but across board just the way we learn other languages.

I support the Motion and the Senator for helping us learn some of the things that we did not know are happening in Kenya. It is a good learning cycle for us. We should correct what we can before it is late. We should not wait until the curriculum is finalized before we come up with these amendments. We can do it at the right time, which I think is now.

I support the Motion.

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

Sen. Pareno.

**Sen. Pareno:** Thank you Mr. Deputy Speaker, Sir, for giving me the opportunity to support this important Motion. There was a joke in the East Africa Community (EAC) where they would say that Kiswahili was born in Zanzibar, it came to Kenya and fell sick and by the time it was being treated, it went and died in Uganda. We know where it originated---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Who was the source of the joke? Is it the Ugandans, Kenyans or Tanzanians?

**Sen. Pareno:** Mr. Deputy Speaker, Sir, it was mostly the Tanzanians and the Ugandans.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Senator, if it died in Uganda, what happened in Burundi, Rwanda and South Sudan?

**Sen. Pareno:** Mr. Deputy Speaker, Sir, those ones have just started.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Is it that they buried it?

**Sen. Pareno:** Mr. Deputy Speaker, Sir, those ones have just started. They actually say it was buried in Uganda.

*(Laughter)*

Kiswahili language has a rich history. Since it originated in Zanzibar, we could take advantage of the East African Community (EAC) institution called the Swahili Commission. This institution is domiciled in Zanzibar.

This Commission was basically brought up by the EAC integration processes to ensure that Kiswahili is rooted in our partner States. We have, probably realised we, as a country, did a mistake by not embracing Kiswahili language like Tanzania. Burundi and Rwanda and other States are now learning Kiswahili language. Kiswahili language is so advanced in Tanzania. In fact, when you go there, *utaona Taasisi za Wizara fulani*. Even their ministries are named in Kiswahili. Most learning in Tanzania is conducted in Kiswahili language. I do not think we have done much better than them even though we ignored this language from the beginning our nation.

This is a very important Motion. It is saddening to know that there is a part of learners in this country that are not learning Kiswahili language. It is a pity that we want it to be spoken in the EAC and yet some of our people cannot speak it fluently because of our inability to embrace it. This is a language that is widely used by our people in markets, banks, schools and many other places. No business can be transacted without using this language. So, to deny this category of people an opportunity to learn this language, is to lock them out of many opportunities in the region. In fact, a larger community speaks it more than English language, especially in the rural areas.

Mr. Deputy Speaker, Sir, it is estimated that over 100 institutions in the United States of America (USA) teach Kiswahili language. It is also taught in major academic institutions in Africa, Europe, America and Asia. Prestigious universities like Harvard, Yale, Stanford and others have found it worth to teach Kiswahili language.

Back home here where Kiswahili originated, it is sad that there are people who cannot be taught Kiswahili because they have a hearing disability. This is a disservice to them. We need to address it and make sure they learn this language. We cannot also say that it is one of nation's languages and yet we deny some people opportunity to learn it. We can only say it is a national language if it can be spoken by majority of our citizens. .

Mr. Deputy Speaker, Sir, Burundi, Rwanda, Somalia, Zambia, Malawi and Mozambique are all teaching Kiswahili language. So, why would other States that did not

have Kiswahili originating from there, teach this language if it is not such an important tool of communication?

Leaving out learners with hearing disability is discrimination that should be addressed immediately. It is cutting them off from society, communication and businesses. In fact, I dare say even out there for people who want to expand their businesses, they want to have a person who can speak Kiswahili language. This is because East Africa is one of the developing economic blocs. Everybody would want to be part of this development, but you cannot be fully part of it if you do not learn Kiswahili language.

I think my colleague, Sen. (Dr.) Musuruve, can even move further to ensure that we have proper provisions of law that take care of these particular aspects of learners with hearing disability. If the blind, physically challenged and people with other forms of disabilities are learning Kiswahili, why not those with impaired hearing? That is discrimination. I think this is the only way that we can address this.

