

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Tuesday, 9<sup>th</sup> October, 2018

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

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

### PRAYER

### NOTICE OF MOTION

#### EXTENSION OF MANDATE OF *AD HOC* COMMITTEE ON MAIZE

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

**Sen. Seneta:** Mr. Speaker, Sir, I beg to give Notice of Motion of the following Motion-

AWARE that the Senate passed a Motion establishing an *Ad hoc* Committee to conduct an inquiry into the challenges facing the maize sector in Kenya on Wednesday, 8<sup>th</sup> August, 2018;

FURTHER AWARE that the Committee was required to table a report to the Senate within 60 days from the date of establishment;

CONCERNED that the duration accorded to the Committee will lapse on 13<sup>th</sup> October, 2018;

REGRETTING that due to the heavy workload, the Committee is yet to conclude its inquiry and requires more time;

NOW THEREFORE, the Senate resolves to extend the mandate and duration of the Committee by a further 45 days to enable the Committee to conclude its work and table a report in the Senate.

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

### STATEMENTS

#### WORLD MENTAL HEALTH DAY

**Sen. Chebeni:** Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.47 (1), I rise to make a Statement regarding the World Mental Health Day observed on 10<sup>th</sup>

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October of each year. The day was first celebrated in 1992. Its objective is to raise awareness of mental health issues around the world and mobilising efforts in support of the same.

It is also an opportunity for stakeholders working on mental health issues to talk about their work and what needs to be done to improve mental healthcare for people globally.

Mr. Speaker, Sir, even as we observe this day, a lot of work needs to be done by all stakeholders to improve the state of mental health in this country. It is so unfortunate that as important as it is, mental health is yet to be given the amount of attention given to physical health.

Kenya was recently ranked sixth amongst African countries with the highest number of depression cases with a total of 1.9 million cases. We have a Mental Health Act that was last amended in 1991. We only have 14 mental health facilities in Kenya, 88 psychiatrists and 427 nurses qualified to handle the illnesses in the facilities.

Statistics show that for every four Kenyans, one person is likely to suffer from a mental disorder at some point in their lives yet; five out of every six Kenyans with mental illness do not receive treatment due to unavailability of the services or lack of awareness.

Mr. Speaker, Sir, according to World Health Organisation (WHO), four out of five people who commit suicide are depressed at the time of their death. Up to 7,000 suicides are reported in Kenya annually with tens of thousands more attempting to kill themselves as a result of depression.

This year's theme is: "Young People and Mental Health in a Changing World". It is sad to know that the youth, who form a critical component of the country's demographics, face various mental health conditions arising from social, behavioural, academic, social relationships, unemployment, broken families, substance abuse and pressure of life issues.

The rate of youth committing suicide as a result of depression is increasing by the day. According to statistics, suicide is the second leading cause of death among the youth aged between 15 and 29 years.

Mr. Speaker, Sir, allow me to make reference to a documentary report by African Uncensored titled: *Within These Walls* that was published on 1<sup>st</sup> October, 2018. The documentary showcased people giving their personal stories on their struggles with mental illness that make them vulnerable to commit to suicide. They also talk about their fear on speaking about their illness due to the stigma and discrimination that comes with mental illness.

Mr. Speaker, Sir, my heart was filled with sadness as I read a report by *Daily Nation* on the disabled children caged and tethered like animals in Tharaka-Nithi County. This report shows how children living with mental disability are caged like animals somewhere outside the house to contain them. This is not a case of one child, but several children caged and legs chained in the same way. This shows us how some people have completely lost respect for human dignity. These children are treated as outcasts by their own families. The stigma and discrimination surrounding people suffering from mental illness is so rampant, but completely ignored.

Mr. Speaker, Sir, as it is evident from the above statistics, so much needs to be done in the mental health sector for Kenyans to completely enjoy their rights to the highest of physical and mental health. There is much ignorance surrounding mental illness. I would like to, however, recognize the effort made by the civil society organisations to try and provide solutions to the problem. However, they cannot do this alone. They need the Government as the key stakeholder to join them if sustainable solutions are to be achieved. My sincere hope, therefore, is that next year as we observe this very important day, we will have a lot of positive progress to talk about and be proud of. I call upon all stakeholders to unite and make available affordable and accessible mental health services a reality.

I, thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Before we move to Order No.8, let me allow Sen. Sakaja to table a report of his Committee.

### PAPER LAID

#### REPORT ON THE CARE AND PROTECTION OF OLDER MEMBERS OF THE SOCIETY BILL, 2018

**Sen. Sakaja:** Thank you, Mr. Speaker, Sir, for allowing us to table this Report. I beg to lay the following Paper on the Table:-

The Report on the Public Hearing and Deliberations on the Committee of Labour and Social Welfare on the Care and Protection of Older Members of Society Bill, 2018.

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

Mr. Speaker, Sir, this report is crucial for Members as we look at the Bill sponsored by Senator for Kericho on Order No.8 which is already in the Second Reading. Members will benefit for further information on the issues that we deliberated on and what the public had to say about this very important Bill that is before this House.

### BILL

#### *Second Reading*

#### THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL (SENATE BILLS NO.17 OF 2018)

*(Sen. Cheruiyot on 3.9.2018)*

*(Resumption of Debate interrupted on 4.9.2018)*

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker. I rise to support The Care and Protection of Older Members of Society Bill (Senate Bills No.17 of 2018).

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Article 57 of the Constitution requires the State to ensure there is a mechanism to protect the rights of the older members of the society. As a country, we should refrain from stigmatizing and abusing them because they are also human beings like us and deserve respect.

This Bill calls for establishment of homes in all counties for the older members of the society. It is important for us to have a register of all older members of society. Once this Bill is passed, it will be in line with Chapter Four of the Constitution which upholds the rights of older members of the society and ensure they live a dignity life. This is the first time we will have a proper legal framework that will promote rights of older persons in the society.

Mr. Speaker, Sir, this Bill ensures various programmes for older people will be started in those homes. They will be provided with food, healthcare and other physical activities that will keep them active throughout their stay in those homes. By so doing, their lifespan will also be enhanced.

Mr. Speaker, Sir, this Bill calls for standardized homes for the older members of the society throughout the country. The Bill will provide for mechanisms for monitoring, evaluation and inspections of these homes. We do not want situations where these people will be neglected and live miserable life.

Mr. Speaker, Sir, it is expected that county governments will come up with policies and programmes that will care of the older people in those homes. I believe these homes will be safe and will also take care of the mental status of those people. A few minutes ago, we were debating on the issue of mental illness, which can also occur because of negligence. We want these people to live a fulfilled life.

Mr. Speaker, Sir, with those few points, I beg to support.

**Sen. Sakaja:** Thank you, Mr. Speaker, Sir. Allow me to, first, begin by thanking Sen. Aaron Cheruiyot for thinking of the older members of the society despite the fact that he is one of the youngest Senators that we have. In fact, he is one of the very few that is younger than me.

Mr. Speaker, Sir, many times, we have trained our focus and minds on the youth and issues of women, but we forget that there is a very special category of Kenyans that need as much care and us to remember them. This is because a society that has no respect for the older generation is a society that has a serious moral problem.

Mr. Speaker, Sir, this Bill came through my Committee on Labour and Social Welfare. We have interacted, gone through it and we fully support it. We have proposed a number of amendments which do not change the principle objects of the Bill. They just clean it up and align it with international best practices as well as terms that are used in our Constitution and so on.

We must be embarrassed as a country because currently, there is no legal framework in Kenya for the protection and promotion of the rights of older members of the society. In addition, there is no framework for registration, establishment and management of facilities for this very important segment of our society.

At first glance when the Bill was brought to us, many of us felt that it is very un-African to think of homes for older persons. In as much as they are very popular in the West – such that when your parents get to a certain age, you take them to a home – this is

not common in Africa. The fact that there is now an obvious and clear need to provide for this, not just to a moral, but also to an economical issue. In as much as our parents were able to take care of their parents; and some of us are still able to take care of our parents, it is unfortunate that our children might not be able to take care of us in the future if our economy is not looked at and provided for properly.

Having said that, currently as it is, there are very many Kenyans struggling in the rural and urban areas, especially those who call the urban areas home. This is because they are not able to provide for their parents who are aged 70 and above. Something needs to be done. That is why when this was brought to us, we took it up with a lot of pomp, alacrity and enthusiasm and we sought to get a better understanding of these issues. We had representation from HelpAge International, which has one of the longest running centres for the care of older persons in the society. They told us that there are certain elements of our Constitution that aspires to look at these issues.

Article 57 of the Constitution is clear on the older members of society. Article 10 is on national values and principles of governance, while the Bill of Rights in Article 21 talks about the issue of the implementation of rights and fundamental freedoms. Article 27 talks about freedom from discrimination and it has a whole list of the kind of people that one should not discriminate against; and also, the economic and social rights.

