

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 10th November, 2016

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

[The Speaker (Hon. Ethuro) in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

INVITATION TO A CONSULTATIVE MEETING BY THE INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE

The Speaker (Hon. Ethuro): Hon. Members, I wish to inform you that the Intergovernmental Relations Technical Committee, which is established by the Intergovernmental Relations Act and is responsible for the coordination of activities and functions of the Summit and the Council of Governors (CoG) among other functions, has organised and invited the Senate to a consultative meeting to deliberate on issues geared to improve service delivery in the devolved units.

Hon. Senators, the objects of the meeting are:-

- (a) to update the participants on the experiences and achievements of the Intergovernmental Relations Technical Committee;
- (b) to analyse, discuss and understand the legal provisions relating to the mandate of the Intergovernmental Relations Technical Committee and the institutional challenges thereof;
- (c) to review and identify challenges emerging from taking over of the residual functions from the defunct Transition Authority (TA);
- (d) to discuss and appreciate the constituents and implications of inadequate budgetary resources for the Intergovernmental Relations Technical Committee; and,
- (e) to review and propose amendments to the Intergovernmental Relations Act, 2012.

Hon. Senators, the meeting is scheduled to take place from 17th to 20th November, 2016, in Mombasa County. Senators should depart for Mombasa on the evening of Thursday, 17th November, 2016.

Hon. Senators, this is, therefore, to invite you all to this very important meeting and to urge you to plan and attend. You are requested to forward your preferred travel times to the Office of the Clerk of the Senate for planning purposes.

I thank you.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Based on past experiences with some of these institutions, it is very clear that their intention is to lobby us to assist them to get more funding. Be that as it may, I want to request that you write to them and tell them that they should come and explain to us the status of the important matter of handing over and taking over of the assets and liabilities from the defunct local authorities to the county governments.

Mr. Speaker, Sir, it is now four years since we embraced devolution and the exercise has not been addressed. Land and other forms of assets continue to be abused.

Finally, they should also be reminded to come and account for the budget they were given as the TA. That is, Kshs61,595,000 per county which they used during the time of transition to buy things but they have never accounted for.

I thank you.

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, your concerns are noted and will definitely be communicated. I am sure they are part and parcel of the discussions at the meeting. In addition to us writing to them, I want to believe that you are also committing your participation.

Hon. Senators, I have another communication to make

VISITING DELEGATION OF STAFF FROM KILIFI
AND WEST POKOT COUNTY ASSEMBLIES

The Speaker (Hon. Ethuro): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of the visiting staffs from Kilifi and West Pokot county assemblies who are on attachment in the Senate. I request each member of the delegation to stand when called out, so that he or she may be acknowledged in the usual Senate tradition.

They are:-

- (1) Mr. George M. Kumbatha.
- (2) Ms. Martha N. Ngugi.
- (3) Ms. Sally K. Kadzo.
- (4) Mr. Sammy M. Mwadziwe.
- (5) Ms. Angela Loporna.
- (6) Mr. Daniel Micha.

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

I thank you.

(Applause)

Sen. Kittony: Mr. Speaker, Sir, allow me to join you in welcoming the staffs from Kilifi and West Pokot County. I commend the people of Kilifi for the beautiful assembly that was opened by you last week. I witnessed that devolution is really at work and the people of Kilifi will benefit from their staff coming to learn from the Senate. I want to attest that their assembly is remarkable because it is very well furnished.

I would like to commend the Senator for Kilifi, Stewart Madzayo, for inviting me to take part in their ceremony last week.

They are welcome and should take our greetings when they go back to Kilifi.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I also join you in welcoming and congratulating the delegations from the two county assemblies for choosing to come to the Senate to see how we do work for them. I would like to remind them that Senate does oversight and protects the interests of county governments and counties.

Mr. Speaker, Sir, we are witnessing many county assemblies and county governments coming to see how the Senate and the National Assembly work. However, they have begun too late towards the end of the life of this Parliament. They should have begun early in 2013 or 2014. However, what we witnessed that time was very interesting. Many delegations were going to Israel while some were going to Singapore and South Africa. I do not know what they were going to benchmark.

It is good to learn from your neighbours. I particularly encourage the staff from my county assembly to visit their neighbouring counties. I do not know whether they have been to Turkana, Elgeyo-Marakwet, Trans Nzoia and so on to see how their neighbours are performing.

Otherwise, I welcome them and wish them well in Nairobi.

The Speaker (Hon. Ethuro): Finally, Justice Retired, Sen. Madzayo.

Sen. Madzayo: Bw. Spika, naunga mkono ndugu zangu. Kwanza, nakushukuru sana kwa uamuzi uliofanya kuruhusu wafanyakazi wa kutoka Kaunti ya Kilifi kuja ili kujifundisha na kujionea jinsi Seneti inavyoendesha shughuli zake. Watapa mafunzo ya kutosha na wanaporudi nyumbani, nina hakika watafurahia kutokana na watakayojifundisha hapa.

Pili, Bw. Spika, ninakushuru kwa kukubali mwito. Waswahili husema kwamba mtu hakatai mwito, hukataa analoitiwa. Wewe ulikuja kwa kukubali mwito na ulijionea wazi kwamba Serikali ya Kaunti ya Kilifi inawania kufanya kazi ya ugatuzi kisawasawa ili kuhakikisha kaunti zingine zinaiga mfano wake.

Bw. Spika, asante sana.

VISITING DELEGATION OF PUPILS AND TEACHERS FROM MUTHURWA ISLAMIC ACADEMY, NAIROBI COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, I wish to recognise the presence of visiting pupils and teachers from Muthurwa Islamic Academy, Nairobi County. They are seated at the Public Gallery.

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

I thank you.

(Applause)

Next Order.

PETITIONS

UNLAWFUL ISSUANCE OF TITLE DEEDS IN THE MWEA TRUST LANDS

Sen. Karaba: Mr. Speaker, Sir, I rise to make a statement on an issue of general topical concern regarding the unlawful issuance of the title deeds by Embu County---

The Speaker (Hon. Ethuro): Order, Senator! Check your Order Paper, we are on Petitions.

Sen. Karaba: Mr. Speaker, Sir, my point of order is under Petitions. It was under a petition which I filed the last two years and so far nothing has happened following the petition, hearing, presentation and adoption of the report from the Committee that was named last time.

It has taken long for Kirinyaga people to know the outcome. The outcome was decreed and given by the Senate, but so far, nothing has happened. So, this is a form of a petition which has been filed here and tabled on behalf of Kirinyaga County *Mihiriga Kenda*.

Sen. Elachi: On a point of order, Mr. Speaker, Sir. Will I be in order to request that you give an order to the committees dealing with various petitions to finalize them and table their reports before the end of the month?

The Speaker (Hon. Ethuro): Order, Senator! I will give you the chance to do so under statements because the petition was already disposed of.

Sen. Karaba: Much obliged, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. Elachi, what was your intervention?

Sen. Elachi: Mr. Speaker, Sir, I am requesting you to ask the Committee on Finance, Commerce and Budget to finalise all the petitions pending before it and table the report before the end of the month?

The Speaker (Hon. Ethuro): Indeed, let us hear from the Vice-Chairperson of the Finance, Committee, Sen. Mositet.

Sen. Mositet: Thank you, Mr. Speaker, Sir. It is true that we have quite a number of petitions and we are working on them. One of the problems we are facing is that some governors do not honour our summons. For example, Kakamega County, Gov. Oparanya.

We have one petition from Kisumu County Government which we had referred to both the Committee on Finance, Commerce and Budget and Committee on Devolved Government. Our Committee was to raise the quorum so that could discuss and finalise it. However, when it comes to the Committee on the Devolved Government, it has never managed to raise a quorum.

So, I seek your indulgence whether I should table the said report of the petition of Kisumu.

The Speaker (Hon. Ethuro): Order, Senator! We do not have a copy. So you may wish to make it available. What you have is not enough.

Sen. Mositet: Mr. Speaker, Sir, I have just received two of them.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, did you hear the Vice Chairperson say they are unable to summon Gov. Oparanya? His residence is well known and they can get him by all means.

The Speaker (Hon. Ethuro): Order, Sen. (Prof) Lonyangapuo! You are misrepresenting the Vice-Chairperson. He did not say that he does not know the home address of Gov. Oparanya. He was giving an example of one of those who have frustrated their work by not appearing. So, you could actually imply that maybe the Governor does not know the address of the Committee on Finance, Commerce and Budget.

Sen. Mositet, what is important is the concern by Sen. Elachi. I have already communicated to all the committees that they need to conclude all the petitions given that already Standing Orders spell the number of days that petitions must be cleared. The Session is coming to an end. So, we must have all the petitions by all committees reported by end of the month, latest by the last day of the business.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, I feel very embarrassed as Senator for Kisumu because this petition has been before the Committee on Finance, Commerce and Budget for close to three years. When you ordered that the Committee on Devolved Government should join us, that is when our misery started. The Committee on Devolved Government has not been meeting. They only came to our meeting once or twice. I really do not think that enjoining the Committee on Devolved Government to this petition added any value nor should they enjoy the luxury of trying to read that petition because they had no input in it. It is punishing the residents Kisumu County to detain this petition without being passed by this Senate for the three years.

My instinct and my humble advice would be let the Committee which has dealt with this petition table it in the Senate and let the Committee on Devolved Government not delay us any further.

The Speaker (Hon. Ethuro): Sen. (Prof.) Anyang'-Nyong'o, I really do not know where that intervention is coming from. You are just repeating what the Vice-Chairperson requested the Chair. I am yet to respond to that particular matter, but I appreciate your frustrations.

Sen. Kagwe: Thank you, Mr. Speaker, Sir. Whereas I appreciate the frustrations that are being expressed by the Members, particularly regarding petitions, would I be in order to ask that we relook at the whole matter of petitions as a House with the objective of raising the threshold for what constitutes a petition? Whereas it is a constitutional right of individuals to petition the House, in other jurisdictions, if you look at, for example, the United States of America, there is a minimum number of people who must sign a document called a petition in order for it to take effect.

The Committee on Finance, Commerce and Budget has got petitions galore. We need to have a special committee that will deal with nothing else except petitions in order

for us to process petitions efficiently, effectively and on time. Otherwise, to expect a committee that has other responsibilities to execute the number of petitions that are brought to this House will be extremely difficult.

Mr. Speaker, Sir, I ask the House considers the matter of petitions with the view of legislating, so that there is a threshold that a petition shall meet before it is brought to the House.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. The matter that has been raised by distinguished Sen. Beatrice Elachi is extremely important. Two governors, Gov. Akaranga from Vihiga County and Gov. Oparanya from Kakamega County, have set the notorious record of being the only governors who have defied this Senate. Luckily for us, the Director of Public Prosecution (DPP) was able to address us, as the County Public Accounts and Investments Committee (CPAIC). He told us that the Senate has the power to order for arrest.

Mr. Speaker, Sir, without delaying the process further, could you order from the Chair that the two governors be arrested forthwith, and on Monday, they be frog-matched to the Senate Committees? We want to deal with them because they have stolen money. They are thieves---

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. It is quite tempting for the Chair to give those directions, but we can do better. We will deal with that matter in a different way for the same results.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Speaker, Sir. Without losing the point that was raised by Sen. Kagwe, we need to relook some of the petitions afresh. Most of what was raised in the petitions was captured by the Auditor-General's report. The CPAIC, headed by Sen. (Prof.) Anyang'-Nyong'o, has already dispensed with some of the reports. We may need to relook at petitions afresh. This is because there is a repetition and overload of work on the Committee on Finance, Commerce and Budget.

The Speaker (Hon. Ethuro): Members, let me dispose the issue of how to handle petitions. The suggestions by Sen. Kagwe and Sen. (Prof.) Lonyangapuo are matters that can be considered, because we have already instituted the Rules and Procedures Committee to relook into the Standing Orders. That is one avenue.

I do not think that all is lost because it is upon the Committee to determine on how to dispose the matter. If you find that a petition has no merit, why should you keep it or look for witnesses? Make your consideration and bring the report. The Committee can also look at what the other committees are doing through the Liaison Committee, so that you may know what is in the Auditor-General's report and compare it with what you have. There are many ways to deal with that particular matter. There is no reason a petition should delay at all.

Regarding the matter of Kisumu that was raised by Sen. (Prof.) Anyang'-Nyong'o, the Vice Chairperson raised it with me and we will handle it administratively. The Standing Orders are clear that petitions should go to the relevant Standing Committee.

I gave the Committee on Devolved Government an opportunity because some of the issues are within its mandate. The fact that the Committee on Devolved Government did not participate does not make your report invalid. I do not understand why it took three years. You should not blame the Committee on Devolved Government; the blame

squarely lies with the Committee on Finance, Commerce and Budget. They were the primary Committee to deal with the Petition.

The Petition, as it is now, cannot be tabled because the Committee is yet to receive my approval; I am just seeing the report now. You will have to wait for your famous four days for the report to go through the normal process. It will then be tabled before the House.

Next Order!

PAPERS LAID

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today Thursday, 10th November, 2016:-

REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF VARIOUS COUNTY GOVERNMENTS

Report of the Auditor-General on the financial operations of Bungoma County Assembly for the period 1st July, 2014 to 30th June, 2015.

Report of the Auditor-General on the financial operations of Wajir County Assembly for the period 1st July, 2014 to 30th June, 2015.

Report of the Auditor-General on the financial statement of the County Government of Wajir for the year ended 30th June, 2015.

Report of the Auditor-General on the financial operations of Busia County Assembly for the period 1st July, 2014 to 30th June, 2015.

Report of the Auditor-General on the financial operations of the County Government of Busia for the period 1st July, 2014 to 30th June, 2015.

Report of the Auditor-General on the financial operations of Garissa County Assembly for the period 1st July, 2014 to 30th June, 2015.

Report of the Auditor-General on the financial statement of County Government of Bomet for the year ended 30th June 2015.

(Sen. (Prof.) Anyang'-Nyong'o laid the documents on the Table)

The Speaker (Hon. Ethuro): Next Order.