I support this Motion.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Pareno. You may want to know that Kiswahili is also spoken in Oman in the Persian Gulf. If you visit a city called Muscat, you will hear very fluent Kiswahili speakers who can only match the Zanzibari and Pemba Kiswahili speakers.

*(Sen. Pareno spoke off record)*

Do not ask me about diversity.

Sen. Olekina, proceed.

**Sen. Olekina:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support Sen. (Dr.) Musuruve's Motion. First of all, let me talk about the history so that we understand where I am coming from. When we talk about introducing Kenyan Sign Language (KSL) in schools or when trying to come up with a Motion to ensure that people can be trained to speak Kiswahili through sign language, what is the history of the entire sign language in this country?

If history serves me right, KSL was introduced through the support of the United States Peace Corps Volunteers in 1960s. I thank the former President of USA for having done so. We are not shifting from KSL to Kiswahili Sign Language. In essence, very few schools with deaf students teach KSL. We have over 600,000 deaf people in this country. Many of them cannot even converse.

Parents of Maasai deaf children just come up with an idea on how they can talk to them, but they do not have skills to communicate. We need to put this thing into context and ask ourselves some serious questions on what we need to do. Do we have a proper legal framework that ensures deaf people are supported to learn just like any other citizens in this country?

Mr. Deputy Speaker, Sir, what Sen. (Dr.) Musuruve is doing will help this House narrow it down and come up with legislation that will make it mandatory for all institutions in this country – whether or not there are deaf children – to teach Kiswahili

language. We need to ensure that children in those schools learn both Kiswahili Sign Language and KSL.

Secondly, we must also create incentives. We might come up with provisions of the law that requires every institution to teach sign language, but not get interpreters. From a business perspective, Kenyans should consider taking up this training. I was listening to the radio while coming here and I heard my colleagues speaking.

I heard the Chairperson of the Committee on Education speaking about multi-linguals and why it is important for people to be able to speak different languages. This is an incentive for job creation in this country. So, if we convert this Motion into a piece of legislation we will encourage our people to learn sign language. We will have others who will acquire interpretation skills. We have very few interpreters in this country.

Mr. Deputy Speaker, Sir, do we have a dictionary of a Kenyan Kiswahili Sign Language in this country? Do we even have a Kenyan Kiswahili Dictionary like Tanzania? I know that a dictionary for the Kenyan Sign Language was first developed in 1991 from the *American Alphanumerical Sign Language*. We need to figure out what we need to do to support our dear brothers who, unfortunately, were brought into this world with the disability of not being able to converse.

It is very frustrating to find sharp people with intelligent brains who cannot converse. There is a young Samburu boy in Gilgil who is one of the best artists in this country who cannot talk but can use his skills. Therefore, there is no way anyone can negotiate for him so that he can sell whatever he draws for more money that will benefit him.

Mr. Deputy Speaker, Sir, as we look at this, we should also look at all other opportunities that exist or can be created by encouraging our institutions to teach Kenyan Kiswahili Sign Language.

Mr. Deputy Speaker, Sir, in Narok County, where I come from, there is only one school which is not equipped, and has no resources or interpreters. We need to empower and create this training programme or a certificate process to ensure that once we have people who are able to interpret Kiswahili, it can trickle down. We need to analyze whether to start by training the trainers so that when they go down to the counties, the county governments can take on this.

The foundation of basic education is a key to everything in this country. Actually, if one has a proper foundation in human development, they will excel anywhere they go around the world. However, if one has a shaky foundation academically, it might make it difficult for them to express themselves or compete with everyone else.

Mr. Deputy Speaker, Sir, this Motion is quite timely; it is something that questions us. God has blessed our nation with brothers and sisters who are disabled. Now that I am able to talk but they cannot talk, does it make them lesser persons? Now that we in authority have devolved part of the basic education to the county governments, we need to start from there. We need to train interpreters, who can start engaging young children who are born with disabilities and train them to speak.