Mr. Speaker, Sir, HelpAge International appeared before and proposed amendments. The Kenya National Commission on Human Rights (KNCHR) also brought their proposals, and we are very grateful to them. We were also impressed that mainstream churches such as the Pentecostal, Catholic and the Anglican Church; and also, Christ is the Answer Ministries. They have departments within their own Ministries that take care of older persons in Nairobi and in the entire country. Some of them requested additional support in the cash transfers that go to older people. We had Mau Mau Governing Council of Kenya, the Uasin Gishu Internally Displaced Persons (IDPs) organisation and the Kenya Senior Citizens Welfare Association of Retired Older Persons from West Pokot County.

Mr. Speaker, Sir, when you look at this Bill, the second part is very clear on the specific rights that are conferred on older members of the society. It sets out the duties of the national and county governments. The law is clear that the national Government is in charge of setting up the policy and the strategy. It is supposed to adapt it; while the county governments are charged with the implementation. Therefore, this is a function that is clearly within the purview of the county governments to provide for the implementation of the national policy and strategy on the care for older members of the society.

The functions of the national Government under the Bill are largely conferred on the National Social Assistance Authority, which was established under Section 3 of the Social Assistance Act of 2013 and the board, which is appointed by the national Government.

The next part talks about the care; and in particular, the establishment and implementation of community and home-based care programmes for older members of the society. We are biased towards encouraging and being able to facilitate family members to have the capacity to care for them before taking them to any home, because

that should be the last resort. It, however, requires these community-based programmes to include economic empowerment. Many times, we assume that older persons of the society are not in need of any economic independence, and we want them to depend on the younger people.

Mr. Speaker, Sir, it also provides for the delivery of spiritual, cultural, medical, civic and social services. It also provides for the promotion of health of older members of society through provision of nutritious food and basic health facilities; and promotion of their skills and capacity. We have seen a lot of decay where older persons are not respected in queues or in public transport.

A long time ago, it used to be common sense that if one sees an older person, you give them way or your seat. You were supposed to enable them to come in front of the queue and assist them to cross the road. However, these days, the society has become competitive to a fault and everyone is just thinking about themselves and not the older persons of the society. Even as I say that, I know that it is great folly to try and legislate on matters of morality, but we must always remind this country and Kenyans that respect for older persons and the vulnerable in society is important.

Mr. Speaker, Sir, it also provides that these home-based care programmes should be established by county governments and implemented with respect of older members of society who suffer from any form of physical or mental infirmity.

I am grateful to Sen. Chebeni for bringing up the issue of mental health, which is a big problem in our country today. We have even seen the rate of suicide going up for those people do not know who else to talk to because of what the society has become. They cannot talk to neighbours or even relatives within the family. We need to be keen on that and ensure that every health facility in this country at least has some capacity or training on how to handle issues of mental infirmity.

Mental infirmity is not just madness, because when we talk of mental infirmity, we think of taking people to Mathare Mental Hospital; no. There is depression that sets in because of economic issues or societal pressures. Our young people are competing on Instagram on who has the most beautiful photo or who went to the biggest party, and those things are causing a lot of depression.

However, the one for older persons is for those who already suffer from these infirmities and to prevent them from getting into depression. It should also help those who might be unable to take care of themselves or those who do not have the social facility around them that can take care of them. It is also for those who are in need of skilled services, because there are certain ailments that set in at old age that require specialised care.

Similarly, case management assistance with activities of daily living are important for those who are isolated and have no family members or caregivers. The county should provide these caregivers and training. It should also make sure that their normal medical facilities have the capacity and budget resources to take care of these older persons of the society.

Mr. Speaker, Sir, Part IV of the Bill is clear about how to register these homes for older persons. It also has the procedures for making the applications and the system through which it should be adapted. It allows each county government to provide

legislation within their counties that are county-specific because of the different cultures in different parts of the country.

The situation of older persons in Wajir is very different from the situation of older persons in Kisii and Nyamira counties, where Sen. (Prof.) Ongeru will tell you that a few years ago, older persons were endangered because they were being hunted down because of claims of witchcraft. I hope that this has stopped. Therefore, this and other activities should help us sensitise the society to actually embrace these older persons and not see them as strange.

The next part of it talks about the standards and how the management of these homes needs to be done; and the services required to be rendered. So that it is clear, it is 24-hour care and support for those in need of rehabilitation, counselling, outreach and even recreational activities. We want them to exercise, walk on a treadmill and do some physical stretching and what-not, which is encouraged even for the young people.

It commits and compels that a home for the elderly established by a county government must be compelled to admit an older person who qualifies for admission. It also sets out the rights of those persons and the services delivered. These rights include appointment of a representative, liberty to participate in social, religious and community activities and to access basic care and services within the home. We were keen as a Committee while we were doing this.

We have children rehabilitation centres in areas like Bahati, Kariokor and Kayole Home for Girls in Nairobi, among others. In as much as they are set up, the kind of money that is being appropriated for rehabilitation of the vulnerable people in the society, including the famous street children, is not forthcoming. That is a matter that we were keen on as the Committee on Labour and Social Welfare. We need to look at the budget estimates of all county governments to make sure that a certain amount of money is set aside for the most vulnerable in the society.

A country's greatness is not about the size of its military or the depth of its treasury but what it does for the most vulnerable in the society that they cannot do for themselves. That is how you know a country is great. Indeed, we believe Kenya is a great country and we must put our money where our mouth is.

Additionally, there is provision for monitoring and evaluation of the homes for the older members by the County Executive Committee (CEC) member, the authority at the national level and the Members of County Assemblies (MCAs) of the specific counties.

It will also ensure that the homes do not become dens of abuse. We have seen many of such socially motivated set-ups where they become dens of abuse and child trafficking. We do not want cases where instead of them being a haven for our older people and a fortress for them, they become a place where they get tormented.

There is a provision for inspectors by respective CECs and county governments. The inspectors will have the necessary power to enforce the prescribed safety standards and requirements for those homes.

Before the final part, the next part provides for a way in which matters are resolved by encouraging reconciliation and avoiding confrontation and delays in action. In some areas in this country, the older persons are endangered because young people

want to inherit land from them. They need some form of protection so that they are not seen as standing in between the children and the inheritance when they are alive but they should be seen as useful and important members.

There is a provision that a person who is convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding Kshs1 million, or imprisonment for a term not exceeding two years, or both. There is some discretion that can be applied through regulations by the Cabinet Secretary for better carrying out of the provisions of the Bill, which I hope this House will pass.

The final part is transitional provisions on existing homes. There are many homes that are registered but without a framework. Therefore, they are not able to operate with equal standards and provide certain things. Some are even doing the wrong things to the older persons. So, all of them will need to be registered after having passed the criteria that is provided for in the law. The registration will be done by the county governments.

I believe that this Bill will greatly improve the lives of older members of the society. I encourage Members to have a look at the Report of the Committee and also talk to Sen. Cheruiyot who is the Sponsor of this Bill and was inspired to bring such legislation before the House.

You will also find in Part IV of the Report the recommended amendments by the Committee. We have 16 amendments but I am sure Sen. Cheruiyot will agree that they are necessary for this Bill to be implemented.

With those many remarks, I thank you, Mr. Speaker, Sir.

**Sen. Wetangula:** Mr. Speaker, Sir, thank you for an opportunity to contribute to this Bill. When I was discussing with the distinguished Senator for Kericho, he was noting the idea, and I expressed some mixed feelings about the need to legislate in this manner. However, reflecting on it, I think we need some form of regulation and order because some people have turned the plight of vulnerable groups in our communities into a booming business. There are people who set up homes for children just to do commercial work. There are also people who set up homes for older persons just to solicit for funds within and without the country.

Mr. Speaker, Sir, you heard what the distinguished for Nairobi City County said, which is a famous quote, that you judge the level of civilization of a society in the manner it treats its children, its mentally handicapped and its elderly people. There has been an attempt to add women as well but women do not like that because they are equal to men. If the society does not look after its children, women, mental patients and old people, then there is a big question mark on that society.

We have seen some communities in this country where every old person is labeled a “witch” just because of age. Some are even put to death and just because they are old and vulnerable, their children have abandoned them. In a true African society – we are all Africans here – there is nobody who should be homeless.

Mr. Speaker, Sir, you know that we do not have people living on markets because everybody has somewhere they can call home. If it is not their own home, it is their relative’s and if it not their relative’s, it is for a kind member of the society. We have grown up that way. In fact, you know in society in the western region, nobody can die of hunger. All you need to do is to check the direction of wind and raise your nose and

where there is smell of ugali, you walk there and join people in eating a meal and move on. Nobody denies you a meal in our community. That is how we have been brought up and that is how people have grown up.

I have visited some homes for friends and supporters and you will find over 90-year old parents living reasonably well. However, we also have eccentric characters in our society today who deny their parents when they get to older age. When you meet somebody with an old person who cannot even walk, they will tell you it is some fellow they picked but it is their father. That is why we need a legislation to bring some form of order.

I will be hesitant to my colleague from Kericho to institutionalise homes for looking after older people. I agree with him on what is he calling “home-based care” because the Government has already made a step. I hope they will improve it so that people benefit across board.

There are social safety net funds that are supposed to go to the elderly people. I have seen in the villages they register people. Anybody from 65 years is supposed to be registered to receive some monthly stipend to live on.