STATEMENTS

UNLAWFUL ISSUANCE OF TITLE DEEDS IN THE MWEA TRUST LANDS

Sen. Karaba: Mr. Speaker, Sir, I rise to seek a Statement on an issue of general topical concern regarding the unlawful issuance of title deeds by the Embu County Government in the area of the Mwea Trust Lands.

On 30th May, 2015, I presented the petition on behalf of Kirinyaga *Mihiriga Kenda* (nine clans) concerning the boundary disputes between Kirinyaga and Embu counties, in respect of the 54,000 acres area known as Mwea Trust Lands. In the Petition, it was highlighted that the people of Kirinyaga County have a historical and ancestral claim to the said Mwea Trust Lands, which were unlawfully hived from the former Kerugoya Sub-district, which is now known as Kirinyaga County, to what is now Mbeere South Sub-county of Embu.

It was also highlighted that at the time of presenting the Petition, the County Government of Embu had commenced the process of adjudicating and demarcating the said 54,000-acre piece of land comprising Wachoro, Karaba, Riakanau and Makima adjudication sections for allotment. As a result, tensions were rising by the day in the area due to rival claims to the land by the *Mihiriga Kenda* people of Kirinyaga County on one hand and the Mbeere and Kamba people of South Mbeere Sub County on the other hand.

Mr. Speaker, Sir, one of the prayers contained in the said Petition was for the Senate, pending determination of the boundary issue between Kirinyaga and Embu counties, to intervene to have the process of adjudication and demarcation of Mwea Trust Lands by Embu County Government immediately halted or to be jointly undertaken by county government of Kirinyaga and Embu.

Mr. Speaker, Sir, the Petition was thereafter committed to the Standing Committee on Legal Affairs and Human Rights, which after one year and two months, tabled its report on 6th July, 2016. In the said report, the Committee deferred consideration of the boundary issue between the two counties on the basis that a Bill on the county boundaries was due for introduction before the Senate. This is yet to be done.

Mr. Speaker, Sir, the reason I am bringing up this matter is because the substance of the Petition I presented was not about the boundary issue, but rather the process by which the County Government of Embu was taking to unilaterally demarcate the Mwea Trust Lands and issue title deeds thereon to people from Embu County. This process has reportedly been completed and the County Government of Embu commenced issuance of title deeds relating to the land. This is despite the pronouncements of the Senate on the matter being; that the process be suspended pending resolutions of the boundary issue as long as there exists a valid court order stopping the process in a case followed by the County Government of Kirinyaga.

Mr. Speaker, Sir, more shocking is the fact that no less than the Chairperson of the National Land Commission, Mr. Mohamed Swazuri, has said that the process of the issuing of the said title deeds will proceed regardless of whether there is a court order in place stopping the said process. This matter is important to the people of Kirinyaga. As we speak, tension is high in the area and it is important that something is done urgently to prevent the situation from escalating further.

I, therefore, request that you direct that the Chairperson of National Land Commission appears before the relevant Committee of this House to respond to why the Commission is promoting the disregard of court orders. Further, the Chairperson should be required to explain why, instead of addressing the issue of historical land injustices meted against the people of Kirinyaga with regard with Mwea Trust Lands, the

Commission is instead participating in an exercise that is meant to achieve the exact opposite.

Mr. Speaker, Sir, I also request that you direct the Standing Committee of National Security and Foreign Relations as well as the Standing Committee on Legal Affairs and Human Rights to urgently undertake a fact-finding mission in Mwea with a view to appreciating the nature of the conflict and making recommendations on how the same may be resolved. This matter is urgent and I request that this House intervenes to have it resolved.

Mr. Speaker, Sir, I seek your directions.

The Speaker (Hon. Ethuro): Chairman of the Committee on Lands and Natural Resources, what is your take on that statement in terms of the process and the prayers being sought, and not the particulars?

Sen. Kivuti: Mr. Speaker, Sir, the prayers being sought were in the Statement sought by Sen. Njoroge regarding the ongoing Northern Water Collector Tower, Phase One.

The Speaker (Hon. Ethuro): Order, Chair. We are yet to reach there. Sen. Karaba is asking the Committee to get hold of the Chairperson of the National Land Commission.

Sen. Kivuti: Thank you, Mr. Speaker, Sir. We shall look into the Statement and bring an answer next week on Thursday. One week is enough.

The Speaker (Hon. Ethuro): Order, Members. I direct that the Committee looks at this Statement and gives the House an appropriate response.

Sen. Sang, do you want to comment on Sen. Karaba's Statement?

Sen. Sang: Mr. Speaker, Sir, with regard to the Statement made by Sen. Karaba, that particular Petition initially came to my Committee, the Committee on Legal Affairs and Human Rights. We are still working on the Bill on boundary review commission. However, there are some details that would make sense in the Statement captured by Sen. Karaba; that the Committee on Legal Affairs and Human Rights Committee and Sen. Kivuti's Committee on Lands and Natural Resources can make a fact-finding mission to the place. That element would be important. You could direct that the two Committees do a joint fact-finding mission and report to this House, because the issues raised are quite weighty. If that is granted, two weeks would be okay for the two committees to travel to the site and make some headway with regard to this issue.

Sen. Mositet: Mr. Speaker, Sir, from what Sen. Karaba has raised, I am worried whether the Committee, chaired by Sen. Kivuti, is the right one to look into that matter. I think there is a conflict of interest in this matter because it concerns the people of Embu and Kirinyaga. Maybe his deputy could do better in this matter than the Chair.

Sen. Muthama: Mr. Speaker, Sir, I concur with my brother, Sen. Karaba, regarding the tension in Embu. As we are discussing this issue, the title deeds are being issued. I have a list that I have passed to the Chairman to prove that nothing is happening to resolve the matter. It has been left with the administrators to mess up the issue, and tension is high. Urgent measures need to be taken to stop what is happening and bring Kenyans together.

Sen. Kivuti: Thank you, Mr. Speaker, Sir. I wish to shed some little light on this matter.

The Speaker (Hon. Ethuro): Order, Chair! I was clear. Deal with the procedures and not the particulars. You can bring the particulars next week.

Sen. Kivuti: Mr. Speaker, Sir, the little light I want to shed is not about the land, but two counties. Kirinyaga County wants to take a part of Embu County. It is a matter which I do not think the two Committees will come up with an answer to it. This is because if, at the end of the day, Kirinyaga County is given part of Embu County or even the whole of Embu County, the people who live there will still own land.

Having said that, I know that there is a matter that was brought by Sen. Mutula Kilonzo Jnr. on boundaries problems between Makueni and Machakos counties and it escalated to the entire country. We need to relook into this matter from a different perspective and not whether somebody in Bungoma County got a title and Embu County wants part of Bungoma County.

I rest my case.

The Speaker (Hon. Ethuro): Order, Sen. Kivuti! You are actually making a case and not resting it.

Sen. Moi: Mr. Speaker, Sir, I just want to know whether the Senator for Embu is ceding some land of Embu County to Kirinyaga County.

The Speaker (Hon. Ethuro): Order, Senators! I do not think Sen. Kivuti should respond to Sen. Moi because, obviously, he is not being helpful to the discourse.

Let me dispose of this matter as follows: One, the issues of court orders can be dealt better by the courts and not this House. So, Sen. Karaba, you must find a way of going back to the court and praying that the orders were not complied with. I am sure they will give you the right remedies.

On the general issues of the National Land Commission (NLA), the Chairperson of the Committee on Lands and Natural Resources has already committed himself. In terms of the conflict of interest, we have ways in which to handle that matter. The Committee has a Vice Chairperson and other membership. The Committee can look at it and determine whether there may be need for the Vice Chairperson or a Member to lead this issue, given that the Chairperson might be an interested party. I know the Chairperson is an able man, knows these things and will do what is right for justice to be done.

Mr. Chairman, we are interested in the fact that a matter has been raised in the House. So, we must respond as a responsible institution. It is in that response that all those issues will come out from a more neutral arbiter. There may be an altercation between two Senators representing the two different counties. I think that is where the role of the Committee becomes important.

I direct that three Committees deal with this matter – Committee on Lands and Natural Resources, Committee on National Security and Foreign Affairs and the Committee on Implementation because the result of the petition had already been noted. So, it is a matter that fits very well in the Committee on Implementation. I now go even further and direct that the Committee should provide the leadership in this matter and bring us a report in two weeks' time.

Sen. Kivuti, you may now proceed, with your statement since I can see you are next to the one who sought it.

THE ONGOING CONSTRUCTION OF THE NORTHERN
CORRIDOR WATER COLLECTOR TUNNEL

Sen. Kivuti: Mr. Speaker, Sir, I stand to issue a statement sought by Sen. Njoroge regarding the ongoing Construction of the Northern Corridor Water Collector Tunnel Phase 1 Project. The project is intended to provide reliable water supply to Nairobi City County and its environs.

Sen. Njoroge sought to know:-

- (1) When the project was launched?
- (2) Findings that lead to the initial rejection of the project by leaders of Murang'a County.
- (3) What informed the Government to proceed with the project despite the opposition by various sectors?
- (4) Whether an environmental impact assessment was undertaken before commencement of the project and contents of the report made public?
- (5) Whether the project will adversely affect the environment as feared by those opposing it?

Mr. Speaker, Sir, the masterplan and visibility study for the development of new water resources for Nairobi City County was launched for implementation on 19th September, 2012. The masterplan included implementation of the Northern Corridor Water Collector Tunnel Phase 1 Project between the 2012 and 2017. The construction of the Northern Corridor Water Collector Tunnel commenced on 24th February, 2015 upon issuance of the engineer's order to commence works. The works are expected to be completed by 24th June, 2018.

As a result of the public consultation process for the project, Murang'a County in April 2015, prepared and published the Murang'a County Government Report of the Technical Committee on the Northern Corridor Water Collector Tunnel. Upon its publication, the project proponents; Athi Water Services Board (AWSB) noted that there were various misconceptions of project facts in the report regarding the effects of the project on river flows, project impacts on the ground water aquifers, community involvement and benefits, effects of tunneling and landslide prone areas.

Upon this realization, AWSB initiated engagements with Murang'a County Government. As a result, a joint memorandum between AWSB and Murang'a County addressing the issues contained in the Murang'a County report was prepared. The memorandum was debated and endorsed by Murang'a County Assembly on 14th April, 2016.

Mr. Speaker, Sir, the Northern Corridor Water Collector Tunnel Project has been designed by professional experts and technical issues addressed, necessary authorisation by various licensing bodies, including the environmental licenses have been accomplished. The project has been assessed to have negligible environmental and

social impact on the project area. I request leaders and stakeholders to support the actualization of this National Vision 2030 flagship project.

The Environmental Impact Assessment (EIA) for the Northern Corridor Water Collector Tunnel has been undertaken, necessary public participation and public endorsements done and an Environmental Social Impact Assessment (ESIA) process successfully concluded. The National Environment Management Authority (NEMA) issued the project an environmental licence on 9th February, 2015. This was after the necessary publications in national newspapers and the Kenya Gazette as required by law. The project environmental impact assessment Report was made public as required and is still publicly available.

The Northern Corridor Water Collector Tunnel (NWCT) is designed to have intakes in three rivers that lie in the Tana River catchment area. The three rivers to be tapped are Maragua, Irati and Gikigie rivers. The three rivers combine to form Maragua River approximately 12 Kilometres downstream which subsequently flows into the Tana River upstream of Masinga Dam.

The tunnel design gives priority to downstream environmental flows and as such, there are no adverse ecological and environmental effects expected downstream. Further, hydrological studies on the NWCT 1 Project confirm that the cumulative effect of the projects on inflows at Masinga Reservoir is about 2.32 per cent.

Mr. Speaker, Sir, on ground water aquifers, the tunnel will be filled with concrete line and water tight to ensure that there is no interference with the ground water aquifers. Additionally, the design ensures that the tunnel is safe in landslide areas.

During the Plenary Session, the Senators requested for the following supplementary information:-

1. Comparative studies and experiences on similar successful projects elsewhere in the world that informed the Ministry's decision.
2. An outline of the number of mega-dam projects that are being undertaken in the country and their costs.

Mr. Speaker, Sir, maximizing the water returns to river basins by managing inter-basin transfers is one of the several major objectives guiding the ongoing development of Nairobi's Water Sources Development Plan. Inter-basins water transfers currently play a significant role in meeting water supply needs in various areas of the world. Some successful inter-basin transfers include:

1. North America.

About 10 per cent of the Americans get their drinking water from the Great Lakes Region. Sizeable inter-basin water transfers have been executed in the United States of America. Los Angeles and California began importing municipal water from the Owens Valley more than 400 Kilometres away in 1913. Since then, several other transfers have been implemented mainly for hydro-electric municipal and irrigation purposes.

By 1965, there were 146 inter-basin water transfer projects which transferred 26 million cubic metres of water annually. The Ogoki diversion scheme; California State Water Project with a transfer from Sacramento River Basin serves the municipality.

2. China, The West Middle and East Route Water Transfer.

The spatial of water and land resources in China is, as in most countries uneven. The West Middle and East Route water transfer projects diverts about 44.8 billion cubic metres of water through three canals to the north approximately equal to the annual volume of the Yellow River in a normal year.

3. In Japan

(a) Inter-basin Water Transfer to Tokyo Metropolis

The Tokyo Metropolis supplies Tokyo Metropolis water demands inter-regionally from the Tone River which is the largest river in Japan. Further away from Tokyo, the demand for water for Tokyo Metropolis continuously and rapidly increase necessitating water transfer schemes from the Tone River.

(b) The Kagawa Irrigation Project.

The northern region of Shikoku Island is the driest district in Japan. To improve food security, an inter-basin water transfer project, the Ikeda Water Scheme transfers water to Kagawa through a tunnel passing through the mountain range that has already undertaken.

4. Southern Africa Region

There are several inter-basin water transfer schemes that have been implemented in South Africa. A total of 26 major inter-basin transfers have been completed in southern Africa. Some of the biggest inter-basin transfer schemes that have been built are:-

(a) Eastern National Water Carrier (ENWC) in Namibia.

Water shortages in Windhoek area from the beginning of 1980s led to the planning, implementation of the EWC which transports water from Kavango River to the north eastern border of Namibia and south eastwards to Windhoek a distance of 750 Kilometres.