I request my sister to think more about all the languages that we have in Kenya. For example, a Maasai child will first of all think in the Maasai Language before he or

she thinks in Kiswahili. A Kalenjin child will first think in the Kikalenjin language before Kiswahili.

Other Senators have spoken about Kenya not having a national language. I am one of those few people who struggle to speak Kiswahili. I, therefore, imagine a child in Murang'a, Samburu or Narok counties who is having a difficult time communicating with their parent through the mother tongue because he or she is deaf, now being able to be trained in Kiswahili. So, if we talk about Swahili being a national language, we then have to consider everyone in the society.

Mr. Deputy Speaker, Sir, I see this as a great business opportunity. Many Kenyan youths complain that they have been left out and they have no jobs. Kenyans out there should now start becoming creative. They should go out there and, may be, start an institute to train these interpreters and develop work with the resources that we have in other libraries and try to put together something that can bridge between Kiswahili and our vernacular languages because we cannot ignore them.

I appreciate the fact that media houses nowadays have people who try to interpret both in Swahili and English. However, knowing what I know now, I wonder whether people are able to follow those who interpret in Swahili. Since this is not something which is taught, I commend the few Kenyans who understand the Kiswahili Language.

Sen. (Dr.) Musuruve has rightly brought this Motion to the House and it is something that all of us must ensure that is passed and implemented. For example, when you go to Tharaka-Nithi County, you can converse with the children or understand those who speak in Swahili Sign Language because it might be difficult for them to speak in English at that early age or they might have a bridge between their Kimeru Language or the language you speak in Tharaka-Nithi County because you have many other people there.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator. Proceed.

**Sen. Olekina:** Mr. Deputy Speaker, Sir, I, thank you.

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

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Beth Mugo, what is out of order?

**Sen. Mugo:** Mr. Deputy Speaker, Sir, I have put on my request to speak.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Yes, you are the next speaker.

**Sen. Mugo:** Mr. Deputy Speaker, Sir, it looked like you were closing.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Why are you incriminating yourself?

**Sen. Mugo:** Mr. Deputy Speaker, Sir, it is because my machine has not been working for some time. I thought it is the same thing happening today.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Okay, Sen. Mugo, you have the Floor.

**Sen. Mugo:** Thank you, Mr. Deputy Speaker, Sir. I would also like to support and thank my sister, Sen. (Dr.) Gertrude Musuruve, for this brilliant and timely Motion.

As Senators have said, I am sure that many people do not know that sign language is not taught. I believe that Kiswahili Language is important because more Kenyans speak it more than English. Old people in the rural areas understand a little bit of Swahili

more than English. We can claim that Kiswahili is widely spoken in Kenya. Therefore, everybody should have an opportunity to get information and learn Kiswahili Language regardless of the groupings they belong to.

The Constitution should be inclusive enough to make sure that everyone, including Persons Living with Disabilities (PWDs) gets a chance. We cannot be inclusive if a portion of our community is left behind in the learning of one language or the other.

I join my sister in urging the Ministry of Education, Science and Technology and the Government to seriously look into this and make allocation for it as early as the next budget.

Education is an important sector that gets a lion's share of the budget and rightly so; it should find room and be allocated more funds so that it continues to grow.

I think all of you here except the learned Senator there must have learnt Kiswahili. However, when I was school in the early grades, we had the Beecher Report that stopped the teaching of Kiswahili because it was a unifying language for the Independence freedom fighters. I even had to go and take up Kiswahili lessons to be able to do politics, because I had to speak the language in Dagoretti Constituency. I wonder, if we then exclude some of the people, it means that it will be difficult for them to communicate in certain fields. Every field is open for all people, including PWDs. They will be unable to get jobs in certain places if they cannot communicate in the language which is widely used in Kenya and, indeed, in East Africa.

Mr. Deputy Speaker, Sir, there is also consideration in the international forums to make Kiswahili a language that gets translation, even in places such the United Nations (UN). This shows the importance of Kiswahili language. It is, therefore, urgent and imperative to make it possible for all Kenyans to be able to express themselves in Kiswahili. They will also be able to get a lot of information which comes in the language. We all know that information is power. Missing this is discriminative and very unfair to a very major part of our Nation.