The challenge for the elderly is not food because people can eat from friends and so on. The problem is medicare. Children are very expensive to bring up because of healthcare. Elderly people become as vulnerable as children. So, while healthcare is devolved almost to 95 per cent, the passage of this Bill will create additional financial requirements in the counties.

Mr. Speaker, Sir, this House must also look back and see how we will encourage cooperation and collaboration between the national Government and county governments. The national Government still holds on to about 90 per cent of the budget for health when, in fact, they are responsible for five per cent of the health sector. With cooperation and collaboration, nurses can be employed in the villages, not necessarily to work in hospitals, but be attached to some health centre or hospital. They will then be assigned to attend to elderly people in homes, where they will do routine visits, to examine them, check on their health and nutrition and see that they are living well.

Sometimes the Government comes up with a very good idea and then implements it so clumsily that it ends up losing meaning. Everybody in this country is now crazy about Information Technology (IT). You get an illiterate old man in the village, who has never held a phone, and say that you will be disbursing all safety-net funds through M-pesa. How will such an old man get the M-pesa? What then happens? Children of their neighbours or their own sons or grandsons give their numbers, and when the money comes, it ends up in phones that do not belong to these elders and disappears. So, we need to have a better way of managing how social safety-net funds reach old people.

If that is programmed properly, it solves half of the problems that Sen. Cheruiyot is addressing here. This is because we want people to be given some form of shelter. Where I come from – and I want to encourage all of us – you cannot leave your parent in squalor, when you live decently in your house. When people get old, they need people to look after them. We must take this responsibility.

Mr. Speaker, Sir, the third issue is the obligation that we are trying to put on county governments in terms of how to meet the demands of elderly people. Sen.

Cheruiyot should check with the national Treasury and see whether the social safety-net funds that the Government is remitting to old people in the villages can, in fact, be transacted through county governments. They are the grassroots governments and the ones who would know and keep the statistics of old people, so that when they augment on this, they know that the national Government has made this contribution and they are also making some contribution. Sometimes you find a duplication of the application of resources. The national Government has a parallel system, where they are sending money through County Commissioners, then to Sub-County Commissioners and chiefs. Everybody is holding on to their docket, like children holding toys for the first time in their lives. They do not want anybody to see what they are doing.

Then, you will have county governments starting to look responsible and want to put money in support of old people. They have their own statistics and the national Government too has its own, applying on the same people. This is money coming from the same Exchequer. If the national Government is giving Kshs3,500 per old person, then county governments, if able, can augment by another Kshs1,500. It becomes Kshs5,000, which, if properly administered without duplication, will make a difference.

This is because in the villages, there are people who can live decently on even Kshs3,000 or Kshs4,000 a month. They want kerosene for lighting their house, a piece of soap for cleaning themselves and two kilogrammes of sugar will last a whole month and so on. When they are unwell, they can move to the nearest health centre and use part of that money to register for the National Health Insurance Fund (NHIF), to reduce the load of medicare.

I would want to encourage Sen. Sakaja's Committee to painstakingly look at this Bill, so that we seal all the loopholes. We have a common saying in our place that there is no market without a lunatic. Some of those mental patients that we find in markets are just depressed and not necessarily mental patients. Very minimal healthcare would put them back to productive life. We also need to have at least a minimum of one wing in one hospital in a county that has an extension of Mathare Mental Hospital, for taking care of depressions and mental disabilities that many people in the villages suffer.

As the country goes through a depressed economy, the number of mentally ill people will increase. When a rich person suddenly loses his wealth and does not have the capacity to live like Job of the Bible and thank God that at least he was once given wealth - his head bursts and needs care.

Equally important is the need for the national Government and county governments, as provided in this Bill, to monitor the standards and quality of life in those home institutions. I visited some institution of destitute children and could see very clearly that the person who owns and runs it is just in business and nothing else.

First, he has a fraudulent statistic that he was looking after 2,000 children. I did a headcount and they were less than 150. He has lined up donors, takes pictures of the children in very squalid conditions and sends them to donors, so that they send him money. The man who is supposed to be looking after the destitute children drives Mercedes Benz and other big cars. He lives like a king on the plight of these children. Children are hardly able to have a second pair of clothing and so on.

You remember that in the old days in agriculture, we used to have fellows called 'karakacha' who used to go round the villages everyday to see how we were farming. We used to have people called 'bora afya' who used to go round the village to teach people how to eliminate mosquitoes. We also need to have people who will be taking care of quality. Most of the homecare institutions can go for five or even ten years without any state official visiting to see who is there, the standard of care and how much money they spend. Even if you are getting donations from abroad, they are taxpayers' money from those countries. They stand to be audited and looked at.

I want Sen. Cheruiyot to have a clause in this Bill that requires that those who run this homecare centres in the villages and wherever, must also be accountable to the Government. They must tell the Government how much they are receiving from donors, raising locally, anybody and everybody is giving them and how they account for it. It is immoral and criminal for you to set up a home ostensibly to look after old people, and a year later, you go to the settlement schemes to buy 100 acres of land, set up a commercial school or driving the latest cars and yet, you are supposed to be looking after old and vulnerable people who require a standard of care.

Mr. Speaker, Sir, one of the problems that we also have is very unpopular with the young people in this country and justifiably so, because the state of living is very difficult in Kenya. However, look at Germany, Switzerland and the United Kingdom (UK), they have progressively increased the retirement age. During the Kibaki Regime, we increased the retirement age from 55 to 60 years, and it became very unpopular. However, you will also find that if the economy is vibrant, first, we must wean ourselves off the notion that for one to be gainfully employed, they must put on a tie and suit, like the Senate Majority Leader is doing, and go into an office every morning.

We must make Kenyans understand that you can gainfully earn a living by being innovative and engaging in other forms of work other than going to an office in a tie. Then, the level of competition for those who go to offices to work reduces and we can extend the time of their work. Sometimes people retire to oblivion and you eventually find that the person who retired goes home, they do not have money; they cannot live; they perish.

I do not know if my distinguished colleague, Sen. Murkomen, remembers – I will tell you the name in private so that we do not malign families - we had a lecturer at the University of Nairobi, at our time, a brilliant man. He worked, eventually through misconduct, he was sacked and could not get a job elsewhere. He roamed the streets of Nairobi and if you met him on the streets, he accosted you and whispered to you as if he had a major discovery that he had found a place where he can get a mirror at Kshs20.

Finally, the man died and the cause of death was diagnosed as starvation - a lecturer of law from the University of Nairobi. If we had such guides--- It is a shame and irresponsibility. Society has no shortage of such irresponsible people unless we have others to help them.

I want this Bill to be embraced by all of us because there is not a place in this country where there are no old people or vulnerable people. In fact, those of us who embrace the Catholic Church, conscious that our priests do not marry, do not have core

families, we have, as Members of Parliament of the Catholic faith bought a parcel of land in Kitale; about 15 or 20 acres. We are building a retirement home for our elderly priests.

When they retire, they have lived away from their families, they go back home to find the land the father left has been shared. There are children who do not remember them or recognize them. As Sen. Sakaja said, there are people who kill their parents to inherit and this is happening in many places.

After passage of this Bill, I want us to mount some public education and tell everybody that aging is not a crime; it is a transitional stage. That is why sometimes when people say that the youth are vulnerable, I do not agree, because youth is not a state, it is a transition. You are a youth today, you are middle aged tomorrow and you are old the next day. For us to start equating youth with disabilities, it is actually an affront on young people because they are not in any way disadvantaged, except that they are younger than us and some of us are older than them.

If we teach them how to live decently and how to appreciate that a 20-year old today, will ten years later be 30 years and that when they reach 50 years, they start the Napoleonic descent, the sooner that they will understand that what you do for the old today will be done to you when you are old tomorrow. This is what we must do.

Mr. Speaker, Sir, therefore, as I support this Bill, I want to encourage Sen. Cheruiyot, that this noble idea should not just be left at this regulatory level but we must find the mechanism. If we are able to say that a certain percentage of the national Budget can go to political parties, we can put a percentage of the national Budget into a kitty for the elderly and vulnerable so that they can be looked after.

Politicians on their misadventures can look after themselves, but old people; those who have not had any job in their lives, have children who have deserted them, have no children, come from societies that are hostile to old people - we have many such societies - and also those with difficulties that we all know and understand, must be protected.

When you go out there looking for votes, "*hakuna kura ya mlemavu, hakuna kura ya mzee, hakuna kura ya anybody*"; it is the same. As the good old saying goes, all cats are grey in the dark. We must make sure that we look after old people and give them a decent sunset in their lives. If at our level we are given medical cover and so on, this must go down.

Mr. Speaker, Sir, lastly, this House must address the issue of healthcare in this country. My distinguished colleague, the Senate Majority Leader, you need to convince the national Government to agree to bring a Bill to this House or even administratively. Even if healthcare is devolved the way it is, let the national Government at the very minimum build a national hospital in every county to support people. People are dying like nobody's business.

In the villages, people go to hospital to die because there is no medicine and the standard of regulation of the quality of medicine is gone. Instead of some governors buying medicine from the Kenya Medical Supplies Authority (KEMSA), they are buying from fraudulent traders, bringing them counterfeits, expired drugs, ineffective drugs and people are dying.