(b) Lesotho Highlands, Water Project (LHWP)

The LHWP abstracts water from the rivers in the highlands of Lesotho and transfers it to the water deficient Vaal region in South Africa for industrial and residential use. This project transfers 233, 200 cubic metres annually.

(c) Orange-Fish River Tunnel in South Africa.

The waters of the Orange River are fed into the headwaters of the Great Brak River which flows into the Grass ridge dam 40 Kilometres north of Cradock to the Great Fish River through the Cookhouse Tunnel and finally to the Vogel River. The Orange-Fish Tunnel is 82.45 Kilometres long and runs due south from the intake tower of Oviston to the Gariep Dam and to the outlet near the foot of the Teebus Kop. The tunnel is concrete lined with a diameter of 5.33 metres.

(d) Inter-basin water transfers in Kenya.

Kenya has inter-basin water transfer schemes which are either in operational or in planning phases. These are:-

The Speaker (Hon. Ethuro): Order Chair. You may summarize if the Members have the copies.

Sen. Kivuti: Mr. Speaker, Sir, I have only one page remaining. I have already read five pages.

- (a) The proposed transfer from Nzoia River to Turkwel Gorge Reservoir in water deficit Suam/Turkwel River basin, both in Kenya.
- (b) The proposed domestic water transfer off 41 million cubic metres from Itare to Londiani Dams in Lake Victoria basin to Rift Valley Basin.
- (c) The proposed Mbalambala water transfer scheme from Tana River to Ewaso Nyiro North Catchment in Wajir.
- (d) The existing Thika-Chania water transfer scheme transferring 540, 000 cubic metres per day from Tana to Athi Water basins for domestic use in Nairobi. It serves Nairobi from Ndakaini Dam to Matara where the pipeline starts to Ng'ethu Water Treatment. It has been in use since 1994.

The National Water Master Plan 2030 notes that for Athi Catchment Area to meet its current water requirements, inter-basins water transfer facilities from dams in other catchment areas of Tana Basin to Athi Basin are to be developed to supply domestic water to Nairobi and satellite towns where heavy concentrated domestic water demands are expected in 2030.

As requested by the Senate Minority Leader, an outline of the number of mega dam projects that are being undertaken in the country and their cost are as follows:-

- (1) Mwache Dam in Kwale County will cost approximately Kshs36 billion in Kwale. The design is under review. I can see the Senator for Kwale County happy about it.
- (2) Thwake Dam in Makueni County will cost about Kshs22 billion. The procurement of the contractor is ongoing.
- (3) Siyoi Dam in West Pokot will cost Kshs5.3 billion. The implementation is ongoing.
- (4) Chemususu Dam in Baringo County cost Kshs5.2 billion in Baringo County. The dam is complete and water supply construction is ongoing.
- (5) The Itare Dam in Nakuru County will cost Kshs38 billion in Nakuru County. The construction of the dam embankment is ongoing.

Thank you.

Sen. Njoroge: Mr. Speaker, Sir, to comment on that, I would say that it is brilliant idea to have such a project. However, I urge the Government to extend its generosity and establish or identify a dam which will still make for the deficit if the Murang'a project does not receive excess water or overflow, so that Nairobi residents will have a very promising way of making for the deficit because at the end of the day, the residents of Nairobi want enough water.

I commend the Government for coming up with this wonderful project. However, there might be no continuity of excess water flowing because sometimes water is unpredictable. So, I encourage the Government to go an extra mile and make sure that we have a mega dam which will supply water to the Nairobians. The Government should even think of doing a borehole so that we have a very reliable source of water that will be permanent to solve the water problem in Nairobi.

Mr. Speaker, Sir, I thank you.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, allow me to seek a small clarification. We asked for information but instead of him giving us the information, he told us that the

information is in public domain. I would like him to respond by tabling the following documents:

- (i) The National Environment Management Authority (NEMA) licence.
- (ii) Evidence of public participation, especially by leaders and residents of counties that are downstream.
- (iii) A report of the environmental impact assessment.
- (iv) The report of Murang'a County Technical Committee on the Northern Water Collector Tunnel.

Mr. Speaker, Sir, because of the history of the Jubilee Government, when you combine Itare Dam and the “tunnel of death of Murang'a” the total budget at hand is Kshs44.5 billion. Jubilee is a Government of ‘tenderpreneurs.’ Therefore, could he also give us a comparative study to demonstrate that if we step down these two dams and instead spend Kshs44.5 billion on harnessing and harvesting rain water, it will not be feasible and in fact less expensive?

Sen. (Dr.) Machage: Mr. Speaker, Sir, the request as elegantly put by Sen. (Dr.) Khalwale notwithstanding, could the Chair confirm to this House that the people of Murang'a are resenting the construction of that project? Could he also confirm or deny to this House that that project was actually inaugurated by the former Prime Minister of the Republic of Kenya, Hon. Raila Amolo Odinga?

Sen. Boy Juma Boy: Bw. Spika, namshukuru Mwenyekiti wa Kamati yangu kwa kusema maneno ambayo si ya kweli. Hata kama wewe ni kichaa, utajua wazi kwamba lugha iliyotumika haifanani kabisa. Itakuwaje mito mitatu inayoleta maji kwa bwawa moja ibadilishwe mikondo kisha utarajie kwamba kiwango cha maji kitakuwa sawa? Huo in uongo mtupu.

Pili, Mwenyekiti wangu hakutueleza gharama ya handaki hilo. Tulisikia kuwa itagharimu Ksh2 billion na sasa wengine wanasema itagharimu Ksh4 billion. Hajatupa ukweli wa gharama hiyo na kutuambia kwa nini imepanda.

Sen. M. Kajwang: Mr. Speaker, Sir, my senior, Sen. (Dr.) Khalwale, has been very specific on the documents that will guide this House in executing this matter. I just want to request for provision of one more document; hat is the contract signed with the implementers of the project.

Mr. Speaker, Sir, the Chairman has talked of the commencement date of the project but there could be a difference between the commencement date and the date which the contract was signed. It must come out clearly that on the date on which the contract was signed. Public participation should have happened, environmental impact assessment done and NEMA licenses proffered.

Mr. Speaker, Sir, a more specific question is that the project will increase the flow of water into Nairobi by the number of volumes that the Chairman has stated. Could the Chairman tell this House the plan of the project? Is it to drain water out of Nairobi?

Sen. Mositet: Mr. Speaker, Sir, from the engineering point of view, the tunnel collector is supposed to just harvest the excess water caused by the rains and Senators should understand that point. That is why the Chair is saying that the effect on the river is 2 per cent. However, the concerns of the Senators should be considered. I will give an example of my own county which---

The Speaker (Hon. Ethuro): Order, Senator, it is Statement hour. You should be seeking clarifications on that statement but not proffering examples from your own county.

Sen. Mositet: Mr. Speaker, Sir, there was a case in 1980s where water was pumped from Kilimanjaro-Loitokitok to Machakos. It was a big project that time and it was called Kilimanjaro-Machakos Water Project. A river called Nol Turesh was tapped and there were NEMA reports which were done at that time. As we speak today, that project completely changed the ecology of Oloitokitok.

Mr. Speaker, Sir, I would like to ride on the same and request the Chairman to provide to this Senate documentation to show how much water was flowing in River Nol Turesh before water was tapped. He should also tell us what happened to the people downstream and how many people downstream were affected and their lives changed completely since Kilimanjaro-Machakos Water Project was implemented.

Mr. Speaker, Sir---

The Speaker (Hon. Ethuro): Order. You should seek clarification. You have asked too many questions. I will give you one last minute.

Sen. Mositet: Mr. Speaker, Sir, there is another clarification I would like to seek. Sen. (Eng.) Muriuki and many other engineers are here. We need a special audit on the costing of dams in this country. All of a sudden, people started talking about millions and billions for dams. It is just a matter of excavations, compaction, and grouting where you will rarely experience a hard structure down there with cracks. That is the only time you can talk of mega billions being used on dams. So, I urge this Senate to come up with either a committee or ask for a special audit to be done on huge sums of money being used on dams. Maybe some engineers could be colluding in costing the dams. I rest my case.

The Speaker (Hon. Ethuro): The Chair.

Sen. Kivuti: Mr. Speaker, Sir, starting with Sen. Njoroge's request, I have no quarrel with that because I know mega dams is a programme which is enshrined in the Vision 2030. I can even state that my Embu County will benefit from such dams. These projects are intended to limit the amount of water that goes to the Indian Ocean as waste. The Government intends to harness and collect all the rain water from all the mountains and valleys to the main dams.

Mr. Speaker, Sir, recently, we passed the Water Bill which has a whole section on how to deal with water collection into dams and how it will be managed to benefit Kenyans. Having said that, I think Sen. (Dr.) Khalwale really needed not a statement but attachment of the documentation such as documents of public participation and the report which was interrogated and even debated by the County Assembly of Murang'a. Maybe he might also need the HANSARD from the County Assembly of Murang'a. I do not see anything wrong with providing such documentation but I do not think it will add value to the contents of what is being reported. If so directed, the paperwork can also be availed. However, I think we need to look at the real cause and how we should address the real issue. If it is addressed equitably, there is no need of asking for bunches of papers.

Having said that, the cost---

Sen. Boy Juma Boy: Nidhamu!

The Speaker (Hon. Ethuro): What is it, Sen. Boy Juma Boy?

Sen. Boy Juma Boy: Bw. Spika, Mwenyekiti anasema kuwa Sen. (Dr.) Khalwale anataka karatasi za kawaida wakati Sen. (Dr.) Khalwale ameeleza sababu maalumu. Je, ni sawa kwa Mwenyekiti kusema kwamba ni karatasi ambazo hazina maana?

Sen. M. Kajwang: On a point of order, Mr. Speaker, Sir. The intent of asking for these documents is because they have dates and we are able to examine and see whether things were done in the proper sequence. Therefore, is the Chair in order to attempt to belittle the request by Sen. (Dr.) Khalwale?

The Speaker (Hon. Ethuro): Chairperson.

Sen. Kivuti: Mr. Speaker, Sir, the two Senators who just rose on a point of order failed to realise that I said the documentation is available. It can be given, but it may not add value. I did not say it is useless.

The Speaker (Hon. Ethuro): Order, Senators! Therefore, you are directed to table the documents.

(Applause)

Sen. Kivuti: Mr. Speaker, Sir, I took note that the documents being sought are the Environmental Impact Assessment (EIA), the report from the County Government of Murang'a and the public participation. These are the documents that have been sought by Sen. (Dr.) Khalwale. I will get them from the same source that I got all the compiled information.

Sen. Njoroge: Mr. Speaker, Sir, on a point of order. Since the report starts from 2012, let us get the documentation from that year to-date.

Sen. (Dr.) Machage: Mr. Speaker, Sir, would I be in order to request the documents to be tabled also include the HANSARD report of the County Assembly of Murang'a, either approving or disapproving that project?

The Speaker (Hon. Ethuro): Proceed, Mr. Chairperson.

Sen. Kivuti: Thank you, Mr. Speaker, Sir. On the question of cost, Sen. (Dr.) Khalwale wanted to be given a comparative study on how the combined cost of Kshs44.5 billion was arrived at. My concern here is when we are doing a project, we do not start by answering questions that are anticipated. Any engineer would sign a project depending on the parameters of that particular project and after the design, the project is tendered. After the tender, we expect there to have been competitive tendering process done and thereafter the implementation.

Since we know that implementation started in 2012, the documentation that would be tabled including the EIA, the report from the County Government of Murang'a and the public participation would bring out most of the answers to the questions which are being sought. Sen. (Dr.) Machage wanted to know---

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, on a point of order. As you will notice, the Chairman continues today to downplay the significance of my question. Whereas you are right to talk about the design, tendering and so on, the gist of my question was Ksh44.5 billion could very well be better used if we harvested the rain water. You know the amount of rain water that runs from rooftops in Nairobi is too much. We would like

that he give us a comparative study report because we are suspicious we do not trust Jubilee where money is concerned.

Sen. Kivuti: Mr. Speaker, Sir, if I answer that we need to do another study on comparative study on the amount of rainwater that falls in Nairobi, I think that goes beyond the answer to the Murang'a tunnel. I will request the Senator to bring this as a substantive Motion so that we urge the Government to carry out the study and the findings would be brought to the House.

Furthermore, it should be noted that when we talk about inter-basin water transfers mainly we talk about rain water collection. All the flood water that goes to the Indian Ocean actually is what is being harvested to be channeled into a dam for future use as opposed to taking water directly from the river for direct use.

Having said that, I should also mention about whether there were any resentments as requested by Sen. (Dr.) Machage from Murang'a people. This again will come out very clearly from the reports of the County Government of Murang'a which was discussed with the Athi Water Services Board and which eventually went for debate in the County Assembly of Murang'a. All that process will come to this House because we are going to get the documentation and it would be clear whether their issues were addressed.

Mr. Speaker, Sir, on the question of whether the former Prime Minister did actually participated in the innovation of this project, I believe that he was the Prime Minister until March 2013 and all the documentation we are talking about here starts from 2012. There is another question which was raised by Sen. Boy Juma Boy. First, I am surprised you did not notice that Sen. Boy Juma Boy used very unparliamentary language saying the statement is a big lie. I do not believe that is proper and I need your indulgence.

The Speaker (Hon. Ethuro): Order, Chairperson! How can you be surprised that I did not notice? Actually, the Chair was surprised that you did not object.

(Laughter)

Sen. Kivuti: Mr. Speaker, Sir, as you know, I do not make a lot of noise when people insult me.

The Speaker (Hon. Ethuro): I agree with the Chairperson and you need to withdraw that I did not notice because I actually noticed. Alisema hoja yake Mwenyekiti wangu anasema mambo ya uongo. Kama umesema si ya ukweli hatungekuwa na shida, lakini ulisema uongo. Kwa hivyo, Sen. Boy Juma Boy hayo maneno utayakula na kuomba msamaha.

Sen. Boy Juma Boy: Bw. Spika, kutokana na amri yako, nakubali uamuzi wako na kuyabadilisha badala ya uongo niseme si ya ukweli. Ninaomba msamaha kwa kusema uongo lakini Mwenyekiti wangu hasemi ukweli.