Mr. Deputy Speaker, Sir, we now integrate PWDs in normal schools. Recently, there was a move by the Starkey Hearing Foundation, which is based in Minnesota, USA. They have given about 50,000 hearing aids in this country and in other countries all over the world. They adopted one school for children with hearing disability in Embu County. After they gave hearing aids to those children, at least almost half could hear. They said that the hearing of a majority of the remaining 50 per cent could be improved with some treatment. That is an area we can follow and recommend, as a Senate, that we get hearing aids by working with such a foundation. The Government or the Ministry can spread this to other schools for the deaf so that more children can be fitted with hearing aids and benefit now from moving to integrated schools, like the one in Embu County.

Mr. Deputy Speaker, Sir, I attended one of the meetings of Starkey Hearing Foundation where the headmistress also attended. She gave a moving story of how the children reacted when they were able to hear first; she even showed us the pictures. It is, therefore, possible to join up with other people; it can be foundations or even the Government can buy some of these aids, since the foundations cannot give us all the hearing aids. We can put aside some money to invest in these children so that they are checked and fitted with the hearing aids.

Mr. Deputy Speaker, Sir, I support the Motion, not only in the area of Kiswahili, but on all areas that can improve the lives of our people, especially the children who are now growing to be the leaders of the nation. We should improve their lives and lifestyles in whatever way possible. One major way of doing this is making them to be full citizens, to participate and to hear, because it is a gift that God would want us to give these children.

I beg to support and congratulate the mover, Sen. (Dr.) Musuruve.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Mugo. Next is Sen. Cherargei.

**Sen. Cherargei:** Thank you, Mr. Deputy Speaker, Sir. From the outset, I congratulate Sen. (Dr.) Musuruve for this wonderful Motion. I am impressed by this Motion because as we talk, there is no brail in Kiswahili. I, therefore, agree that this Motion is timely and we should all support it. I am one of the champions of working with PWDs. They say that disability is not inability. As a champion of this cause, I have participated in many activities. In fact, I am a patron. On 2<sup>nd</sup> of July, we have organised a marathon in this City to support various initiatives of children living with disabilities. It has reached a time that people who have such challenges should be given the necessary support in ensuring that they also learn and be at pace with others, even in our schools.

Mr. Deputy Speaker, Sir, it is worth noting that even our teachers are not trained enough on how to handle such learners. Some teachers cannot even handle slow learners. Therefore, in this context, this is a very well thought out Motion. We should assist in any way possible so that we allow the Ministry of Education to provide proper guidelines and implementation. This should not be restricted to learning only, but also when they go out to the job market. We need to ensure that we maximise on their productivity because, as I have said, disability is not inability. We should, therefore, also work hard so that in that aspect, we maximize on the productivity of such individuals in our society.

Mr. Deputy Speaker, Sir, when we were in school, we were forced to school with learners who had disabilities. That forced them to behave like the rest of us who were able bodied. I came to realise that they were brilliant, sharp and had their way of doing things. I think God has blessed them such that they have an extra sense in the way they do their things and excel. Therefore, when we give them such support, we will ensure that we maximise their abilities, energy, intellect and wisdom.

In line with the Constitution, I am happy that she has quoted Article 27, because every Kenyan citizen has a right to the very best service delivery, regardless of their disability. The Persons with Disabilities Act which came into force in 2003 has had challenges. The country is now coming to full realization that we also need to consider the PWDs as part of us and that they can also be productive. They are not lesser human beings. This is very important, going forward. We should support this Motion on teaching of Kiswahili Language to learners with hearing disabilities. I hope that as we go ahead and ensure that we implement the teaching of Kiswahili across our education system, we will maximize its full potential.



Mr. Deputy Speaker, Sir, it is very unfortunate that PWDs do the same examination as others, yet we do not give them the same environment. There is always some level of disadvantage in terms of its discharge.