We urge the national Government, under the Articles of the Constitution – I think it is Article 6, cooperation and collaboration between the two levels of Government must

be put in effect, more seriously in the health sector. A healthy community is a productive community. It is a happy community.

I am sure I speak for all these members, every weekend, in our areas, we now call Saturday, “*Funeral Day*”, because when you go home, every single village has a funeral. *Alikufa namna gani? Alikohoa tu akaenda hospitali, hakurudi.*

We must deal with this issue. I beg to support.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I beg to support this very important Bill which is on care and protection of older members of society.

First of all, we must acknowledge that we have a very progressive Constitution. A Constitution we gave ourselves in 2010 after a long, rigorous process which involved a lot of compromise, consultation and sacrifice by so many people who never even saw the Constitution pass, but nevertheless, did a lot of work to ensure that we have a Constitution. This Constitution is very progressive in the sense that I do not think you will ever find more than three constitutions in Africa that have an advanced Bill of Rights which takes care of young children, youth, persons with disabilities, marginalized groups and older members of society.

This constitution has also very progressive provisions, first being sovereignty belongs to the people of Kenya. It is the people of Kenya that have declared in this Constitution that they gave themselves this Constitution.

This Constitution was not given by politicians, it was not given by leaders but it was given by the people of Kenya. In fact, I get shocked that the debate we have in this country is just about what does the Constitution say about political leaders, but less about the vulnerable like persons with disabilities, youth, marginalized groups, older members of society and children. All these people have been identified by the Constitution as vulnerable groups.

Article 1 of the Constitution insists that the sovereignty belongs to the people of Kenya and be exercised according to this Constitution. You will also get progressive provisions in Article 10 which captures values and principles of this Constitution that includes patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people.

When we say participation of the people, it includes as provided for in Article 57 of the Constitution, includes also older people. This Constitution also captures very clearly the need, as a value and principles of governance in this country; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized.

This very important Bill is founded on that very solid foundation. Article 10 of the Constitution already provides for the values that must be achieved in so far as every sector of the society is concerned, including the older members.

Mr. Speaker, Sir, as we interrogate this Bill, we should always ask ourselves is: To what extent does it ensure that the dignity and equity of the old people is achieved? What does it say about social justice and inclusiveness? What do we do in this Bill that will ensure that we have enhanced participation, consultation and the views of the old people?

Considering that the old people are few; they fall within the minority in the society, they may not be ethnic minority, but they are minority in terms of age; to what extent are decisions made at the national and county levels incorporating the views and position of older members of society?

Article 57 captures the older members of society. The Bill is timely. I thank Sen. Cheruiyot for thinking through this at his youthful years. He is one of the few elected Senators who are serving their second term and are still young. One would have expected another member of the society who would have thought about this. It is important that Sen. Cheruiyot as a young person is thinking about his old age. I congratulate him even if he is not here for coming up with this very important Bill.

Mr. Speaker, Sir, this Bill brings into fore the challenges, opportunities for us and the obligations of the State in so far as protection of older members of society.

Clause 5 reproduces the provisions of the Constitution which basically agrees that there must be full participation in the affairs of society. When public participation is done in the counties to form the County Integrated Development Plans (CIDPs) to what extent are older members of society incorporated? For example, we are going for public participation and consultation on this Bill. Therefore, we should ask ourselves: To what extent do we ensure that the Bill captures the concerns of the older members of society?

There are rights for the people to participate in the affairs of the society. This is where we should also fault ourselves, especially the young Senators such as Sen. Sakaja and Sen. Cheruiyot, Sen. Cherargei and the rest of us. We should fault ourselves in situations where we allow our youthful years to be used to attack the older members of society.

Mr. Speaker, Sir, Article 57(a) of the Constitution says “full participation in the affairs society”. This means giving jobs to older members of society. We have heard some people complaining why the President appoints so-and-so who has been in office for many years. Why should the President appoint them to hold office when we have young people in this country? We were here with Sen. Musila. The other day, the President appointed him to become a Chairman of the National Museums of Kenya. For all intents and purposes, Sen. Musila has immense knowledge, education and experience. We must also recognise that when we will become old, we will have immense experience and knowledge. Therefore, we will still desire to use it change society.

I do not know whether it is empirical or scientific, but I dare say that older people in the society are busy and active, they live longer when they quickly fade from the job they like. That is why after two or three days when our mothers and grandmothers who have been living in the village are brought to stay with their grandchildren in towns, they want to go to take care of their cows and to do the things they like. That prolongs their lives. They keep on contributing positively to the wellbeing of the society.

Those of us who have been questioning why certain people are being involved in participation in national development must know that the right is in the Article 57(a) of our Constitution.

It is not the body, but the brains that we are looking for. What is important is whether the brain is working and can contribute. The average age of President Donald Trump’s Cabinet, it is about 56 to 60 years. The oldest member is Mr. Wilbur Ross, who

is 81 years. For us who have been young and who have benefited by making a case that, “this is the time for youth”, I think we need to change the conversation slowly. Sen. Cherargei and all of us are slowly getting older, but we must note that old age comes with wisdom and experience. Therefore, we must accept, support and defend older members of the society to enjoy their constitutional rights under Article 57(a) of the Constitution to fully participate in affairs of society.

They must also have a right to pursue their personal development. There was a *mzee* called Kimani Maruge who was the face of Free Primary Education (FPE) programme in the former President Kibaki’s Government. In fact, he travelled to New York with Sen. Mugo to showcase what FPE programme could do. It opened doors for older people like the late Maruge to go school. Sometimes because of our limited thinking, we think that someone who is so old should not go to school, develop themselves, and gain more knowledge and skills.

We were here with the late Sen. G.G. Kariuki - may he rest in peace - when he got his PhD as a Senator at the age of 80 years of age. That right is already protected in the Constitution. It is now being enabled by this Bill that Sen. Cheruiyot has come up with to ensure that it is achieved. Personal development of our parents and older people in society cannot be limited by the short-term desires and arguments such as: “what else do you want?” Quality life should not only be available for younger or middle-aged people, but also for older members of society to pursue their personal development.

Mr. Speaker, Sir, to the extent that this Bill captures that issue, how does it operationalize and provide for personal development? Sen. Cheruiyot needs to think about this when dealing with the Bill. There is a lot of focus about taking care of old people, for example, just putting them in old people’s homes and taking care of them. That is it. Where is the personal development, for example, the right to go to school, work and access other amenities? There used to be limitation in the university as to who would get loan from the Higher Education Loans Board (HELB) for purposes of education. It needs now to be open to even older members of society. This is a right for personal development.

There should be the right to be sponsored to technical training institutes (TTIs) to study. There are people who have been masons, carpenters, doing metal work and such work in the villages. They have been doing a good job and they need a little bit of tweaking here and there through the new TTIs. They must have a right under this law to develop themselves.

They must earn a right under this law to develop themselves. They may be 60 years old but TTIs must be open to them. We sometimes converse and say, “We have built technical institutions for our youth”. These institutions must include everybody, because access to institutions for personal development is provided for in the Constitution. They have a right to own businesses and they must be facilitated to do business. In fact, access to resources for women, young people and Persons with Disabilities (PWDs) should include all the people. When you are old and you are starting a business, it should be your right, even at 70 years old, because it is personal development. You can start dairy farming or whatever kind of business you want to do – that is up to you – but that opportunity must be there.

Mr. Speaker, Sir, Article 57(c) states that-

“The State shall take measures to ensure the rights of older persons—

(c) to live in dignity and respect and be free from abuse;”

Many older people are abused in our societies, both in our villages and, more so, in the urban areas. This is an area that we must take good care of. I read reports, including the one I saw in the news today, where a 75-year old lady was found killed and dumped in Kirinyaga. We read in the newspapers of women being raped by young people. It is terrible! I cannot imagine that an old lady, who is perhaps struggling with weaknesses of age is raped at 70 or 75 years. This is where there is a lot of vulnerability.

Mr. Speaker, Sir, apart from the establishment of the homes, I have not exactly found out how we will operationalize such an important provision in terms of making them live in dignity, respect and free from abuse. Do old people have a chance to report their children who abuse them? This is because there are families that abuse their parents, and I see them all the time. We see them as politicians, because we represent people. Some of them are killed by their children; others are chased away by their children and they no longer live with them. Sometimes at a particular age, the children inherit their parents’ wealth even before they hand over that property. This is an area we must think about in terms of dealing with abuse. Finally, Mr. Speaker, Sir, Article 57(d) states that-

“The State shall take measures to ensure the rights of older persons—

(d) to receive reasonable care and assistance from their family and the State.”

This is such a beautiful provision of the Constitution. We used to care for our parents just because of religion and the African culture. However, do many people know that it is a constitutional duty for families to take care of their old? It is no longer left to the wishes of members of the family, their religious beliefs or societal values. It is a constitutional requirement that family members must take care of their older parents and relatives.