The Speaker (Hon. Ethuro): Sen. Boy Juma Boy, jana tulithibitisha hapa ya kwamba hakuna kabila linaitwa Swahili. Kwa hivyo, wewe nawe usitupatie Kiswahili kingi. Sikukuliza ubadilishe, tulikuambia yale uliyanena ambayo hayaambatani na

Kanuni za Bunge. Ninakusihi uyarudishe maneno hayo pahali uliyatoa. Uyakule tena halafu uombe msamaha. Malizia hapo.

Sen. Boy Juma Boy: Bw. Spika. Ndivyo nilivyofanya. Nimeyameza na nikaomba msamaha. Nimesema nilikosa kuyatamka manaeno hayo. Lakini sio ukweli nimeondoa uongo na nikaweka ukweli.

Kwa hivyo, naomba msamaha kwa lugha hiyo na huo ndio ukweli wa maneno.

Sen. (Dr.) Khalwale: Bw. Spika, kwa hoja ya nidhamu: Imekuwaje leo unamuuliza Sen. Boy Juma Boy awajibike kwa matamshi yake kwa jambo ambalo limekuwa limepitwa na wakati. Hili ni jambo kulingana na mpangilio wa Kanuni za Bunge leo ilistahili kwamba Seneta Mwenyekiti asimame kwa hoja ya nidhamu wakati ule ule. Imekuwa aje umependua taratibu ya kufanya shughuli katika Bunge hili?

The Speaker (Hon. Ethuro): Hatujapindua, ni matamshi Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale, jambo ulilosema sio ukweli. Wakati hujapita kwa sababu Mwenyekiti alikuwa na nafasi ya kumjibu Sen. Boy Juma Boy. Wakati ungekuwa umempita kama mazungumzo hayangekuwa yanaendelea.

Endelea, Mwenyekiti.

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. (Dr.) Machage, what is your point of order? Nitashukuru ukizungumza kwa Kiswahili.

Sen. (Dr.) Machage: Bw. Spika, ukitafakari aliyosema Mwenyekiti, utakuwa na uamuzi moja kwamba hakujibu swali hata moja ya yale maswali ya ziada aliyoulizwa. Nakusihi umshurutishe Mwenyekiti arudie kulijibu swali hili tena katika kikao kingine.

Sen. Kivuti: Mr. Speaker, Sir, I hope that is a supplementary request from Sen. (Dr.) Machage. With your permission, I may repeat the questions that were asked and give the answers.

The Speaker (Hon. Ethuro): Order, Chairperson. You were responding to the issues raised by Sen. Boy Juma Boy. You should exhaust your replies and then consider Sen. (Dr.) Machage's issue, which is not inviting you in any event to revisit. He is only asking whether you can come back with the documents or otherwise, as you promised. That is how I will treat this.

Proceed the way you were doing before the interruptions.

Sen. Kivuti: Mr. Speaker, Sir, I have respect for Sen. (Dr.) Machage. However, I do not understand why he would rise on a point of order to say that questions have not been answered, yet I have given straight answers. For example, I have given the date when the project was started.

With your permission, I will proceed to give the rest of the answers.

The Speaker (Hon. Ethuro): Proceed. You have actually responded to Sen. (Dr.) Machage's two questions.

Sen. Kivuti: Mr. Speaker, Sir, regarding the question on the cost of the project going up, I do not know whether Sen. Boy Juma Boy was referring to the project of Mwache Dam, which is in his county. Which particular dam does he feel the cost could have gone up? I am ready to give any supplementary information when I bring the rest of the documents requested by Sen. (Dr.) Khalwale and Sen. (Dr.) Machage. The Jubilee Government is very open to give all the information.

Sen. M. Kajwang wants to see a copy of the signed contract, which is a request for documentation to be tabled, unless otherwise stated. The second question that he asked is how the water will be drained when it comes to Nairobi. I want to put the record straight that when we construct a dam to contain water during the rains, it does not mean that all that water is poured into Nairobi at ago. The water will be used in the normal way through taps, the same way we use it today. Due to population growth and the continuous construction of houses, the consumption of water will go high. We will not collect the water and we will pour it into Nairobi. It is clearly stated that the water is for domestic use. Since the population is growing, domestic consumption will go up.

Sen. Mositet wants to know more about Nol-Turesh and how many people were affected; I believe that this request falls outside the Statement which was sought. If Sen. Mositet could request a statement on Nol-Turesh, we will look into it and get the proper answers.

Finally, on the question of audit of dams, I find nothing wrong with auditing dams, roads, Ministries, governors and everything that is spent in Kenya. That is why we have an Auditor-General. It would be good for Kenya if a special audit was done. I have no objection to that.

Mr. Speaker, Sir, if you allow me, I would like to state that I have carefully looked at all the five questions and answered them point by point, giving dates and figures, to the satisfaction of the Senator who requested for the Statement. That is not to say that other Members may not bring supplementary questions. I am ready to supply the documentations requested for.

For that reason, I think the Statement is good for this House.

The Speaker (Hon. Ethuro): Order, Senators. Chairperson, I agree with you that you have responded very well, in your usual manner and you need commendation. When will you table the documents that you have promised?

Sen. Kivuti: Mr. Speaker, Sir, since the documents will come from various sources, I request for two weeks.

The Speaker (Hon. Ethuro): You will not manufacture the documents; it is about retrieval from the same sources which you referred to. Those documents should be tabled here on Thursday next week. You have one week to go.

Sen. M. Kajwang: Mr. Speaker, Sir, I want to indicate that one of the questions that I asked was not responded to my satisfaction because it was misunderstood.

The Speaker (Hon. Ethuro): Sen. M. Kajwang, which one was it?

Sen. M. Kajwang: Mr. Speaker, Sir, when I requested for an explanation on how the increased volumes of water coming into Nairobi would be drained out, I did not mean the simplistic explanation that the Chairperson has given.

What is the sewage plan for Nairobi that goes hand in hand with this water project that goes into Nairobi? I would be happy if that could be addressed. If it comes alongside the documents next week, I would still be happy.

The Speaker (Hon. Ethuro): Sen. M. Kajwang, you are right. The Chairperson responded that all the water will not be brought to Nairobi. However, the whole purpose of the project was to get water to Nairobi. Definitely, volume will be increased and the associated drainage would also be needed. Since we have taken a bit of time on this

question, you can bring it at any other time or share with the Member. If he is dissatisfied, he can raise it again with the Chair.

Sen. Kivuti: Mr. Speaker, Sir, I am trying to look at the particular part. The Northern Collector Tunnel is not a project by itself.

The Speaker (Hon. Ethuro): Order, Chairperson. We have concluded this matter. If you feel that you need more explanation, you can share with Sen. M. Kajwang. If you will need to tell the rest of the House, you will approach the Chair and we will allocate another time. For now, I am satisfied that you have discharged your responsibility; do not spoil it.

BUSINESS FOR THE WEEK COMMENCING TUESDAY,
15TH NOVEMBER, 2016

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Speaker, Sir. I wish to issue the Statement on the business for next week. I want to start by thanking my colleagues for a job well done.

In the past one week, we have been able to pass six Bills. These are:-

- 1.) The County Governments (Amendment) Bill (Senate Bill No.4 of 2016).
- 2.) The Reproductive Health Care Bill (Senate Bill No.17 of 2014).
- 3.) The County Outdoor Advertising Control Bill (Senate Bill No.11 of 2015).
- 4.) The Employment (Amendment) Bill (Senate Bill No.1 of 2015).
- 5.) The County Library Services Bill (Senate Bill No.6 of 2015).
- 6.) The Petition to County Assemblies Procedure Bill (Senate Bill No.35 of 2014).

This would not have been possible without dedication and I want to appreciate colleagues for a job well done.

Mr. Speaker, Sir, next week, the usual meeting on Tuesday of the Senate Business Committee (SBC) will take place at 12.30p.m. to schedule the agenda. Subject to that meeting, we will have the Bills that are in Second Reading stage prioritized for Tuesday.

On Wednesday, 16th November, 2016, subject to the SBC's decisions, the Senate is expected to concentrate on Bills that are in the Committee of the Whole stage. They include the following:-

- 1.) National Hospital Insurance Fund (Amendment) Bill (Senate Bill No.9 of 2015).
- 2.) The Parliamentary Powers and Privilege Bill (National Assembly Bill No.35 of 2014).
- 3.) The Alcoholic Drinks Control (Amendment) Bill (Senate Bill No.5 of 2014).

The Senate will consider any other business that may be scheduled by the SBC.

On Thursday, 17th November, 2016, the Senate is expected to concentrate on Motions as well as Bills in the Second Reading.

Mr. Speaker, Sir, I want to take this opportunity to request colleague Senators to avail themselves next week as we move towards the end of our penultimate session of

our term. We only have one more Session to go, which starts in February. This Session ends on 1st December, 2016. So, we have less than three weeks to do what we must.

Thank you once more, and I wish you a good weekend ahead.

The Speaker (Hon. Ethuro): Sen. Mutula Kilonzo Jnr.!

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, there is a pending issue. There are three constitutional Bills which require 45 Members. We thought that today would be the day to make that pronouncement as to the upcoming business and the day that you have designated specifically for that. Unless we do so, we will go into the session that the Majority Leader has mentioned without voting. We agreed that to achieve that objective is itself a herculean task.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. Allow me to thank the Senate Majority Leader for the Statement he has issued.

The Speaker (Hon. Ethuro): Order, Senators. If Sen. Mutula Kilonzo Jnr. could learn from Sen. (Dr.) Khalwale, it is good to appreciate first before you raise the pending matters.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I appreciate the Senate Majority Leader for making sure that this week his Statement is signed and he is here.

The Speaker (Hon. Ethuro): Senate Majority Leader, what Sen. Mutula Kilonzo Jnr. has just said is important. This matter has been debated here and I have given a directive. Your Statement will not be admissible if it is not signed. It should also be clear who should read it. In your absence, make sure that there is a written communication to me on who is responsible while you are away. Failure to do so might invite sanctions.

Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, despite my appreciating the Senate Majority Leader, I am amazed. In fact, there are many Kenyans that I am joining who are shocked that it is over 48 hours since Mr. Donald Trump became President-elect. America plays a key role both in the bilateral relationship and development agenda, including the security of this country.

Has it not occurred to the Senate Majority Leader that he should lead this House in formally acknowledging the win by Mr. Donald Trump? Further, compounded by the fact that the country is not aware of any signed statement by the President to congratulate Mr. Donald Trump, is he confirming that the Jubilee Government is not happy with the win of President-elect, Mr. Donald Trump?

Be it as it may, Mr. Speaker, Sir, allow me to take this opportunity to congratulate Mr. Donald Trump for his historic win, which was hard fought. I also wish to congratulate Hillary Clinton---

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. You always remind the Chair of being relevant to the Standing Orders.

The Senate Majority Leader issued a statement on the business of the Senate for the coming week. I see your point, but you should raise it separately.

What is it, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. If you listened to Sen. (Dr.) Khalwale's point of order, it carried an introduction of a tradition that has not been the practice of this House. He says that this House has to acknowledge the election of

presidents of every friendly country. Would I be in order to request that you rule on the same; that America is prioritized on this?

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I am guided from your directions. I was just concluding by congratulating Mr. Donald Trump for winning this historic election. I also want to congratulate Hillary Clinton for the big fight that she put up.

I want to use this opportunity to sound a soft warning to the media of the world, including the Kenyan media and the pollsters that they have to remain within the ambit of their mandate. The media is not expected to create news; it is expected to report in events that become news. Yesterday, even before the election was over *The Standard* Newspaper, on its front page, announced to this country that Hillary Clinton was the next President of the United States of America.

Polling companies also made the same error. We must take this as an opportunity to learn that polling companies are not always correct and that not everything that we read in the media is correct.

Finally, allow me to congratulate the First Lady in waiting, Melania Trump, for the fantastic role that she played in managing the campaign of Donald Trump.

Sen. G.G. Kariuki: Mr. Speaker, Sir, just to ask for guidance from you on whether Sen. (Dr.) Khalwale was speaking on behalf of the Opposition or the Senate. If that is the case, will this matter be debated by the whole House or we assume what Sen. (Dr.) Khalwale has represented the entire Senate and the country?

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, you may wish to clarify in what capacity you were speaking.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, when I rose, I just rose as a Senator of the Republic of Kenya. It is a fact that I do not hold any office in this Senate. Therefore, I could not possibly speak on behalf of the Senate. However, as a Member of the Opposition, I was expressing our surprise that the Government of Kenya has not hailed the victory by Donald Trump.

Sen. (Dr.) Machage: On a point of information, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, do you wish to be informed by Sen. (Dr.) Machage?

Sen. (Dr.) Khalwale: Yes, Mr. Speaker, Sir.

Sen. (Dr.) Machage: Mr. Speaker, Sir, let me remind Sen. (Dr.) Khalwale that in the 2013 General Election, the polling was showing the CORD party was leading. So, what happened in USA is nothing very radical. It happens.

Sen. Chelule: On a point of order, Mr. Speaker, Sir. Is it in order for Sen. (Dr.) Khalwale to discuss the outcome of the elections of the USA before the matter is introduced to this House through a Motion? I need clarification.

The Speaker (Hon. Ethuro): Order, Members! Sen. G.G. Kariuki and Sen. Chelule have wondered whether Sen. (Dr.) Khalwale, was in order to express his views on the election on the President elect of USA and whether the Government had given a congratulatory message and in which capacity. Indeed, he has confirmed that he was speaking as the Senator for Kakamega County in the Senate of the Republic of Kenya. Speaking during Statement Hour, it is proper that a Member can raise an issue that he

feels is important. Definitely, elections outcome in the USA are important to the world, including Kenya. So, there is no doubt about that one.

My problem with him is that he was trying to fault the Senate Majority Leader when the mandate of the Senate Majority Leader was just to give a statement on business of the week for the Senate. So, he is perfectly in order to raise that particular matter. We may also wish to guide him and, perhaps, given the other perspective – given the mood of the House yesterday, which I had to work very hard to restrain by invoking orders of anticipating debate – you may wish to also give the other side. However, that is not an invitation for you to comment because you have the right to remain silent.