English and Kiswahili are the official languages that are used in the country. Therefore, even before we release these people who have disability challenges to the job market, we should ensure we have equipped them enough to serve Kenyans. In my county, I have quite a number of them. Although we are talking about illiteracy, literacy levels are good but we still find a place that you must communicate in Kiswahili. There are also challenges in other counties. The people still have challenges of using the English language. Therefore, we should also equip these people such that when we release them to the job market they can be part of ensuring that we have social economic development in our societies. They can even converse and ensure that we go forward.

In conformity with the respected world and normal practices in ensuring that we provide quality, equality, quantity, qualitative and qualifying aspects of education, it should be quality to everybody regardless of their status, age, ethnicity; whether they are disabled or not. That is what we mean by giving quality education by ensuring that we create a conducive environment.

Sen. (Dr.) Musuruve has given us an opening. Being one of the champions of this and a representative of PWDs, it is very important. I support this Motion and look forward to ensure that the line Ministry will implement the Motion for the benefit of our children. No one chooses to be born or be disabled. You can be born disabled or you can have an accident. Therefore, we should create an environment where these children can have an opportunity. I congratulate the Mover of the Motion. I would like to see the fruition of this when it comes to the necessary stages of implementation. Finally, I call upon any state agency that when we approve or pass this as a House, that this is not a Motion to pick and choose, they must ensure it is implemented. It is not a privilege, it is a human right. It is basic. It must be implemented. In as much as we do our part as a Senate, when it is time to implement, we call upon all those multi agencies that are concerned to implement this aspect of teaching Kiswahili at any level, be it at the primary, tertiary or university. It is not something you just dish out. It must be implemented to the letter of the law for the benefit of our children.

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

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

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

**Sen. (Prof.) Ongeri:** Madam Temporary Speaker, Sir, I rise to fully support this Motion on teaching of Kiswahili through the sign language by our schools, both at the primary, secondary, vocational training centres and even the teacher training centres. I thank Sen. (Dr.) Musuruve for being at the forefront in bringing a Motion which under normal circumstances would have gone unnoticed. I say so because obviously, the new curriculum which is being piloted has clearly given an indication that there were no

consultations whatsoever with the stakeholders, leave alone the stakeholders of such disability like the deaf.

It is a very frustrating experience for parents who have these children or who have children with any form of disability. I have been a teacher before, and I have been also a teacher at the university level. I find it very unkind that the curriculum at the national level should be developed, reach its pilot stage without any due consideration whatsoever about children with hearing disabilities. It is very unprofessional. This is one of the first elements that we needed to look at and incorporate in it. When it finds its comfort in our bill of rights, it is one of the fundamental rights that are enjoyed by Kenyans.

Secondly, it finds its comfort in the position that Kiswahili is our second language which is already captured in our Constitution. We can either speak in Kiswahili or English. When you are developing an instrument of learning, and of course, sign language to be taught in Kiswahili and for these children to understand Kiswahili, who are deaf or have no hearing capacity, it is an omission that needs to be corrected. I would even say that under such circumstances, the Ministry of Education should be restrained from carrying out further pilot studies until the elements of this Motion are incorporated once it is passed by this august Senate sitting. It is an important Motion. We do not have to go even to the Bill stage because we are purely reminding the Ministry of Education that this is an omission that in fact, they should apologise to the public that they did not take into account this element of children with hearing disabilities. They are not able to hear well at this stage, and therefore, cannot participate in the Kiswahili language.

I want to say quite categorically that people with hearing disability or children or adults who are deaf can excel. Their condition is so because the hearing aid, the transmission of the sound and the interpretation of the sound in the mind is not complete. Otherwise, the mental faculties are very much in place. They can compete with anybody once given the opportunity.