I am happy that this law does not say “the children;” it says “family members,” meaning it can apply widely. It can be a last-born brother taking care of their older first-born brother, and so on. That must be an obligation and we must find a way of operationalizing it. The Chairperson of the Committee is here and I am sure that they have done the amendments, but they can continue doing some more amendments so that when we finally pass this law, it has a mechanism for dealing with that constitutional obligation that has been put on family members.

Mr. Speaker, Sir, I have seen some of the obligations that have been put on the State in this law in so far as the care of older members of society, which include establishment of community-based programmes and dealing with prevention and promotion of older people. This is a promotion programme that seeks to promote independent living of older members of society. This is very good because they must have a right to choose whether they will live as a group or one can live in his home.

There is also the home-based care programme and a requirement by the counties to deal with--- In fact, we should have a department and an officer whose obligation in the county is to implement these provisions. I like these provisions that are enumerated as responsibilities of county governments. Therefore, when this law is passed, there must be a department as well as an officer in the county in charge of older people. This officer can be held to account. When dealing with the children officer, you also must have the older people officer in every county and also in the national government as provided for in this Bill.

Mr. Speaker, Sir, this Bill lists the types of abuses that must be dealt with, including economic abuse. It makes it an offence attracting imprisonment for not more than five years, or a fine of Kshs1 million shillings. If an older person has been tortured mentally, I think five years might be too little. We may need to think about amending the provision to about eight to 10 years so as to make it severe. We can make it up to ten years and then leave it to the discretion of the magistrate involved when that time comes. If the offence is severe, the magistrate can then sentence the offender to up to ten years in jail.

I totally agree with many of the provisions of the Bill and I think the Committee has made very good improvements on it. However, as the Senate, we must continue supporting this kind of legislation.

Mr. Speaker, Sir, I do not want to speak more. I would have loved to talk more about this Bill, but I want to congratulate Sen. Cheruiyot. We will support it and we hope that it will find favor in the eyes of Kenyans. We hope that it will also be passed expeditiously by the National Assembly so that our older members of the society can get the good care that is already guaranteed by the Constitution and this law.

Thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. I want to start with Clause 10, because the clarification that has been made in that clause is very important. In the developing world and in Kenya, we still have the discourse about how to handle our older people. Some of us feel that we should not have institutional care, while others feel that maybe we need to go in that direction. Therefore, it would have been a problem if we only went for institutional care and said that, "it must be institutional care." That way, it would seem as if we are making the decision for societies and communities to go in a specific way.

Therefore, Clause 10 is the clearest and probably the most helpful section in this Bill, because it allows for home-based care programmes. At the same time, it also allows members residing within their own counties to live independently. It promotes independent living and also home-based care.

Mr. Speaker, Sir, the definition of age varies across the world with different societies having different definitions. Some of them are as early as 40 years old, whereas others go up to 70 years old. I think this Bill has followed the United Nations (UN) definition, of about 60 years, and I think that is safe enough for where we stand. Trends are being observed worldwide now where even people of about 60, 70 and 80 years can still be very useful within society.

Indeed, legislation is changing in many developed countries to allow these people to continue working within their communities because they have the expertise. In fact, in other sectors – like in the banking sector; and I think it has even happened in Kenya – at one time they went for young people, but they realized that they needed the older people who tended to be more faithful, resilient, and more honest. These qualities come as very important.

The issue of healthcare, housing and mental health all come in as very important because they are issues that actually make the older members of society to become a marginalized group of sorts. Therefore, it is important to address these issues.

Mr. Speaker, Sir, aspects of this whole nation have been addressed in other various ways because the authority formed within this Bill is already formed from the National Social Assistance Act. We are actually giving responsibilities to the National Social Assistance Authority and enabling them to continue playing this critical role. It has been said by other Senators – and I do not want to repeat it – that sometimes we have not treated our older members the way we ought to treat them. It is sad.

Some people look at the eyes of a 60 year old woman and say that she looks like a witch, yet she probably has cataract at that point. There are families that have even organized for their older members to be killed. In some communities, it has to do with issues of land. The younger people may want the land to be sold, yet the older ones want to still keep it for posterity.

In other places, it is as a result of the economic burden. Some people may feel that they cannot take care of their elderly parents anymore and so, they wish them dead. If they do not die soon enough, they actually kill them. All these contextualize the importance of having a home-based care system, which this Bill advocates for, so that all these can be addressed substantially.

Mr. Speaker, Sir, Clause 3 (a) is very clear. It provides a framework that promotes the rights of older members of society as enshrined under the Constitution. Specific articles and sub-articles in the Constitution are very clear. Older members of the society have a right to participate in the affairs of the society in all ways, as long as they are able to do that. It is important that their personal growth is taken into consideration. Their health, economic and cultural outcome becomes important.

They have to be dignified and given the respect that they need. At the end of the day, as has been mentioned in the Bill, funds need to be made available for this. If we do not have a specific provision indicating where the money will come from, it will be a bit confusing. This Bill gives responsibilities at both the national and county level. At the national level it has an authority and stipulates what it will be in charge of.

Clause 6 states that-

“The national and county governments shall to the extent of their Constitution mandate promote the care, maintenance and protection of older members of society in Kenya”.

Clarity has to be made in terms of specific roles. At the level of authority, that is done.

Clause 6 (2)(a) states that-

“In ensuring that the national Government fulfills its obligations under subsection (1), the Authority shall-

Adopt a comprehensive national strategy and plan of action and policies to promote realization of the rights of older members of society under Article 57 of the Constitution and put in place measures designated to improve the general welfare of older members of society”

That is well articulated at the national level. At the county level, this Bill advocates for county assemblies to cascade this Bill into the counties and probably come up with a framework of a Bill that is quite close to this one that contextualize the issues within that specific county. This is important because there are many cultural and societal issues that come in, which will probably be handled within specific cultural and ethnic groupings.

The issue of finances needs to come out a lot more clearly. Where will money for the various programmes that are being advocated for come from? How will the health and educational benefits be incorporated? How will they have an infrastructure? For example, will we need to further legislate at the county level, the way we have done for educational institutions, that there must be a home-care based institutions within the various counties? How many will they be per ward or constituency? It is important that this does not become the basis for abuse of the older people. Sometimes having institutional care, even if it is safe, can be a curse. We have seen narratives and research that has been made in home-care institutions, where older people who went there expecting to be taken care of better, were abused in those centres. It would be a sad thing if those institutions do not have that control.

This Bill takes cares of that in terms of the fine of Kshs500,000 and one year jail term requirement if somebody contravenes the specific clauses in this particular Bill. That is very important, but as usual, there is legislation and enactment. It is important that enactment is actualized by taking people in and indicating that they have been imprisoned because of contravening that particular clause. This will create and impinge a sense responsibility and ensure that we respect and care for our elderly.

Clause 6 (2) (b) and (c), state the importance of research and data collection, which is very important. The Bill also talks about the registration of the older people and institutions. For example, we have the Early Childhood Development Education (ECDE) Bill that is being processed, so that we do not have the registration of ECDE centres coming up arbitrarily. There should be a methodology and format for that to happen.

Mr. Speaker, Sir, it is also time for Kenya to stop thinking about registrations along all the steps. For example, registrations for Persons with Disabilities (PWDs), people who are 18 years and older members of the society. If the definition of an older member is 60 years, we can have a joint unitary system that records people from birth and we will find them at 60 years. Therefore, at 60 years, the provision that a person is meant to end up with are given to them. If it is pension schemes, they should be pegged to that unique number that they have, so that the moment they retire, the pension can kick in immediately, so that they do not have to suffer or struggle to look for that payment over and over.

In Clause 6 (3), the Authority has been given the most important power and extra responsibility. The rest of the clauses have been discussed.

Part III takes care of the older members in society and gives the importance of this and the role that they play. It has been gainsaid that at the end of the day, we need the older members of the society to be taken care of, for them to live in harmony.

Mr. Speaker, Sir, the Bill is quite elaborate in Part IV that provides for care for older members in society. Again, details are given about how home care institutions should be registered and followed through.

Part V provides for monitoring, evaluation and safety in homes, which is important. This creates a mechanism to ensure that there is some control and there is no mushrooming of homes that will abuse the older people, instead of being taken care of as the Bill advocates.

Mr. Speaker, Sir, I support this Bill and wish that its provisions will become an Act. Sen. Aaron Cheruiyot, this is a very important area that you have picked on for a better society and a better Kenya.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Beth Mugo, I know that you had already contributed to the debate. However, I will allow you your ten minutes that were remaining.

**Sen. Mugo:** Thank you, Mr. Speaker, Sir, for allowing me. I apologize for coming late.

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

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

Once, again, I support this timely and important Bill. It is not the first time that this issue is coming to the Floor of the House. It has been discussed before, although not much implementation has taken place.

I, therefore, urge the Committee that is in charge of this Bill to look at previous legislations and find out why this has not been implemented the way it should have. Maybe, from that, we could have some amendments to this Bill, which will make it possible to be fully implemented.

This is a useful and well-written Bill. However, I feel like there are some few areas where there are some gaps. For example, how will it be funded? It will be very expensive to fund all the services to be provided. We need to come out clearly on where the funding will come from and which department will be responsible for this.