On that basis, Sen. G.G. Kariuki, the Senate has not made a decision on this matter. There is no need for such a decision. It is really up to the Members individually, collectively or as a political party to express their views. They will just remain as views. That is the way I dispose of that issue.

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF PUPILS AND TEACHERS FROM SCHOOLS IN BOMET COUNTY

Hon. Members, I wish to recognise the presence of visiting pupils and teachers from St. Mary's Mixed Day Primary School and St. Mary's Girls' Boarding School, Bomet County. They are seated at the Public Gallery.

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

Thank you.

Hon. Members, I think we can take one more statement because those are the ones which we have responses on record.

(Resumption of Statements)

STATEMENTS

STATUS OF THE NATIONAL SECURITY COMMUNICATION SYSTEM

Sen. M. Kajwang': On a point of order, Mr. Speaker, Sir. There is a Statement listed on the Order Paper which I expected would be responded to. I am just seeking your guidance.

The Speaker (Hon. Ethuro): Which Statement?

Sen. M. Kajwang': Mr. Speaker, Sir, Statement (f). It came to this House in March. To date, eight months later, a response has not been given. Could you guide us in the spirit of being dutiful, expeditious and useful to the citizens of this nation? When a

statement goes for eight months and a lot of water gone under the bridge, would it not be useful for us to give some guidelines on how long a statement should take? We have that for petitions and Bills, but not for statements. You could do so under Standing Order No.1.

The Speaker (Hon. Ethuro): Order, Sen. M. Kajwang'! It is obvious that chairpersons will usually ask for two weeks. So, that is already appreciated. It is a standard practice or procedure in the Government and I do not expect any less. So, your statement should appear on the Order Paper on Tuesday, next week. I expect the Chairperson and the Vice Chairperson of that Committee to be present.

On the other matter raised by Sen. Mutula Kilonzo Jnr. in terms of getting quorum for the divisions on constitutional Bills, I wish to direct, and Senate Majority Leader and Opposition Whip, you better be listening.

(Sen. (Prof.) Kindiki continued to consult)

The Senate Majority Leader does not even seem to recognise his own name.

I made reference to the Senate Majority Leader and the Vice Chairperson of the Committee on Legal affairs and Human Rights. This might be of more than passing interest to you. I direct that the House will consider those constitutional Bills on Wednesday, next week. I will take a personal roll call. You have to give me better reasons. There will be no reasons unless you are really indisposed to be away from the Chamber that day.

COLLECTION OF LEVIES BY MCSK AND KAMP-PRISK FROM BUSINESS PREMISES AND PUBLIC TRANSPORT VEHICLES

We are on Statement (c). Unfortunately, the Chairperson seems to have stepped out of the House but the Member who sought it is still present. That Statement should come and the rest of the Statements should be spread over next week. That will bring us to the end of the Statements Hour.

(Statement deferred)

COMMITTEE OF THE WHOLE

(Order for Committee read)

[The Speaker (Hon. Ethuro) left the Chair]

IN THE COMMITTEE

[The Temporary Chairperson (Sen. (Dr.) Machage) took the Chair]

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT
OF ECONOMIC AND SOCIAL RIGHTS BILL
(SENATE BILL NO. 8 OF 2015)

The Temporary Chairperson (Sen. (Dr.) Machage): Order Members. We are in the Committee of the Whole.

Sen. (Dr.) Khalwale, we might need your guidance on this as a veteran of this House.

On Order No. 8, the Mover, Sen. Hassan, is not in the House.

Sen. Sang: Mr. Chairman, Sir, although the Bill is sponsored by Sen. Hassan, the amendments are by the Committee on Legal Affairs and Human Rights. I and Sen. Mutula Kilonzo Jnr. are here to move the amendments.

The Temporary Chairperson (Sen. (Dr.) Machage): That is why I wanted you to listen carefully. It is normal practice for this House that when amendments are being made, the owner of the Bill has to be in the House either to agree or disagree with the amendments. I remind you that that is what should happen as Sen. (Dr.) Khalwale would say.

Sen. Sang: Mr. Chairman, Sir, I totally agree with your ruling but I do not know whether it makes any difference in this case because Sen. Hassan is a Member of the Committee on Legal Affairs and Human Rights. He agreed with the amendments we proposed to move because we adopted the amendments as a Committee.

The principle is that the sponsor of the Bill ought to be present. However, we will have no objections with any guidance that you will give.

The Temporary Chairperson (Sen. (Dr.) Machage): It is only one omission.

Sen. (Dr.) Khalwale: Mr. Chairman, Sir, your directive is correct. However, I would like to request you to invite the Chair of the Committee so as to confirm two things. First, did Sen. Hassan attend the meeting that adopted those amendments? Secondly, has he given his consent to the amendments? If that be the case, then it is possible that---

The Temporary Chairperson (Sen. (Dr.) Machage): And three, do you have any written document directing that you lead in the moving of the amendments on his behalf?

Sen. Sang: Mr. Chairman, Sir, the third is straight forward. If you look at the notices for amendments, it reads:-

“NOTICE is given that Sen. Amos Wako, the Chairperson to the Standing Committee on Legal Affairs and Human Rights, intends to move the following amendments to the Preservation of Human Dignity and the Enforcement of Economic and Social Rights Bill, 2015, at the Committee Stage.”

Mr. Chairman, Sir, for your information, I am the Vice Chair and therefore---

The Temporary Chairperson (Sen. (Dr.) Machage): The notice did not say the “Chair”. It is specific to Sen. Wako. To my knowledge, you do not share that name at all either as a sibling, a brother or a son.

Sen. Sang: Mr. Chairman, Sir, I agree. However, the title is the Chairperson of the Committee. I cannot confirm that Sen. Hassan was present in the meeting.

Sen. Mutula Kilonzo Jnr.: Mr. Chairman, Sir, I confirm that when we discussed the matrix of the amendments to this Bill, Sen. Hassan was present and agreed to the proposed amendments. There are some we disagreed but they are not on the Order Paper. However, he agreed to these proposed amendments.

Yesterday, we voted on a Bill on whose amendments I proposed but were moved by a different Senator. Therefore, the practice in the Committee of the Whole must be consistent because another Member moved the amendments on my behalf. I did not give any written consent but the amendments were moved on the County Outdoor Advertising Control Bill. It is fair that you direct.

Thank you.

The Temporary Chairperson (Sen. (Dr.) Machage): This is my ruling. I believe in the orthodox way of looking at our Constitution and the Standing Orders. I also believe in tradition when it comes to matters of running the House of Parliament. I have only one obligation and one way to solve this. That is to order that Sen. Mutula Kilonzo Jnr. reports progress on this.

So, can you approach the Chair? We will now have to report progress.

Sen. Mutula Kilonzo Jnr.: Mr. Chairman, Sir, pursuant to Standing Order No. 139, I beg to move:-

THAT the Committee of the Whole reports progress on the consideration of The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill.

(Sen. Murkomen stood in his place)

The Temporary Chairperson (Sen. (Dr.) Machage): Order Sen. Murkomen. You know your Standing Orders well. Not more than one person should be on his feet. We are still at the Plenary of the House. Sen. Murkomen, can you sit next to Sen. G.G Kariuki and assist him. Well, you are a good anthropologist.

Sen. Mutula Kilonzo Jnr., please repeat.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, pursuant to Standing Order No.139, I beg to move that the Committee of the Whole report progress on its consideration of The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No.8 of 2015) and seeks leave to sit again tomorrow.

Sen. Mositet seconded.

(Question proposed)

(Question put and agreed to)

(The House resumed)

(The Temporary Speaker (Sen. Sang) took the Chair)

PROGRESS REPORTED**THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF
ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO.8 OF 2015)**

Sen. (Dr.) Machage: Mr. Temporary Speaker, Sir, I beg to report progress that the Committee of the Whole has considered The Preservation of Human Dignity and Enforcement of the Economic and Social Rights Bill (Senate Bill No.8 of 2015) and seeks leave to sit again tomorrow.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said report.

Sen. Cheruiyot: Mr. Temporary Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. Sang): Very well.

Next Order .

COMMITTEE OF THE WHOLE**THE NATIONAL CEREALS AND PRODUCE BOARD
(AMENDMENT) BILL (SENATE BILL NO.15 OF 2015)**

The Temporary Speaker (Sen. Sang): Hon. Senators, with regard to Order No.9 I am informed that although the Mover of the Bill is here, the Standing Committee on Agriculture had requested that this be stood over to next week. We will, therefore, defer the Order.

What is it, Sen. Kittony?

Sen. Kittony: On a point of order, Mr. Temporary Speaker, Sir. If the Chairperson is not in, I do not think it is fair for him to request for it to be deferred again. If at all he has requested, then he should be here. This Bill has been here from 2015. It has taken a long time. If at all it has to be deferred, I would like it to be dealt with it within next week, but not longer than that.

The Temporary Speaker (Sen. Sang): Order, Sen. Kittony! Order, Sen. Murungi, the Chairperson, Standing Committee on Agriculture. We have the National Cereals and Produce Board (Amendment) Bill (Senate Bill No.15 before us. While your Vice-Chairperson was in the House acting on your behalf, there were consultations between her and the Chair. The Chair granted a request by the Committee on Agriculture that this be deferred to next week. Therefore, Sen. Kittony, it is being deferred not indefinitely, but to next week. This was a decision that was made by the Chair, and I am inclined to give the same directive. So, it is deferred to next week.

Sen. Kittony: Mr. Temporary Speaker, Sir, most obliged. I had also consulted the Speaker when I realised that there was lobbying.

(Committee of the Whole deferred)

Next Order!

COMMITTEE OF THE WHOLE

THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILL NO.15 OF 2015)

The Temporary Speaker (Sen. Sang): Since the Chairperson of the relevant Committee is not present I will defer the Order.

(Committee of the Whole deferred)

Sen. Omondi: On a point of order, Mr. Temporary Speaker, Sir. This is doing a disservice to my Bill because it has been here for so long. This Bill touches on the lives of marginalized groups and they would like to see us conclude its deliberation.

The Chairman was here and I fail to understand why he decided to go away, knowing very well that he was supposed to move the amendments.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I stand corrected if you so find. My understanding is that when this Bill is called out, the most responsible person is the Mover, Sen. Omondi. If in the process she then reports to this House that the Bill had gone to the Committee, she has reasons to believe that the Committee is either improving or concurring with it. Then she would like to wait for the Committee to come and so say, then it is when we will defer it.

The Temporary Speaker (Sen. Sang): Hon. Senators, indeed, what Sen. Khalwale is saying is true. However, you will note that we have proposed Committee amendments by Sen. Madzayo. This Bill is coming for the first time on the Order Paper for Committee of the Whole with those amendments. I appreciate the concerns made by the Mover of the Bill. I direct that this appears in the Order Paper next week. If the Chairperson will not be present in the House to move those amendments, then we will have no option other than to drop amendments and we proceed with the Bill as it were. I, therefore, direct that.

We will defer Order Nos.11 and 12.

Second Readings

THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILL NO. 5 OF 2016)

THE IMPEACHMENT PROCEDURE BILL (SENATE BILL NO.8 OF 2016)

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(Bills deferred)

THE COUNTY STATISTICS BILL (SENATE BILL NO.11 OF 2016)

Sen. Lesuuda: Thank you, Mr. Temporary Speaker, Sir. I beg to move that The County Statistics Bill (Senate Bill No.11 of 2016) be now read a Second Time.

Mr. Temporary Speaker, Sir, since we passed the Constitution, this is the first time we are implementing the devolved system in our country. It is important that as we continue to execute the mandate of the Constitution in regard to county governments, we should make laws that empower devolution. This Bill will breathe life to Part 2 of the Fourth Schedule of the Constitution that sets out the functions of the county governments.

One of the functions that have been devolved to the county governments is county planning and development, which includes statistics, planning, land survey and mapping, boundaries and fencing, housing, electricity and gas, reticulation and energy regulation. Statistics is a very important function in any nation, especially in the counties.

This Bill also expressly stipulates how statistics will be collected and disseminated to the public. Most importantly, it sets out how these statistics will be used in decision making in our counties. There have been various reservations regarding the kind of information that the county statistics office will collect. The Bill clearly states that the county statistics office will look at the functions that have been devolved. It will not look into matters to do with population. It was a concern of many that we should not give the counties this important function.

This Bill will ensure that we get statistics of the functions that have been devolved to counties to ensure that it influences the executive, the county assemblies and members of the public to get information about the functions that have been devolved. This is something that we should have had in place earlier. Without information and statistics, we cannot make scientifically proven decisions in the counties.

In our counties, for example, we have devolved the Early Childhood Development Education (ECDE). The decision by the county executives in terms of the population of an ECDE institution and where it should be located should be informed by scientific research. We should not use resources haphazardly in the counties without having information that guides the executive to make some of the decisions.

Information on the health facilities showing the numbers of staff and what is needed should be available to any person. For example, a Senator should be able to walk to the county office and find out, for example, whether water supply has improved since the county government came into office. We should also get credible information on issues to do with agriculture in the counties.

Mr. Temporary Speaker, Sir, in some of the counties, governors go round saying that since they got into office, they have been able to do A, B, C and D, using certain funds. However, there is no method of verifying whether what they say is true. It is not easy to ascertain whether our funds are used appropriately in the manner they should. Therefore, if we have this office in our counties, it will ensure that we get the information that we need.

Members have also raised questions as to whether we need a Bill or make amendments to the Statistics Act. My reasoning is that it would be important to harmonize how all our counties will be collecting statistics. For example, Samburu, Makueni and Nandi counties should have a uniform way of collecting statistics. To ensure uniformity in how our counties will keep records on the devolved functions, it is important that we, as the Senate, agree on a certain way of collecting this information. It is important to have a framework of how we will collect statistics and disseminate information in our counties.

Mr. Temporary Speaker, Sir, it is also important to have a separate office from the executive, so that we give sensitive matters autonomy to avoid manipulation and have factual information.