Therefore, as far as I am concerned, that this young Kenyans should be discriminated against this element of learning is uncalled for. Therefore, I fully support any further development in the curriculum that will take into consideration those with hearing impairment. The curriculum lays the basis of learning. We have spelt out what must happen at the lower or primary levels. We will spell out what must happen at the Early Childhood Education and Development Centres (ECDEs). We have assigned responsibilities of ECDEs to the county governments. We have assigned the responsibility of primary, secondary and higher education to the national Government. Therefore, there should a synergy between the county governments and the national Government on how to deal with children with disabilities because when they are dealt with at the ECDE level, they can also be transferred over the national level. That the only bridging element that will bridge between the county governments and the national Government is a curriculum which is very carefully thought of and incorporates all the missing links that we are now seeing, that this Motion is beginning to show us. Unfortunately somebody somewhere in Jogoo House B- Madam Temporary Speaker you and I had the pleasure of sitting in that building - It is sad to know that the curriculum is being developed at the exclusion of some members of our society who have learning disability.

Madam Temporary Speaker, I vehemently support. Not only are you denying them the opportunity to be able to learn and hear in Kiswahili, English is not spoken everywhere in Kenya. When you go to church, I am sure they also want to listen to the Holy Scriptures from the Bible. In my own Seventh Day Adventist (SDA) church where I go for Sabbath on Saturday, we have a special unit of people who do translation to people with hearing disability; whether in kindergarten, during lesson study and the holy hour or divine service. There are people who have been trained in sign language and they equally pass the message of the hour from the pastors or whoever preaches to the young ones with hearing disabilities. Therefore if we do not include this in the curriculum, we will be denying them the spiritual aspect of life that is so important in the development of a growing child. Secondly, we will be denying them the aspect of attaining the utmost knowledge in life. Thirdly, we will be denying them the ability to develop elements that are important particular if they have a predilection towards the vocational training events. They are not able to make the two ends meet.

I must say that for us to handle this there is an element of humaneness and we must be humane. I am not saying that we should sympathise but we should be humane. These are very important members of our society and they perform well. It is even worse and complicated when you have a combination of deaf and dumb.

I have seen a member of my church who has learnt many useful things to do. During Christmas, we do not have to go and do other shopping because through intuition he has been able to learn a lot. What is even more encouraging is that his own son is now a holder of a degree from the University of Nairobi and that is interesting because they have taken learning as an important element. That is the spiritual aspect of it that we will deny them if they cannot access Kiswahili Language particularly in Sabbath schools or Sunday schools where Kiswahili is used a medium of communication.

The other issue is that they cannot discuss with their own peers on events of the day because they have already been cut off from the rest of the world. I do not know whether the debate on social media is in Kiswahili. With the new ICT levels, if you cannot access that information, that is what we call total exclusion. So, there is no element of inclusivity in whatever we are trying to do in educational establishments.

I vehemently urge that after this Motion has been dealt with and concluded, the relevant Ministry should not even wait for further prompting. They should pick it up as an element that needs to be added as an addendum to ongoing piloting scheme, so that they can carry it on because they have the manpower in place. I know that because we have enough trained people who can carry up the pilot. They have also been trained in the curriculum that has been developed to be piloted in our schools.

With those few remarks, I thank Sen. (Dr.) Musuruve for this very forward-looking Motion which will help the children with hearing disabilities to access Kiswahili which is a national language.

I support this Motion.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you Senators. There being no other request, I would like to ask the Mover to reply.

**Sen. (Dr.) Musuruve:** Madam Temporary Speaker, thank you for the opportunity to respond to the concerns of my fellow Senators. First and foremost, I appreciate my

fellow Senators for the contributions towards this Motion. I am impressed that they have seen the gap and they are concerned about the same. In fact, all of them have indicated that Kiswahili is an important language that needs to be learnt. From what I have heard from all of them, it has come out clearly that it is important for learners with hearing disabilities to be taught Kiswahili.

When it comes to the education of children with disabilities, most of the times people tend to take the pity paradigm. Instead of looking at learners with disabilities as learners who can also learn like anybody else and eventually get papers and have noble jobs, most people look at them from a pity paradigm angle.

Sen. (Dr.) Langat talked about linguistics and I am happy he is also a linguist. When it comes to sign language, many people do not understand that it cannot be handled just by anybody. When a person signs A, B, C, D up to Z, it does not mean that they have the authority to research on sign language.