In our country Kenya, we have a lot of Bills and laws; some of which are still on the shelves and have not been implemented. I urge - I do not know if we have an Implementation Committee like we did before - that this Bill be implemented.

Some of the clauses have been well covered. If you look at Clause 29, it prohibits the refusal to admit an older person into a home established by the county government. It states-

“29. (1) The management of a home which is established by the county government shall not refuse to admit into the home, an older member of society.

(2) An older member of society shall not be admitted into a home without the older member of society’s consent unless the older member of society suffers from a mental infirmity that renders the older member of society incapable of giving such consent.

(3) Where an older member of society is unable to give his or her consent under subsection (2), the consent of a person authorised to give such consent under any written law or pursuant to a court order shall suffice.

(4) Notwithstanding the provisions of subsection (2), the management of a home shall inform the older member of society of the intended admission where the older member of society is capable of understanding notwithstanding the fact that the older member of society’s mental infirmity renders the older member of society incapable of giving the required consent.”

I do not think that we should be totally tying the county homes because the issue of capacity is one thing to look at. If there is a fine or a jail sentence to be imposed, we should go a little bit deeper and say under what circumstances this refusal is denied.

The fact that it is done in the county with the age limit being very low - the former Attorney-General and I can attest - 60 years is still quite young. We have a lot of people claiming these services and wanting to go into that home and maybe the capacity may not allow at that particular time.

Even as we plan to give all these services, maybe we need a little bit of more research to look into how we can implement this Bill. Where do we start? It is quite huge and open. Maybe when it comes to implementation, it might not take root as fast as we envisage. What are the priority areas? When a home is to be given a license, what are the minimum basics they need, the maximum or whatever we want to call them? The home might not have everything the way we have put it down in the Bill.

We need to give the implementation of this Bill a human face. A lot of people will feel anxious going to a home just because it is for the elderly. To make the older people comfortable, we should make it as homely as possible. One way of doing that is involving the communities and families as opposed to making it a Government institution. At that stage of life, one needs a bit of homely feeling.

I saw one such home in Thogoto run by the Women’s Guild, which I am proud to be a member. They have allowed people to come with some of their personal items like decorations and pictures; and there is a lot of passion from those who give this care. We cannot just have employees working in this kind of institutions; we need to have people with passion to volunteer to support the old people.

My appeal here is if the Committee - they may say that there are no funds to do such a thing - not all of them, but just a few Members and the sponsor of the Bill, Sen. Cheruiyot, should go for some bench-marking. They could visit two or three countries where these services are available. Some Scandinavian countries are very good examples.

They will learn how such homes are run, what is expected to be done and how we can start implementing it.

There is a documentary I saw on YouTube last Thursday of a home in Thogoto. We could also look at it and see what the home is doing. I congratulate the people running it because I was really impressed. We can implement some of their programmes that are good.

The faith community can contribute a lot in this area. Most of them have homes. We know the Catholic Church in Huruma has one, we have others elsewhere and we need to see what they are doing and where we need to improvise. I saw a Sister from Huruma saying they do not have medication. Maybe that is where the national and county governments need to come in with universal healthcare and make sure that such homes have enough medication.

It is very important to offer these elderly people an environment where they can be comfortable, so that they can impart to others the knowledge that they have gained over the years in their professions. I had an encounter with Maruge who was an elderly student, when I was the Assistant Minister for Education. I took him to New York for the United Nations (UN) Conference and it was amazing how he was able to communicate to the Assembly. He was really praised. They noted that this was unique to Kenya. These are talents we can tap from our old people; they can help us and we can help them. They have a wealth of experience that they can give to the society.

I support the Bill and urge the Committee to come up with other views to boost the Bill. We should identify how to fund this Bill otherwise, it will end up on the shelves like so many other Bills, whereas it is a good Bill.

I support.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Wako, you may proceed.

**Sen. Wako:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to make my contribution on this very important Bill. I also want to commend Sen. Cheruiyot for having come up with this Bill.

He is one of the youngest Members in this Senate and yet he is mindful of other people's welfare, in particular, the older members of society. I want to commend him as a young man for being mindful of our welfare, and as the Bible says: "Your days on this planet earth have been increased."

May I also talk about the definition in the Constitution of who is an older person. This is not specifically mentioned in the Act, but it would be useful to repeat that definition of an older person somewhere in the Act. An older person is one who is at least 60 years of age.

When I looked at the Constitution, I initially thought that an older person is one who is at least 70 years of age. On that basis, I could see that maybe in the House this afternoon, it is only Sen. Mugo and I who would qualify to be older members of the society. The age is 60 years and, therefore, a number of people here would qualify.

I do not want to go into the depth of the provisions of the Bill because they were well articulated by the Mover and the Seconder of the Bill. I want to commend them for coming up with this Bill.

It is a pity that we must have this Bill to take care of the older members of our society. I recollect when I was in Form One, there was a teacher who went to the United Kingdom (UK) for three months on a British Council Scholarship. When he came back, he told us about his visits to homes for old people in UK. He told us a story about a former teacher of the school who was over 70 years and was a bit sick. He had a family of two sons and one daughter. One day, they saw it fit to remove him from a very big home that they had in Stafford and took him to old people's home because he was too old to stay with them.

The picture that came to our minds at that time was that white people did not know how to take care of their old people. If your father or mother gets old, however much they may have helped you to be where you are, they should not be a burden to you in the house to a point where you put them in the old people's home. Little did I know that a number of years down the line, a young Senator will now see the need for us to have old people's homes in Kenya.

The time has come for us to have these old people's homes because our social system has broken down. In the past, we were all based in the rural areas. We knew each other and the houses were the same. We were living more or less the same way. However, things have now changed. For example, if I have two bed-roomed house and my father comes here and he is sick, what do I do with him? If I was born in Ofafa Jericho or in any other estate and my father who brought me up now retires, when he retires, he goes home briefly and come back here because he cannot cope there. He then falls sick and wants to stay with me in Nairobi, where do I take him? How does he live with me? It has, therefore, become necessary that we have these old people's homes. To me, this Bill is comprehensive in that regard.

I want to make one point which I think should be taken care of even as we copy the homes for old people in the so-called developed countries. Very much as we should copy those systems of licensing, inspection and ensuring that those homes are able to take care of the old people by ensuring that they have the personnel to look after the old people, I feel that what is lacking in this Bill is an element of the preservation of our own social culture. That preservation should also be inbuilt here.

If a person becomes very old, the first decision should not be for the family to take him to the old people's homes. It should be convenient for the old person and the family that he goes to the old people's homes. They should visit him from time to time. That may be convenient. However, there are people in this country who still believe that they can look after the old people in their homes as it used to happen in this country. This Bill should recognise those people.

It may very well be that those people may not have the capacity to look after the old people in their own homes as they are meant to be looked after by providing them with food, shelter and medical assistance care. They very well might not be able to do so because of poverty and so on. In addition to community and home based programmes, we should also have family based programmes.

The definition of a community based programme according to Clause 11 is with respect of the older members of the society who are isolated and the family members or care givers who cannot take care of them. This means that when an old person falls under

that category, the county government and the national Government are obligated to have community based programmes for them.

In some situations, it may very well be that the old person should be taken care of under that community based programme. However, there should be a programme to assist the family itself to take care of the older members of the society. I am sure that many of us know it is only a few members of the family who go out of their way to take care of the old people. They may not be able to do as envisaged in this Bill because they do not have the means. In many families where the father becomes very old and he cannot do anything, the daughters go out of their way to take turns to look after their parents.

In many cases, the daughters or even their husbands may not be employed, but they feel such love for their parents that they say, “no, we shall do what we can.” This Bill should, therefore, also have a provision to take care of such family members. By family members, I mean the extended family members; and they may even include friends. Sometimes friends can be even more loving than relatives. If you have such people who can take in that old man to stay in their home – not to be in these programmes there with everybody else – just to love and take care of them, then that family should be assisted. There should be a programme to assist that family in one way or another. The programme may involve a doctor visiting the family from time to time.

I know that in France, sometimes doctors visit homes. Somebody was telling me the other day that in Cuba, for example, there are community doctors who visit homes to make sure that the older members of the community in those homes are taken care of. If they are sick, they are treated and so on. Furthermore, I was told that when the older person dies, the doctor is stopped from working until it can be shown that the death was not as a result of negligence on the part of the doctor.

The Bill is excellent, but I feel that there should be a few amendments here and there to take care of what I said; not community based, but just family-based care. It may very well be that the county government may have an office which looks after old people. That way, people with various specialties can be visiting the homes where these older members are being taken care of just to ensure that they are being taken care of well.

If a family, for example, does not have food to give the older person, that office will ensure that the food is provided to that family to take care of that old person in that home. That way, when the good Lord calls that person to go and join Him in Heaven, at least he will be dying in the company of the people who loved that person, and *vice versa*. This is better than dying in a home somewhere where all the people there are ideally strangers.