The reason many Kenyans passed the Constitution in 2010 and embraced devolution was to ensure that resources trickle down to the public. Counties are divided into wards and sub-counties so as to ensure that the funds and the services are accessible to all. Probably, resources go down to the counties, but they do not reach some sub-counties and wards. Through this Bill, those who will be entrusted with that responsibility will show us how the resources have been utilised in the various sub-counties, wards and how members of the public are accessing services at the county level.

Mr. Temporary Speaker, Sir, there is also the issue of the independence of the office of the statistician to ensure that there is no manipulation from the executive.

When we were doing public participation, there was concern from the national Government on the existence of a Ministry which is already responsible for planning and development at the national level. We also have the Kenya National Bureau of Statistics (KNBS) which is supposed to do this. I think there was wisdom in those who put it under Schedule 4(2) and say it becomes a county function. We need to keep eyes on what is happening in our counties especially on the functions that have been devolved. We are not saying that we taken away the work of KNBS but we need to know and get information on the matters that have already been devolved and this office will be responsible for doing the same.

Mr. Temporary Speaker, Sir, it is also the same structure we have taken that we already have the Ministry of Devolution and Planning which is there in the national Government but we still have KNBS which goes ahead to deal with issues on statistics. One of the things that we need is for this information to get to the people so that members of the public can access it.

We know that as much as we have KNBS in the form that we have embraced devolution, in their mandate, it is not expressed how they should be dealing with county matters. That is what this Bill will be looking at and the whole factor of access to information. It is important that as we devolve functions and resources, information should be devolved to the public so that it does not end at the national level. Sometimes accessing information at the national level continues to be a challenge. One of the things that this Bill will look at is ensuring information is readily accessible.

Mr. Temporary Speaker, Sir, having taken into consideration some of the concerns that the national Government has in matters statistics and how we both share it, the Bill has taken that into consideration to ensure that the County Statistics Office and

the national Government share information. Despite the specific allocation of functions to the national and county governments at Part IV of the Fourth Schedule to the Constitution, consultation and cooperation between the two levels of government on all matters to do with statistics is also required. The Bill has taken care of that.

When I go into the details of the Bill later, we will see how they will be cooperating and sharing information. It is necessary and required under Article 6 (2) of the Constitution which provides that the governments at the national and county levels conduct their mutual relations on the basis of consultation and cooperation.

Mr. Temporary Speaker, Sir, there is also the issue of Clause 13 of the Bill. When I go into its details later, we are going to look at how the issue of consultation and cooperation will be taking place at the county and national levels. If I go to the content of the Bill, I hope you can enrich this Bill as we go into the debate and the Committee of the Whole on how best we can empower this office so that it serves the purpose that is intended.

As I had earlier said, the County Statistics Office will be responsible for collecting, compiling, analyzing, extracting and disseminating statistical information on the matter set out in Part 2 of the Fourth Schedule of the Constitution so that we are specific that it is on the functions that have been devolved. That is what this office will be looking at.

The other issue is maintaining a comprehensive and reliable social economic database. We need to be scientific to know how our counties are doing since we devolved our funds and the devolved functions when we passed the Constitution. We had been saying that the counties that had been marginalized for a long time – with the assumption and it could be true – because all resources and systems were based at the Central Government. We want to see how the social aspects of the people in our counties have changed. How have our counties' economies changed? It is only through this database that we will know.

Mr. Temporary Speaker, Sir, the other one is ensuring coordination of the operations of official bodies in the county in the compilation and dissemination of statistics and related information with particular regard to the avoidance and duplication in the collection of statistical information so that you do not go to the Ministry of Health in the county and they give you their own information. They tell you maternal health has improved in our county since we devolved health. You go to the Ministry of Water and Irrigation, they will tell you that they have improved. I do not think any Ministry in the counties or the national Government would want to give you the negative statistics from their various Ministries. That is why it is important that they work in consultation with this office. This Bill anticipates them to execute their mandate without interference from the county executive, to give the correct information on what is happening in the counties.

Mr. Temporary Speaker, Sir, the other one is the attainment of compatibility and the integration of statistics compiled by official bodies. This office will collect information that has been compiled by other official bodies to a central place. It is important that we get all official communication from this office.

There was the maximum possible utilization of statistics for purposes of information and means of collection of information available to official bodies. There will be various regulations for anybody who wants to go and collect information in our counties. There will also be an office that they will engage in the counties so that there is uniformity on how information and statistics are collected in our counties.

Mr. Temporary Speaker, Sir, another important role that this office will have is to advise the county governments on all matters related to the use and development of statistical information. It is said that if you fail to plan, you will be planning to fail. We do hope that this office will play this critical role especially in the process of budget making in our counties. It is important to see why a certain amount of our county budget should go to a specific area. We need that information so that we do not assume that a particular county this and yet their fair share of their budget should be this. It is not by assumption because we know what assumptions do. It is the mother of other bad things. So, we do not want to make assumptions when making critical decisions on what percentage of our budgets should go into various dockets. The office statistician working together with the CEC in charge of finance will play a critical role to ensure that they make decisions on what needs to be done in terms of development.

The other important role is providing liaison between the national and county governments on matters relating to statistics. I have talked about it. It is important for the two levels of government to engage so that even later when we are doing Division of Revenue, it will be guided. Also, since we will be collecting information in a uniform manner across all counties, that information will be shared with the national Government. According to the Constitution, the two levels of Government will continue to collaborate and consult on matters touching counties.

Mr. Temporary Speaker, Sir, the fifth thing is coordinating the county statistical system. This office will be in charge of all matters regarding data and statistics. It will also be useful in developing and using statistical standards and appropriate methodologies, subject to the direction of the committee in the County Statistical System. We know that it is not just anybody who can claim that they can handle statistics. It is an expertise. So, it cannot just be left to individuals or dockets. It is important that we get people with the relevant expertise in our counties to develop the standards that will be used to collect this data.

The second last issue as stipulated in the Bill is monitoring the technical quality of official statistics and promoting adherence to good practices and international recommendations and standards. This office will come up with standards that will be used by both that office and anybody else who would want to know how they can engage in terms of collecting data. The office will have that information readily available in the counties.

Lastly, it will carry out all other functions relating to statistics which have not been mentioned in this Bill. They will come up with the functions provided that they stick to issues to do with statistics and data collection.

We took a lot of time to deliberate on how then we can have this office in place in counties. It is for the reason that I said it needs to have its autonomous way of working so that it is not an extension of the governor's office, where they will be asked to say this is

what we have done or not done while it is not what is on the ground. So, we thought about it and came up with a County Statistics Board.

The chairperson of the Board will be competitively recruited and appointed by the governor, with approval of the county assembly. The County Executive Committee (CEC) member in charge of matters relating to statistics or a person designated by the CEC member will also be invited to this Board. We have agreed that it is very important that the executive docket on finance works very closely with the office of the statistician. The CEC member in charge of matters relating to finance will also sit in this Board so that we do not employ somebody new, but he becomes an express person to sit in this Board. The county statistician will be in this Board as an *ex-officio* member and also the secretary of the Board.

Mr. Temporary Speaker, Sir, collecting and disseminating data will not be the work of only staff who will be recruited for it. The staff will also advise on matters to do with policy at the county level and give information. It is important that all these Members look at it wholesomely. While working on it, we looked at the structure of the KNBS and borrowed from it. We looked at the county statistician himself. This is the person who will be in charge to ensure that this office is working. He will be the Chief Executive Officer (CEO) and shall, under the direction of the Board, be responsible for the day-to-day management of the County Statistics Fund and staff, among other functions. We also put the qualifications that will be needed. We said that this is an expertise which needs a very competent person on statistical matters. The individual will hold a degree in statistics, information technology, economics, social services or mathematics and have experience in this field of statistics.

We have also put guidelines for the suspension or removal from office of the statistician, staff and the person seconded to the office. We said that the county statistician may arrange with a national Government agency, authority or an international organisation to have people seconded even to establish the office. This is important because it is a new office in counties. They can request for secondment in order to establish and put the systems in place to ensure that the collection of data is done smoothly in counties.

While deliberating on how this information can be shared between the national and county government, ---

Sen. Murkomen: On a point of order, Mr. Temporary Speaker, Sir. I did not mean to interrupt the Mover because she is presenting very eloquently. This Bill is authored and presented to this House by Sen. Lesuuda. However, in her moving notes, she keeps saying: "we". Who are these "we"?

The Temporary Speaker (Sen. Sang): Sen. Lesuuda, who are "we"?

Sen. Lesuuda: Mr. Temporary Speaker, Sir, we know how we operate in coming up with a Bill. So, I am still thinking that I am engaging with the many others that we sat to deliberate on this matter and even at the level of public participation with the Committee. However, I am so guided. It is my Bill.

I was at the point of how best the national and county governments will share this information and ensure there is consultation between the two levels of Government. It

will be important to have a consultative committee which can meet twice a year to ensure that these fears and aspects are taken care of. It will consist of:-

- (1) a governor who shall be the chairperson and will be nominated by the Council of Governors (CoG);
- (2) the Principal Secretary (PS) in the Ministry for the time being responsible for matters relating to statistics;
- (3) two CEC members responsible for statistics matters and shall be nominated by the Council of Governors (CoG); and
- (4) five other members appointed by the Cabinet Secretary (CS) to represent the bodies for the time, being recognised by the Government as representing the private sector, Non-Governmental Organisations (NGOs), research institutions, public universities and the national coordination agency for planning and development.

Mr. Temporary Speaker, Sir, when one looks at this Bill, it has many structures. As a nation, I believe we should be guided by our data and policies in order to make decisions on governance at the national and county levels.

One may ask what the role of this committee is. We need to develop strategies which will ensure uniform standards, policies and methodologies, amongst the various officers who will be collecting information across all the counties. At the national level, it is important that we have uniform standard.

Mr. Temporary Speaker, Sir, since this is a devolved function, you could find that some counties are already doing it. We want uniformity in all our counties so that there is a threshold of data collected so that there is no much discrepancy. Once the Bill is passed, it will be important for all the counties to have these offices. At the national level, we have been doing it through the Kenya Bureau of Statistics. Therefore, they can share with the county governments on some of the best practices that they already have in place.

Secondly, the committee will examine and make recommendations on the formulation and implementation of statistical programmes of the various offices of counties' statisticians on an annual basis. It will be a time to review some of the successes that they have made in their respective counties. It is one of the areas that are not static. I am sure they always come up with new methods and success stories and how to improve the collection of data in our counties.

Mr. Temporary Speaker, Sir, thirdly, it will develop a framework for coordination within the county statistical system. It is important to have a framework for coordination in the counties. It will also coordinate the harmonisation of national and county policy and methodologies relating to the statistics. It is important that the national Government appreciates devolution and what was envisaged in the Constitution. It is time we became open minded and accepted them because they were thought out. They are important and need to be implemented in our counties. We need to harmonize the national policy - because we have a policy on statistics - and the county policies. It is not enough to say that it is not viable but to get into it and implement it. The two policies should be harmonised to ensure that this works in the counties.

We have continued to experience a resistance to some of the functions that are expressly stated in the Constitution that are supposed to be devolved. However, some of

the functions need to be held at the national Government. It is upon this House to do that. We will be doing a disservice to our counties if we do not enact legislation that empowers our counties to execute their mandate. So, this committee will harmonise how statistics will be collected in the counties.

Mr. Temporary Speaker, Sir, it further provides on matters; information. It ensures that there is access to the respective statistical information by both parties; that is both from the KNBS and the office of the county statistician. The two have to share information that they have.

The national Government and the county government shall consult and cooperate with each other in the performance of their functions including the collection, analysis, dissemination and use of statistical information. When the national Government wants to find out some information or progress in a certain county on a particular matter, it should be possible to access it.

Mr. Temporary Speaker, Sir, the Bill ensures that the information can be accessed by the members of the public and the executive members as they continue with their work. The county statistician may at the request of any person and upon the payment of any subscribed fee provide to that person any information relating to the functions of the service under this Act. The information should be readily available to any member of the public or anyone who would want to have this information.

The county office shall be required to provide up to date information on the methods and procedures used to compile official county statistics. So, it is not just giving us the data but anyone can query the method that was used to reach a certain data. It will also disseminate and make available to the public any analysis of it. This office will further analyse the data and the statistics that have been collected. The county statistics office fund will be allocated in the normal manner in the county assembly. It will provide provisions for this.

The Bill further provides the offences and penalties. The regulations and rules of procedure will be made by the Cabinet Secretary to ensure better enforcement of this Act.

Mr. Temporary Speaker, in conclusion, I urge my colleagues to find this an important Bill that will enable the next set of governors to base their decisions on the governance of their counties. In the Committee on Devolution, we considered some of the amendments on what our counties have done. An audit of all the county assets should be done so that when new governors come into power, there is a smooth transition and they will get the information that they need. When we have this office in place, it will make it better for the governors to see what they had since the county governments started and the progress that has been made and what ought to be done in future.

Mr. Speaker, Sir, I implore on my colleagues to find this to be one of the Bills that will help in decision making in our counties and for Kenyans to keep tabs on what is really happening in counties. Not just hypothetically, but having information and data that has been scientifically put in place in our counties by this particular office.

I beg to move and ask Sen. Mutula Kilonzo Jnr. to second.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker, Sir. I rise to second this very important Bill and congratulate Sen. Lesuuda for coming up with it and I will be brief in highlighting some reasons.

It does not surprise me at all that the officials at national Government would want this matter to lay squarely in their docket. A similar instance rose yesterday when we were discussing the Physical Planning Bill. There is a tendency of the national Government officials to want to usurp and claw back the functions of the county government.

To show the importance of what Sen. Lesuuda has come up with, I will send a book called “*Exploring Kenya’s Inequality: Pulling Apart or Pulling Together.*” It is written by a gentleman called Irungu Houghton of Society of International Development in conjunction with Kenya Bureau of Statistics.