My fellow Senators here who are linguists and scholars will agree with me that if you want to sort out the issue of sign language, you must start from our universities. Universities should come up with courses on sign language studies. When the courses are offered in our universities, it will sort out the issue because at the university level students will be taught sign language from a broad perspective which will be narrowed down to the African perspective and then the Kenyan perspective. They will understand the debate on Kenyan Sign Language (KSL), American Sign Language (ASL) and all that because even in this country people do not understand sign language. There is need for it to start at the top.

There is a time Kiswahili was an issue. During the colonial period, the colonial masters were not keen on people learning Kiswahili because they realised that it could unify them but their aim was to divide and rule. If I can remember, to sort out that issue, universities started offering Kiswahili. They trained teachers who would teach Kiswahili. At the end of the day, the issue was sorted out. That is the approach that should be used. It should start from the university level.

We do not have linguists who have the capacity to do this at the Kenya Institute of Curriculum Development (KICD) and even the Kenya Institute of Special Education (KISE). It has to start from the universities because that is where KISE lecturers are trained. The information should disseminate from the university level going down. When that is done the problem will be sorted. It has become difficult to start Kiswahili at the lower level because it has not started from the top. The KICD and the Ministry of Education need to work closely with linguists for it is the linguists who will sort out this issue. Linguists can learn a language even if it is not theirs. They can analyse it scientifically, determine how the language is formed and help in training teachers.

Sen. Olekina talked about teaching sign language to everyone. This is very important because there is need for inclusivity. It should be taught in all public institutions and to all leaders for them to understand and communicate with the deaf. What happens when the deaf go to hospital and the medics does not know their language? It becomes difficult for them to communicate; there has to be someone to interpret what they are suffering from and this is a breach of confidentiality.

The Government should take this seriously and set aside some funds, as my sister, Sen. Mugo, said. She said that there is need for funds to be set aside for purposes of developing this language. There is need to also work with the Non-Governmental Organizations (NGOs), in order to solve the problem of learners with hearing impairment. She talked of hearing aids, which is very important for they can amplify sound. If there are funds set aside, they should be utilized to develop materials that will be used for instruction by learners with hearing impairment. This would help remedy the situation.

We also have the National Council for Persons with Disabilities (NCPWD) that is mandated with the task of ensuring that there is parity for all people with disability and it should also help solve this issue. The NCPWD should use funds from the Government to develop instructional materials such as braille and some for those with hearing impairment. The funds used by NCPWD should accommodate all forms of disabilities for us to feel that it is doing something with regard to supporting all persons with disabilities. As I speak, I know that the Council has a leaning towards one form of disability, which should not be the case.

The issue of interpreters can be sorted out from the university level because an interpreter who does not have the relevant educational qualifications cannot interpret at the university level. If our vision for learners with hearing impairment is that they will eventually reach university level, then there is need for interpretation even at university level, so as to have the problem solved right from university level.

Someone also talked about standardizing sign language. Sign language is standardized in schools. Many people do not understand that the Kenyan sign language emanated from American sign language, which emanated from the French sign language. We borrowed from the American sign language thus most of the signs that we use are American. That is why our sign language is one-handed as opposed to the British one that is two-handed. When we talk of the Kenyan sign language, we are referring to the sign language as it is used in Kenya. We cannot leave linguists out when it comes to developing material. When we leave them out, there will be confusion in the area of sign language studies and the language will fossilize and not go very far.

There is need for the KICD and the NCPWD to work with linguists and researchers so as to ensure that learners with disabilities are given a positive contribution. The Ministry of Education should also be objective when addressing the issue of learners with hearing impairment because instructional materials do not reach schools in most cases. About ten years ago, I came up with books on sign language that never reached the classrooms. They are not in schools, yet they are produced by a renowned organization, which is, the Jomo Kenyatta Foundation.