Mr. Deputy Speaker, Sir, that is the only contribution I wanted to make on this Bill. I am very happy, that Clause 28 deals with services rendered within a home for the old people. What I want is for those types of services to also be rendered to a family which has an older person residing with them, and not only in a home for older people. Although I have taken care of my children, I hope that when I get older, they will not say: “*huyu jamaa sasa amekuwa mzee; sasa aende kwa older people’s homes so that he can be taken care of there.*” I would not want that.

However, where it happens, I understand that the society has come to a level where it is a norm now. Whereas this Bill provides the best for everybody, they should

also try to preserve our own traditions by giving assistance to the family. After all, the family is said to be the foundation of any society. According to Article 6 of the African Charter on Human and Peoples' Rights, the basis of any society is the family; and even our Constitution says so. Let us preserve the family as a unit so that it can also render service to the older persons in that family.

With those few remarks, Mr. Deputy Speaker, I beg to support.

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

*(Sen. Cherargei and Sen. Olekina consulted loudly)*

Sen. Olekina and Sen. Cherargei, the only reason I did not call you to order is because any discussion between the two of you is good for the country at the moment.

*(Laughter)*

You have the Floor, Sen. Cherargei.

**Sen. Cherargei:** Thank you, Mr. Deputy Speaker, Sir. I was telling Sen. Olekina that he is so committed to the issue of fencing off the Mau and I have seen him trying to do that. I know that the preservation and conservation of the environment is very critical in our society. I am happy that he has now come and we are no longer seeing those hot statements in the media. I hope that he will maintain that because, as a country, we need unity, peace and love. Remember that tomorrow has been declared Moi Day, so we need those three attributes *na kuu hivyoo hivyoo*.

Mr. Deputy Speaker, Sir, I rise to support The Care and Protection of Older Members of Society Bill (Senate Bills No.17 of 2018) as per the spirit of Article 57 of our Constitution, which is very clear. When you walk around, our society has developed a tendency of forgetting the older people in our society. I do not think this is because of our culture, changes in how we live or because of significant change of values. The societal fabric or support system has, in a few years, made our older people not enjoy their rights and their aging wisely and in a healthy way.

Mr. Deputy Speaker, Sir, the older members of society are our parents, grandparents and many other Kenyans who have been left to the vagaries of life. I agree that when you go to a function, most of them are sickly, lonely and do not have a way of self-sustenance. Because of degrading social fabric and support systems, most of them have even been left without housing.

I want to thank my Women Representative, hon. (Dr.) Tecla Chebet Tum, for starting an initiative of housing the vulnerable older persons in Nandi County. Therefore, this underscores the fact, that the older people need our support as a society and as a country. It is no wonder that the drafters of the Constitution, in Article 57, have espoused these rights. I hope that the proponents of "*punguza mzigo*" and "*punda amechoka*" initiatives and those wishing to add more seats to the Executive through a referendum will not amend Article 57. Therefore, all the proponents of these initiatives and any other vested interests should also ensure that Article 57 will not be amended because we need the protection of their rights.

Mr. Deputy Speaker, Sir, I know that the *Inua Jamii* Programme by the Government, where we were giving stipends to the older members of the society, has received a lot of challenges. I wish that this function could be devolved. I know that the national Government is the one doing registration using the chiefs and assistant chiefs so as to get to many places. However, many older people are complaining that they have not had the opportunity of benefiting from the Kshs2000 stipend programme. Now that we have a singular law that deals with the older members of the society, I hope they will benefit. I hope they will find favour from Members of the Senate and the National Assembly so that there is a legal framework.

My colleagues have discussed the role that a county government should play. I know we are giving county governments a bigger role. We will be having a census. The Kenya National Bureau of Statistics (KNBS) will conduct a census and we need an updated version so that we know the numbers.

If you reach a certain age, you are registered to receive stipend from the Government through the Kenya National Safety Net Programme for the older members of society. We should bring that age down. The retirement age was extended to 60 years. We should reduce the age of people who should receive a stipend from the Government to 60 years.

The other day, Sen. Wako was giving statistics of how sweet and tender the chicken from Busia is but that was without scientific proof. The only sweet chicken is from Nandi. He alluded to the fact that he prays---

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

**The Deputy Speaker** (Sen. (Prof.) Kindiki): What is it, Sen. Wako? Is it about chicken?

**Sen. Wako:** Yes. Is it in order for my learned friend and Chair of the Committee on Justice, Legal Affairs and Human Rights to reduce things of sweetness and feelings to scientific--- Is he in order?

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Cherargei, what has science to do with the sweetness of chicken?

**Sen. Cherargei:** Mr. Deputy Speaker, Sir, during the debate on the Impeachment Procedure Bill, Sen. Wako told us which counties have sweet chicken and Busia was one of them. However, we need a scientific research and I hope the Attorney-General *emeritus*---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order! You have been asked whether there is a relationship between the flavour of chicken and science.

**Sen. Cherargei:** There is no link but we witnessed. If you go to church, there is a session of testimony or *ushuhuda*.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Both you and Sen. Wako are wrong on that one.

**Sen. Cherargei:** Mr. Deputy Speaker, Sir, I stand guided.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Wako, is that something you want to pursue beyond?

*(Sen. Wako spoke off record)*

Very well, thank you.

**Sen. Wako:** And the former Senate Majority Leader and former Director of--- is it Cultural Affairs in the Ministry of Justice?

*(Laughter)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Wako! Noted and acquitted.

Proceed, Sen. Cherargei.

**Sen. Cherargei:** Thank you, Mr. Deputy Speaker, Sir, for that. I know Sen. Wako, the Attorney-General *emeritus*, is praying that under Clause 28--- I know there are many poor people that need this kind of protection because when you walk around the country, you find many of them living in dilapidated houses.

One of the Big Four agenda of the President and the Deputy President is housing. That is why we are seriously concentrating on the Big Four agenda. I said somewhere in an undisclosed location that when you are chasing a gazelle, you do not abandon it and start chasing a squirrel. That is why the President and we in Jubilee Party are concerned about the Big Four agenda. That is why the issue of referendum is not as big as you think.

Affordable Housing is one of the Big Four agenda. I hope Sen. Cheruiyot is listening. I do not know whether something can be done to ensure that older members benefit from the housing project, now that money will be deducted from employees. Part of the money should go to that.

The Bill is well done. I know that under Article 57 of the Constitution, the state is obligated to take care of older members of society. Older persons also want to live decent lives. Their rights must be protected as enshrined in the Constitution. They must enjoy their freedom. Considering the cost of living, we do not need to give them Kshs3,000 or Kshs2,000 through the Kenya National Safety Net Programme that we have.

Since the national Government gives a stipend to the older members of society, Members of County Assemblies (MCAs) should come up with laws that will factor in the support system that they can give to the older people. It does not have to be money but it can be anything else. They can look at the welfare of the older members of society.

Some counties have gone ahead to roll out the National Hospital Insurance Fund (NHIF) Programme. We should also be looking at that. Universal healthcare is also one of the Big Four agenda by the President. We should also include that in the scheme because they no longer work. They used their youthful years to serve this country with distinction. I hope Sen. Cheruiyot will factor in, in the Bill, how to ensure that the NHIF cover is provided free of charge to the older members of society who are vulnerable.

Another thing is the issue of registration. There are cases where older members of society do not have national identification cards or ATM cards and so they cannot access financial services because the systems have changed. The Government should have national data on the older people so that they are facilitated to acquire national identification cards and NHIF cards and also enable them to access financial services

because as they grow old, they become senile. We should also have a way of availing to them *pro bono* legal services so that they sustain themselves.

So, we should look at their welfare and ensure that they are covered under the NHIF and facilitate them to acquire national identification cards. If there is any programme that needs to be rolled out, then older members of society should---

I want to thank the Catholic Churches across the country. I know many religious organisations have homes for the elderly across the country but the Catholic Church has been the pioneer of establishing homes for the elderly among other religious and charitable organisations. Those are people that we need to provide a conducive environment for. This law should give them an opportunity.

Where we come from, and the same belief is held by the Maasai and the Luo, when you take an elderly person to a home for the elderly, they are likely to curse you. Some people will agree with me that our cultures do not allow that because when people become old, you need to take care of them. I thank the religious organisations led by the Catholic Church because I know that this is the way to go.

We have heard of rape cases of elderly women and this has become part of the problems in the society. The police and other security agencies need to ensure that the lives and the wellbeing of the elderly people are protected. As I said earlier, a number of the elderly people live alone. The criminals, therefore, take advantage of their loneliness to attack them. The abuse of the old people must stop and the police must protect them.

Mr. Deputy Speaker, Sir, when you go to a police station, there is a gender desk. We should also have a desk for the elderly people, and I hope Sen. Cheruiyot will factor this in. Since some of them are sick and others even senile, we should have a special way of handling them. That is why we need a desk that will work towards protecting them from abuse and any people who would want to take advantage of them.

We need to even give the elderly people legal services, especially when they want to do succession of their property. Some of them do not understand how to go about it. Therefore, there should be a way that the law should protect them. We must have a unit within the police station that will ensure that the rights of the older people are not abused.