The information on Makueni County that is contained in this book is information that every Governor and Senator should hold. With regard to the level of education, they will tell you ward by ward. The houses with iron sheets they have it ward by ward in this book. Percentage of people who have secondary education and primary education; ward by ward. Places with underground rivers so that you can determine what to do like having boreholes; ward by ward. They also have captured inequalities ward by ward. So, I would encourage even my colleagues, particularly those ones who are aspiring to become governors, to get a hold of this information. At some time when you are campaigning, your manifesto should have information. How much more would it benefit if this information was being collected, not by a Non-Governmental Organization (NGO), but it was in the hands of governors?

Mr. Temporary Speaker, Sir, at the time that Mr. Irungu sent this to me, he was unable to access governors. He was also unable to have a meeting with county executives just to present this material because they cannot appreciate the value of looking at data and specifics.

Where the Constitution recognizes – I have said this before and sometimes I have even rubbed people the wrong way – that just the same way all counties are not equal, wards cannot be equal. Therefore, you cannot treat every ward in your county equal. You cannot give every ward an equal budget as if all of them are the same level. However, with the collection of statistics as Sen. Lesuuda has proposed, it would be easy to plan, communicate and public participation will make sense. Then you can give this information to the public that statistics “x” are what applies. Recently, to echo the sentiments of why this is important, the court of appeal ruled on the statistics on census collected from counties in North Eastern. It said that the collection of data was wrong, but we have used that data share revenue. We cannot turn back the clock or ask for a refund, yet that information is here at the national level. The Kenya National Bureau of Statistics has not apologised to anybody. So what do you do hat somebody has been planning somewhere based on wrong information?

If counties could have an officer who could go and ensure this data is correct without having to come to Nairobi - that was the purpose of devolution. Why should you have one office called the Kenya National Bureau of Statistics which is a big office in Nairobi here where you have to come and look for something about a ward? For example, where I come from is called Kithungu or Kitundu, you have to come to Nairobi. It is ridiculous. That is why this information is important.

Mr. Temporary Speaker, Sir, you have come up with a Bill called The County Printers Bill which has been opposed by everybody. The reason is they want all of us to bring our budgets, our legislation, notices about cattle rustling and everything else to the Government Printer in Nairobi. That is not devolution. Therefore, Sen. Lesuuda I plead with you, please, do not even acknowledge these people who are trying to impede on what you have proposed here. If counties have not been collecting data for the last three years, we should ensure as a Senate that the next county governments can actually have planning best on this.

If you look at the County Governments Act, we have proposed that counties would come up with cities. This is special planning. In the Urban Cities Act, we have redefined this. There was a Bill in the Senate about the number of population that you can name a city or urban town in county. How do you do that? Are we going to wait for a census every 10 years to determine what we should do? Do we have to wait for national Government to plan or to tell us how many mothers have delivered for free maternal healthcare so that then you can make planning in your counties? This is not possible.

Sen. Lesuuda, please, wish these people well. These things are extremely important. You must ask yourself; how have people been planning without this? You sit on a table like you are under a tree like the way we divide the national cake, you say have this, the other one have this and there is no formula. Committees have been proposed here and if there was a function just like the function of health, Sen. Lesuuda mentioned in Article 6(2), I would add Article 189: Cooperation and Coordination.

If there was a part where you need to coordinate by the time you are doing a census, the national Government should be relying on the data collected at the county level. You do not need to bother everybody with huge budgets for nothing. You would rely on that information so that year in, year out, we can stop this national obsession with census every 10 years. It is a national obsession for nothing. By devolving this work will help the country, in fact, to plan in future. How do you plan in future? You can see what Elgeyo-Marakwet is doing in terms of how many babies they are delivering. What do you do in terms of Early Childhood Development (ECD) classes? There was a complaint in some counties like Murang'a that the ECD classes have closed because there are no babies being born as they have been drinking illegal alcohol. So that will help.

Mr. Temporary Speaker, Sir, therefore, in terms delivery of services, ensuring that we plan our finances well and making sure that we are prudent, we will actually be asking our county governors to account in terms of planning with statistics. You allocated a borehole to a place where there was no water and you knew it. You went to dig a borehole where it does not deserve, but where there are more boreholes than they need because you wanted political support and you omitted where it was needed most. That is the purpose of statistics. Therefore, instead of challenging people using abstract information, what Sen. Lesuuda has proposed is that, in future, we would be asking them, "this ward has "x" number of population, it has "x" number of boreholes and you have only done one as opposed to two or three." That is the purpose of statistics.

One of the things that Transition Authority (TA) did not do is that all the data that was collected by the former urban councils and town councils was kept in a room where

the materials are gathering dust. We have forgotten history. I spoke about museums. Even in the collection of statistics, you end up collecting data. I visited the British Library and wondered how the hand written statement of Isaac Newton ended up in their library. They called every person who had something historical or a small writing to deposit it with them. If a person has something historical, for example, the history of where the Bible begun, he or she should bring it to us and we will store it at a fee. That is the purpose of collecting data.

Mr. Temporary Speaker, Sir, in future, somebody would want to learn how certain things happened in your Nandi County. It is possible that there is some information that you are not aware of. The collection of data and records in the manner proposed by Sen. Lesuuda will help both the national Government and county governments to plan how many secondary schools they should give money and how free primary education funds should be distributed.

In an attempt by Cabinet Secretary, hon. Keter, to distribute the Last Mile Connectivity Project, one of the things he is relying on is population and how to send electricity where there are 50 or more people. This information would be important if it was available at the county level so that as they continue to distribute electricity to the lowest point, to every person and to the last mile, they will be able to give us tangible information that is reliable, accountable and truthful.

I beg to second.

(Question proposed)

Sen. Cheruiyot: Thank you, Mr. Temporary Speaker, Sir, for giving me this chance. I rise to give my support to this extremely well thought out Bill. I want to congratulate the distinguished Senator for work well done. This is something that will be remembered for many years to come. The fruits of this Bill can be seen long before they are born because of the achievements that have been laid out.

I have listened very well to the presentation made by the Mover and I could not help but wonder what we have been relying on up to this point. We have just passed the fourth budget cycle since the county governments were started. All the benefits that she has enumerated that this Bill seeks to bring make me wonder what we have been relying on up to this point. I support this Bill for various other reasons other than those that have been enumerated by the Mover and the Seconder.

Nowadays, data driven policy is a global standard of management that people rely on. As they say, figures do not lie. When someone has the numbers right, he or she will get the solutions.

(Sen. Murkomen consulted loudly)

Sen. Cheruiyot: Mr. Temporary Speaker, Sir, please protect me from the very excited Senator for Elgeyo-Marakwet.

The Temporary Speaker (Sen. Sang): What might be exciting the Senator for Elgeyo-Marakwet?

Sen. Cheruiyot: Mr. Temporary Speaker, Sir, many things that are not worth mentioning before this honourable House.

The Temporary Speaker (Sen. Sang): Very well. You are protected.

Sen. Murkomen: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Sang): Sen. Murkomen, what is your point of order?

Sen. Murkomen: Mr. Temporary Speaker, Sir, Sen. Cheruiyot said that figures do not lie and then he looked at me and tried to mimic a song. That is the only reason he seeks protection. Is he in order after comparing figures with other things to try to drive it at me?

The Temporary Speaker (Sen. Sang): What song did he mimic?

Sen. Murkomen: Mr. Temporary Speaker, Sir, I do not know.

The Temporary Speaker (Sen. Sang): Proceed, Sen. Cheruiyot.

Sen. Cheruiyot: Mr. Temporary Speaker, Sir, I was talking about data driven policy as a standard for management in this day and age where figures that are presented are analyzed before making an informed decision. This Bill puts us squarely in an open and lovely manner that upon the successful completion of this exercise, the decision makers and the people who will be given the mandate to lead the county governments will have figures to rely on when making decisions.

Immediately after I was elected, I wanted to run a programme on youth empowerment in my county, which was one of the key pillars of my manifesto. I walked into the county government offices and requested for figures and statistics on the number of unemployed youth in my county and their level of education. It is unfortunate that even after seeking the same information from the social services office which is under the national Government, I still could not get the figures. I kept wondering what I could do. Today, I am fortunate that with the passing of this Bill in the Senate, nobody will ever struggle with such situations.

For example, in Kericho County, the county that I represent, the budgetary allocation is shared by the number of wards yet all wards are not the same. In certain wards, the biggest problem the citizenry face is water and in other wards, it is access to good roads. Unfortunately, due to politics, Members of County Assembly (MCAs) do not want to go back and face their electorate to explain to them that they were given less money for water because they conceded part of the budgetary allocation, for example, road network to be given more funding. They cannot explain this if they do not have the kind of statistics that will be brought forth upon the successful passing of this Bill.

Mr. Temporary Speaker, Sir, once we have such statistics, it will no longer be difficult for MCAs to face their electorate and explain why they have conceded to use the amount of money that was to be used for water services and traded it off with an increase in the amount for infrastructure development because he or she knows that the biggest challenge his or her own ward faces is road network as opposed to water.

As things stand today, simple calculations on what the executive has proposed as the budget for road network in the county is done. For example, if it is Kshs800 million, it is divided by the number of wards without due considerations.

In my county, there are wards that fall under the multinational tea estates. The road network is properly developed and water systems are in existence but they still get the same allocation with a lower region that is almost semi-arid.

I am taken aback to reflect on the formula that we used when passing the County Allocation of Revenue Bill in the Senate. Kericho County is known for good tea production and so many people imagine that it has many natural resources. They forget that half of the part that borders Kisumu and Nandi in the county, which you are very familiar with, is almost an entirely semi-arid region where people live in extremely harsh conditions. I wonder why Kericho County is not amongst the 14 counties that we give the Equalisation Fund because some residents in those parts of the county live in extremely harsh conditions.

Mr. Temporary Speaker, Sir, these statistics will help us in decision-making with regard to resources that are directed to the counties. We should appreciate that all counties are not the same. It will also be possible for a Senator to be supplied with information on how many of the county residents still live in grass-thatched houses, how many have access to clean piped water and how many are able to pay school fees for their children without much hustle because the statistics will be readily available.

‘One size fits all’ is a lazy management practice. Unfortunately, that is the kind of management practice that we have embraced at the national Government and sadly, this kind of inefficiency has been passed on to the county governments as well.

Where we imagine that when you want to build Early Childhood Development Education (ECDE) classrooms, what you need to do is to say let us divide it by the number of sub counties. If you want to build 500 classrooms, you say we divide it and make a decision. That is so unfortunate. It cannot be that young children who come from one part of a county which is hilly and has poor road network connection because the common standard is that in every sub county, a certain amount of ECDE classrooms are going to be put up and yet in certain parts of the county, such facilities were already in existence. We have been told that equality is a must and it is fair. This is a well thought-out idea where we will be able to distinguish between equity and fairness. Those are two distinct words that our policymakers have never sat down to analyze.

Mr. Temporary Speaker, Sir, there are cultural practices that are retrogressive and can only be challenged with statistics. I want to give you a practical example where your land is a diminishing resource across the country. This is a standard practice across the country where you have a patriarch in the family who had a certain size of land and sons have come to subdivide the land among themselves, and the more you subdivide useful agricultural land, the less the value of that land.

If you have to inform these residents and give them ideas; that instead of each one of them going to live in a certain corner of the land, they all put up a homestead in one corner of the productive agricultural land use, and the rest is reserved for agriculture, they will need good statistics to challenge them.

Mr. Temporary Speaker, Sir, I come from a tea growing county and I know tea growing for the small scale farmers has become a torturous exercise. If we had good statistics that had informed the citizens in advance for them to know that if you have 10 acres that was let by the patriarch of the family, instead of sub-dividing such that

everybody controls one or two acres, it would have been more ideal to plant it together and manage it like an estate. They would not be facing the kind of challenges they are facing today. These are retrogressive cultural practices that can only be challenged by statistics. When we present the figures to the citizens, they educate them.

With the establishment of the office of the County Statistician, they will be to understand these figures. One of the things that I have been asking myself is that, each year as we read the Budget and Treasury releases the reports of our Gross Domestic Product (GDP); by what figure the economy is growing and what our inflation rate is. When shall we get such figures for counties? By and large, we need to get to a point where governors cannot be assessed by the number of classrooms they have built but they will be asked how much economic growth they have brought to the county. These are not things you will be able to do as county governments are set up right now. When you have good and proper statistics, you will know how much revenue has been generated from a particular county and what the economic value of a certain county is and how much the economy of that county has grown during the tenure of a particular individual. Has he spurred growth or not? Abstract feelings where you say somebody has failed or succeeded depending on your own perceptions will be a thing of the past. Thanks to the good intentions of this Bill.

Mr. Temporary Speaker, Sir, there is something I feel it will be wrong if I complete my contribution without mentioning it. Politically motivated development agenda will be a thing of the past with the passing of this Bill. You will be able to question a governor and ride on particular information that is readily available to you. You can ask them why they want to sink a borehole in an area that does not need such kind of a facility. Sometimes leadership comes with sacrifice and as a leader, you need to do something that is not popular but you know for posterity, this is the right thing to do. If we have these statistics, it will become easy for us to do it. If we do not have the statistics available, somebody will make a decision because he feels that is the popular thing. If I take the county budget and say I want to empower the youth and women and split the budget half, dish out money and things like that, that will be unfortunate.

For those many reasons, I do support.

The Temporary Speaker (Sen. Sang): Very well. Sen. Omondi!

Sen. Omondi: Thank you, Mr. Temporary Speaker, Sir, for allowing me to add my voice to this important Bill. I can say it is timely and I want to congratulate Sen. Lesuuda for coming up with such a Bill.

I have been asking myself so many questions about having data on disability within our counties. I will ask her if I can come up with an amendment or she includes this in this Bill that when carrying out the exercise of statistics, mapping and coming up with the number of people in the counties, it should have a column that reads that the number of people with disabilities in that area and the type of disability.

Mr. Temporary Speaker, Sir, the reason why I have passion for that to be included is because it is going to give room for proper planning where persons with disabilities within counties can benefit from the planning depending on the type of disability and their needs will be reached. It is also going to help people with disabilities within the counties to get their share in terms of budgeting. Right now, what is happening is that

each county gives a figure only after they have been asked how many activities they have carried for persons with disabilities. They imagine that the only thing they can do is to budget for wheelchairs without considering that not all persons with disabilities require wheelchairs. If they give wheelchairs, they also need to add dignity to that person in terms of economic empowerment. They still have to map and come up with proper programmes and projects that can lift the economic stability of persons with disabilities.