We need to be objective in addressing issues of disability for them to benefit from the system that we have. When funds are set aside, they should be used objectively for persons with disabilities to benefit. I want this Motion to move a notch higher to become a Bill, so that it can eventually be enshrined in the law. When that is done, learners with disabilities will learn sign language and funds will be set aside to develop sign language and research on it. Otherwise, sign language will fossilize and learners with disabilities will not see the light at the end of the tunnel.

Madam Temporary Speaker, with those many remarks, I beg to reply.  
**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Musuruve.  
Hon. Senators, pursuant to Standing Order No. 73, I have established that this Motion does not affect counties and, therefore, voting shall be by acclamation.

*(Question put and agreed to)*

Let us move on to the next Order.

## MOTION

### STANDARD POLICY REGULATION FOR CONSTRUCTION AND MAINTENANCE OF RURAL ACCESS ROADS

THAT AWARE that infrastructure development and specifically, construction of roads is a key pillar of Kenya's vision 2030 whose objective is to spur movement of people and goods, promote trade and economic activities, encourage development and attract investments;

NOTING that there is a very strong correlation between a country's economic development and the quality of its road network;

CONCERNED that Government's efforts to expand the roads infrastructure are mainly focused on the urban and peri-urban areas of the country thus leaving rural areas with dilapidated or no access roads;

FURTHER CONCERNED that fifty five years since independence and over five years after institutionalization of devolution, the Country's roads infrastructure is to a large extent still underdeveloped with only slightly above 9,000 kilometres of the about 178,000 kilometres of roads paved;

COGNISANT that, Part Two of the Fourth Schedule to the Constitution of Kenya (2010) mandates County Governments to manage county transport, including; roads, street lighting, traffic and parking, amongst other county public transport matters;

DEEPLY CONCERNED that, County Governments are continuously prioritizing routine maintenance works over sustainable and durable road quality works due to budgetary constraints;

NOW THEREFORE the Senate calls upon the Ministry of Transport, Infrastructure, Housing and Urban Development to develop and adopt standard policy regulations prescribing modern, eco-friendly and inexpensive technologies to be applied across the 47 counties for construction, upgrading and maintenance of rural access roads in order to ensure durability and sustainability of the access roads and also to reduce maintenance expenses.

Hon. Members, we have communication from the Mover that she is not here today. We have consulted and agreed to defer it.

*(Motion deferred)*

REGISTRATION OF PERSONS WITH DISABILITIES

THAT AWARE THAT the National Council for Persons with Disabilities was established through the Persons with Disabilities Act, 2003;

FURTHER AWARE THAT registration of persons living with disabilities is a function of the National Council for Persons with Disabilities;

ALSO AWARE THAT persons living with disabilities are estimated to be about 10% of any given population;

COGNIZANT THAT for purposes of registration of persons living with disability, it is a mandatory requirement for one to undergo medical examination by a registered medical officer in a registered and certified health facility;

AWARE THAT medical services are now a devolved function;

CONCERNED THAT of the nearly 4 million Kenyans living with disabilities who reside in Kenya, there is a very small fraction of the number which is duly registered;

FURTHER CONCERNED THAT without proper registration, many persons living with disabilities are denied services because they lack the necessary proof of disability;

ALSO CONCERNED THAT owing to lack of accurate data on persons living with disabilities, the government at both levels cannot plan properly for this category of people;

NOW THEREFORE, the Senate calls upon the National Council for Persons with Disabilities in collaboration with Ministry of East African Community, Labour and Social Protection and county governments, to carry out a nationwide registration of all persons living with disabilities in order to determine their exact population to facilitate effective service for this marginalized group of our society.

**The Temporary Speaker** (Sen. (Prof) Kamar): Hon. Senators, Sen. Khaniri, the Mover of the Motion, is currently engaged in a meeting with the Parliamentary Service Commission (PSC). For that reason, we have consulted and agreed that we defer Order No.15.

*(Motion deferred)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. (Prof) Kamar): Hon. Senators, having concluded the business of the day, it is now time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday 30<sup>th</sup> May, 2018 at 2.30 p.m.

The Senate rose at 6.25 p.m.