Mr. Temporary Speaker, Sir, I want to support this Bill because I know it is going to help us have peace in our counties and the country as a whole. It is going to reduce unequal distribution of resources where a certain section of the county is getting a huge amount of money without considering how big that ward is or how densely populated it is. I want to cite an example where when the country was mapping for cash transfer to vulnerable persons, that 50 per cent was to go to the mentally challenged people within the society. It was unfortunate that some areas were not properly budgeted for. This is because causes of disability depend on the environment. Some areas are more susceptible to particular disability than others. For example, Teso area in Busia County is highly populated with the visually impaired persons. Kakamega County is highly populated with physically disabled persons and there are reasons why such types of disabilities are found in such areas.

Mr. Temporary Speaker, Sir, when they were budgeting for sunscreen lotions for persons with albinism, in Nandi County, people who benefited from that fund were not persons with albinism because it is not highly populated. So, it helps in meaningful budgeting and putting proper programmes in place according to the needs of the people.

I also support simply because it will reduce the issue of giving programmes where they are not necessary. So, budget allocation will be according to the size and population of the ward or county. A ward can be big, but not highly populated. If we give an equal share, then the densely populated wards or counties will benefit less than the scarcely populated ones.

I believe that when we have such an exercise---

The Temporary Speaker (Sen. Sang): Sen. Bule, are you on a point of order?

Sen Bule: Mr. Temporary Speaker, Sir, no.

The Temporary Speaker (Sen. Sang): Then you need to press the right button.

Sen. Omondi: Mr. Temporary Speaker, Sir, it will help us do away with the issue of rigging elections. This is because we will have information on how many people died within the ward or county and, therefore, eliminate ghost voters. There will be statistics simplified to the point where it can be accessed and understood by the people within a specific area. Kenyans will not need to plan long journeys to Nairobi County to access the needed statistics.

Service delivery and efficiency will also be improved in terms of people who want to know the population of a particular area. In service delivery, it will help us provide services according to the population and the needs of the people within an area. I believe that these needs can be well addressed if we know and interact with them. We can then plan, map and reach out to them, not only by having figures on papers, but also going there physically to ascertain that these are the people that reside in that particular area.

I feel that we, Persons with Disabilities (PWDs), will be on the safer side. We will ask for our share from counties knowing the number of PWDs within that county. We will argue our case according to the statistics unlike today where we just receive whatever they feel like giving us. In fact, they do not even budget for PWDs. Somebody can even argue how we know if there are PWDs within a county or a ward. However, if you have proper records, you will have the right information that will help enrich your argument in order to meet the needs of PWDs.

Sen. Mutula Kilonzo Jnr. mentioned something to do with boreholes. When I compare us to developed countries like Japan, Japan will initiate a programme after knowing how many PWDs come from an area so that they dig it close to where they live for them to benefit. Those who are not disabled can walk long distances to access certain facilities. For example, you can find a borehole in a specific area, but the distance between that facility and a resident who has a disability is short. Such statistics will also help in making an informed decision on how to make a borehole disability friendly such that a person on a wheelchair can use it just like any other normal person.

I use Japan because I went there to learn independent living by a PWD. Things were easy because mapping is done. For example, when it comes to public transport, they know the route that connects to a household of a PWD. So, it becomes easier for such a person to access transport. When it comes to health facilities, they map and give every PWD a toll free number that they can call whenever there is need for health services. With such statistics, we will improve service delivery to our people.

With those many or few remarks, I support.

The Temporary Speaker (Sen. Sang): Very well. I will give the Floor to Sen. Murkomen. However, Sen. Bule, you are behaving as if you have intentions to contribute, but you are not appearing on the screen. The last time you appeared on interventions. I hope my reading of your demeanor is wrong that you do not intend to contribute because you are not appearing on my screen. If you do, then press the right button.

Sen. Murkomen: Mr. Temporary Speaker, Sir, first, I congratulate my friend, Sen. Lesuuda, for coming up with such an important Bill. Many people refuse or forget that the Constitution is very specific on Part 2 of the Fourth Schedule, that statistics matters are county matters. This was not by accident.

Part 2, Paragraph 8 of the Constitution says:-

“County planning and development, including –

- (a) Statistics;
- (b) land survey and mapping;
- (c) boundaries and fencing;
- (d) housing; and
- (e) electricity and gas reticulation and energy regulation.”

So, the context within which statistics is represented in the Constitution is under county planning and development. You cannot tell me that we will continue planning and pursuing development in the county when statistics is not an integral part of that planning and development.

It is very clear from the submissions of Sen. Lesuuda and those of the Seconder, Sen. Mutula Kilonzo Jnr., that there is a lot that needs to be done when it comes to

specific statistics that are applicable to the functions of county governments. For example, it is important for counties to know the number of dogs in that county. This is because in Paragraph 2 of the Fourth Schedule, burying dead dogs is a function of the county government. In most cases, we ignore that that is a serious matter when it comes to public health. Public health is very key to take statistics on the number of cats and dogs in people's houses and if they have been vaccinated. Suppose they bite someone, are they likely to transmit diseases?

Mr. Temporary Speaker, Sir, we are dealing with counties with livestock. How many livestock are in Samburu County? How much money will be needed for vaccination in Laikipia County where Sen. G.G, Kariuki comes from or Elgeyo-Marakwet and Baringo counties where there is more or less pastoral life? Also, how many livestock are operating within a particular area and how many move from one place to another? These are specific planning statistics or information necessary for a county to plan.

When you talk about health being devolved, most of the time, we discuss about hardware. All the time, people talk about health, they say that the hospital has been painted and the machines have been provided. I decided to do something which is not permanent; that is screening of expectant mothers by working with well-wishers and some people who donated funds through the staff in my office. We are working with the county government to help our people to be screened. In the first three places that they have gone to so far, they found five mothers who have serious complications that require referrals and tender care. That should be done so that by the time they give birth, we do not lose the mother and the child.

Mr. Temporary Speaker, Sir, statistics need to be collected. How many mothers go to hospitals prior to giving birth in hospitals? The Jubilee Government policy at the national level is that every expectant mother should have an opportunity to give birth in a hospital. However, the question is not being asked whether there is a transition from the time they become expectant so that they are given prenatal care and whether there will be postnatal care. There should be prenatal care because you cannot go to hospital at a time when it is not possible to salvage the life of the child.

Therefore, statistics play a key role in terms of identifying behaviours, roles and things that should be done by counties. There is also a reason why statistics must be gathered by county governments. I suppose that the statistics they will be collecting will be necessary for the delivery of the devolved function so that you give people proper information. More often than not, you will go home and hear people say *tumewapatia* bursary but how many children benefit and how sustainable is it?

I am sure you might have had an opportunity in 2009 to experience the issue of census. I worked as a census clerk in 1999 and the information we collected was a lot and that information is somewhere in the Kenya National Bureau of Statistics (KNBS). If you want to access that information to do development in Turkana, it is not that easy. Maybe it would be easier if counties had an office for collecting information. In that case, you can easily get information Turkana County, for example, interpret the data so that the needs of every village and ward are taken care of based on specific statistics. It should not be that the role of the county statistics board and the county statistics office is always

to collect the raw data. It could be the collecting and interpreting that data. For example, there will be information for every ward from the data already collected by Non-governmental Organisations (NGOs) working together with the KNBS. That information will be acceptable if it has gone through validation period.

There is also a key reason why there must be county statistics office at any given time. This is because the population keeps changing and it might change within the five years that you have a governor in a county. For example, the population in Nairobi during the day is not the same at night. Somebody told us that Nairobi receives two million people and that is statistics. Therefore, Governor (Dr.) Kidero should know how many people he has to take care of from 5.00 a.m. to 8.00 p.m. He should know how many toilets should be provided in order to take care of these people; how many parking spaces are required so that they can accommodate the people and what means of transport need to be put in place to ensure that they take care of the population. Therefore, it can also be brought to the Senate because census is done at night, Nairobi could have two, three or four million people but it could have another two million people during the day.

When we do division of revenue here and say we should divide revenue based on the census of 2009 that was done at night, who takes care of the service delivery that Nairobi, Nakuru or Uasin counties provide during the day? We may come to a conclusion that the two million people who come to Nairobi also bring more money to Nairobi instead of Kiambu. So, it is necessary to add the resources to them. It may be necessary to capture that for purpose of delivery of services to those people who come to Nairobi but sleep in Murang'a, Kiambu, Kajiado or Machakos. Many people say they live in Nairobi when they truly live in Machakos County because they get almost all their services in Nairobi and that is important for those statistics.

Mr. Temporary Speaker, Sir, it is also important for us to know how many people are being hired or employed by the county public service at any given time. When we talk about recurrent expenditure, there must be transparency of information. We are told all the money goes to recurrent expenditure but when you go to a particular ward and ask them what their recurrent expenditure is, they are unable to identify people who have been employed from that ward yet they are punished holistically without getting services of those who are employment by the county government.

This is a noble idea and I congratulate Sen. Lesuuda for proposing the establishment of the county statistics office as an independent and important office. I do not even know whether my county has a county statistics office. I doubt that. Maybe the first statistician in the county is only reporting to the KNBS and, therefore, the Ministry of Devolution and Planning at the national level. Who is the officer coordinating matters of statistics and who is the chief officer in charge of statistics matters?

Secondly, she has proposed that we should create the county statistics board. This will make it more corporate and accountable and they will have some oversight. The composition of membership to the board has also been provided. Perhaps, we might need to add one or two people who come from independent entities or institutions. We have also witnessed and suffered a situation where the oversight role of county assemblies is lacking to ensure that they put pressure on the county executive to carry out proper

planning, allocation and distribution of resources so that the majority will always not have their way. There must be people who will speak on behalf of the majority.

We should add in this Bill provisions on access to information, so that statistical information collected can be cross-referenced with the Access to Information Law that it should be mandatory for members of the public to have a right to go to the statistics office and ask to be given any information about their ward, sub-county, location or village.

Mr. Temporary Speaker, Sir, finally, I also commend her for providing for county statistics fund so that there is an established institution. We do not only talk about responsibility without resources. The resources follow functions. Every function that is provided for to be done by the county must be given adequate resources so that they accommodate the interests of the people in the county.

I congratulate Sen. Lesuuda because she has done a fantastic job. It is not easy to come up with a Bill. I came up with two Bills but they are pending because of the consultation processes. I only pray that her Bill progresses to the National Assembly and comes back successfully so that she can majestically go back to the people of Samburu County and tell them she has been part of a legislation process.

As she pursues other interests out there, her curriculum vitae (CV) must be clear. I wish her the best because I have overheard - being my friend - that she has ambitions to vie for the position of a National Assembly Member. As she goes out there, she must carry something that she has been doing in this House.

Mr. Temporary Speaker, Sir, it is in the public domain that you want to pursue other interests. You will be one of the successful Senators who sponsored one of the successful Private Member's Bills. When you become a governor of the Nandi County, you will implement the law that you suggested to his House.

With those many remarks, I support.

The Temporary Speaker (Sen. Sang): You seem to have a lot of information about Senators that might not be in the public domain.

Sen. Bule: Thank you, Mr. Temporary Speaker, Sir. I am happy today. First, I congratulate Sen. Lesuuda for coming up with this fantastic Bill which is an eye opener to our people in the counties. This is wonderful law if the Senate passes it. The best Bill that this House passed is the famous Sen. Sang's Bill which was sponsored by you. However, it was shelved. The other is this Bill sponsored by Sen. Lesuuda.

Mr. Temporary Speaker, Sir, the statistics that will be collected at the county level will be the truth if collected correctly. In the last census, the statistics that were collected and which we use to share the resources are false. The information was deceitful. In fact, we fail to plan but we do not plan to fail. This is the only way we can plan for our counties. This Bill will ease the misuse and misappropriation of funds. It will even ease the corruption in our country.

The funds that we always fight for in our counties have been pocketed by the executive because there is no planning. At the moment, counties' statistics are not current. If we get the statistics from the grassroots, it will help the governors to plan for the right projects that they ought to provide to their people.

Mr. Temporary Speaker, Sir, this Bill will help the Senate monitor the projects that are undertaken by the executive in our counties. We need to support such ideas so as to free our people. One of the regional directors in the northern region in 1963 wrote a memo that the northern region is nothing except problems. It has never been included in the development programme of the nation. He said that north eastern part of this country is not meant for development. That is how marginalisation came in Kenya. So, this is the time that some of the marginalised counties like Tana River can get credible statistics and plan for the development of their areas.

With the few remarks, I support. Thank you.

The Temporary Speaker (Sen. Sang): There being no other interest to contribute, I ask the Mover can reply.

Sen. Lesuuda: Thank you, Mr. Temporary Speaker, Sir. I take this opportunity to thank my colleagues for their detailed contributions to this Bill. I agree with them that it is an important Bill for our counties.

With regard to education, we should allocate bursary funds appropriately to ensure that the beneficiaries access the funds for all the four years in school. It should be on record how many students should access the education funds for the four years and those who need support for a limited time.

Mr. Temporary Speaker, Sir, I agree with Sen. Omondi on issues to deal with people with disabilities. The social services docket is important. Sometimes we make assumptions that all that people living with disabilities need wheelchairs and that it is a devolved function. It is important to note how many need aiding sticks, among others. She brought up an important issue. We need to know how many youth are accessing the 30 per cent allocation of all Government procurement tenders for the youth. Alongside many other issues raised, Sen. Murkomen has said that it is not only about collecting the data but also interrogating some of the available data. I thank all my colleagues and I hope that they will support the Bill during Division.

Mr. Temporary Speaker, Sir, I beg to move and further request that we defer putting the Question to tomorrow pursuant to Standing Order No.54 (3).

The Temporary Speaker (Sen. Sang): I direct that the putting of the Question be deferred to Tuesday next week.

(Putting of the Question deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Sang): Hon. Senators, it is now 6.30p.m., time to interrupt the business of the Senate. The Senate stands adjourned until Tuesday, 15th November, 2016 at 2.30p.m.

The Senate rose at 6.30 p.m.