Mr. Deputy Speaker, Sir, you are a senior citizen, the former Senate Majority Leader, the current Deputy Speaker, the Senator for Tharaka-Nithi County and God willing, the future Deputy President of this Republic. I am speaking blessings. I urge that we expedite this law. I want to challenge the Council of Governors and our Members of County Assembly (MCA) to come up with laws that are modern, so that we can protect our older members of society. I know there is a Motion that is coming with regard to the former councillors. They also fall under the same category.

As the national Government registers older people for the next financial year, let them do it together with the county governments, so that we can ensure that we protect our integrity.

Mr. Deputy Speaker, Sir, I support this Bill and call upon my colleagues to expedite it, so that it can go to the National Assembly and the President assents to it. This will ensure the happiness of the elderly members of the society, who are always vulnerable. This Bill breaths life to Article 57 of the Constitution and the major gift that

the many elderly people in the society can give us is blessings. *Watatutemea mate ya baraka*.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Cherargei. Your best wishes and recital of the past and future Curriculum Vitae of the Chair is noted with gratitude. If you had asked for more time, the Chair most likely would have been sympathetic in that discretion.

*(Laughter)*

Order, Senators. I have one more request, which I will grant. The request is from Sen. Abshiro.

You have the Floor.

**Sen. Halake:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity. I will not be long because a lot has been said. I just want to point out one aspect of this Bill. First of all, allow me to congratulate Sen. Cheruiyot for this timely Bill.

The issues around exploitation, abuse, neglect and all the rights that accrue to older members of the society have all been said, and I will not belabour that. However, I would like to mention one thing. The right to dignity of older people is not one that we are giving, but is inherent and needs to be protected for them. That said, there is one aspect of participation in the society by the older people, especially the retirement at the age of 60. This needs to be looked into.

My worry is for us not to replicate models of care and protection of our older people that are based on alien notions of foster homes or homes that are managed in a different manner. A few of the Senators that contributed, including the former Attorney General *Emeritus*, mentioned about the family and the need to have a model that is very African and Kenyan. This Bill is very innovative. I like the innovations around home-based and community-based care that lends itself to the African setting and the model that would work for us, as Kenyans.

The older people have a right to participate in the society. I am sponsoring a Bill that has been brought before with regards to preservation of human dignity and enforcement of social and economic rights. This Bill is aligned to that thinking because it makes sure that we give dignity to our older members of the society. However, dignity is not just about giving people food and shelter. It goes to the core of participation in society and people feeling that they are valued and have a contribution to make. This is where I would like to dwell on a little bit, if you allow me.

Older people have a right to work and participate in social and political lives to a level that is appropriate for them. In our societies in the past, the elder people gave direction and blessings, like Sen. Cherargei said. They gave advice, counsel and mitigated against certain conflicts. We are losing all these. I hope that this Bill, which is part of Articles 57 and 28 of the Constitution that seek to preserve the dignity of the older people, will empower and provide them with certain roles and responsibilities in society and work to do.

The older persons should be able to work, be it in the political or socio-economic space. We should find them something to do. Many people who are 60 years and above

have a lot to offer, but they have been relegated. In the African model, we should be utilizing their experience, wisdom and counsel. This will ensure that they have space at all levels of the country's governance system. They should also have access to education, training and to participate in other socioeconomic, cultural, and political life. I hope that in this Bill we will look at the broad aspects of preservation of dignity, including rights to work and participate in the society.

Mr. Deputy Speaker, Sir, the right to care has also been taken care of, including the right to healthcare. I will not belabour that, but I would like to mention other things around the right to religious associations and personal and interpersonal relationships. I hope that in the home-based care programme, Sen. Cheruiyot will look at issues around providing dignity that goes beyond food and shelter. We need to give them space to be useful members of the society, based on the African model of ensuring that we get the benefits of their counsel and advice.

Mr. Deputy Speaker, Sir, the right to healthcare, maintenance and material assistance as has been done by our Government in the social safety net and others like *Inua Jamii* may not be perfect but it is the first order of business and we appreciate that.

Again, as I said, let us look at other things that are lifelong and give dignity. They include; lifelong education, access to learning and participation in their religious beliefs. More importantly, can we use our older people in our governance? I like the Ameru one because we are praising you so that when you become the Deputy President of this country, you will find favour for us.

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

*(Laughter)*

You may proceed, but wisely.

**Sen. Halake:** Thank you, Mr. Deputy Speaker, Sir. For instance, we have the Meru Council of Elders called the *Njuri Ncheke* and the Borana Council of Elders who provide very good counsel. Can we probably have council of elders that are national to just give them space and ability to participate in our governance? This way, our protection and care of our elderly will be as African and Kenyan as it can possibly be.

I do not wish to go into the others like abuses and neglect. As I said, this is the one aspect that I just wanted to point out because my colleagues have exhaustively and very well captured all the other aspects.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Halake. Again, the kind remarks are noted with gratitude. However, I just thought that I should guide that you proceed wisely so that this Chamber does not become a campaign platform, even if the beneficiary of that campaign is the Chair.

Mover, would you want to reply?

**Sen. Cheruiyot:** Thank you, Mr. Deputy Speaker, Sir. I want to reply wisely now that very good diction is being introduced into this Chamber this afternoon, with glowing tributes to the Chair. Unfortunately, he is not in the mood to receive them.

I sincerely thank my colleagues. I have sat here the whole afternoon and also Thursday last week when I first moved this Bill at about 4.00 p.m., and through to 6.30

p.m. Most of my colleagues have taken time to contribute and share their thoughts. It is quite intriguing. I did not know that people have this kind of interest in issues to do with older members of our society. I believe it is because of the fact that we all know that we are leaders and we are supposed to take care of all segments of our society.

Secondly, because getting old is inevitable, at some point, all of us are possible beneficiaries of this law. With a lot of interest, Members have given their contribution on this Bill. I have noted the 16 amendments that have been proposed by the Committee chaired by my good friend, the hon. Sen. Sakaja. The amendments are important and enrich the Bill better than what I had envisioned. I, therefore, will be looking forward to working together with the teams that look into our Bills and see a way that we can improve and make it better.

Mr. Deputy Speaker, Sir, I must also note the concern that was shared by one of the Senators who spoke. I think it was Sen. Wetangula who said the Bill has addressed all forms of injustices and infringement that can be meted upon the elderly but did not mention what happens to people who set up old people's homes and then run into financial misappropriation scandals. It is not uncommon as these things happen. People start children's homes and before you know it, they are profiting out of the venture.

He, therefore, felt that it is important for us to address ourselves to that issue in the Bill and find a way in which the people that operate these kinds of homes can have financial reporting as part of what is checked for before their licence is renewed, maybe on yearly basis or the time period that will be set up.

That way, by the time you get your license renewed like in many Non-Governmental Organisations (NGOs), you have first filed your books of accounts and are properly checked.

We do not want NGOs whose budgets are upside down. It is not uncommon in this country to have NGOs whose 60 per cent of the budget goes to capacity building and then use 40 per cent to do the actual work that they should be doing. We do not want to see that kind of scenario in many of these homes that are being set up.

Of course, there are good suggestions also about what county governments can do about vulnerable, old members of society; people that are homeless and have nowhere to go. This was completely unheard of back in the day but as society continues to evolve and you get to hear about succession issues, I am sure many of my colleagues here know about one or two people back where they come from, who back in the day were well off families but with time as land continues to depreciate in size, before you know it, the generations that follow thereafter find themselves being landless.

I have seen one or two instances in our county. Or, you may find a case where there was a dispute in the succession. By the time the matter is adjudicated, you find that the person who was supposed to have benefited out of the inheritance has been ruled not to be the rightful owner of that property. They then find themselves homeless. What county governments can do was also a worthy contribution from colleagues.

I sincerely thank my colleagues who have contributed to this Bill. I will look into all the amendments proposed by them and the Committee and work towards enriching this Bill.

Finally, under Standing Order No.61(3), I request that we defer the putting of the question to a later day, at a time that you may determine.

With those many remarks, I beg to reply.

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

I direct that Division do take place next week on Tuesday.

*(Putting of the Question on the Bill deferred)*

I would like to reorder the rest of the items appearing in today's Order Paper. Pursuant to Standing Order No.40, I direct that the items appearing under Order Nos.9, 10, 11, 12 and 13 be deferred.

## **BILL**

### *Second Reading*

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

*(Bill deferred)*

## **COMMITTEE OF THE WHOLE**

THE FOOD SECURITY BILL  
(SENATE BILLS NO.12 OF 2017)

THE DISASTER RISK MANAGEMENT BILL  
(SENATE BILLS NO.8 OF 2018)

THE RETIREMENT BENEFITS (DEPUTY PRESIDENT  
AND DESIGNATED STATE OFFICERS) (AMENDMENT)  
BILL (SENATE BILLS NO.2 OF 2018)

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

*(Committee of the Whole deferred)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Likewise, I direct that the Motion appearing under Order No.14 which was supposed to be a continuation of debate be deferred.

**MOTIONS****ENFORCEMENT OF NATIONAL TRANSPORT AND SAFETY  
AUTHORITY (OPERATION OF MOTORCYCLE) REGULATIONS 2015**

AWARE that the National Transport and Safety Authority (NTSA) is mandated to plan, manage and regulate the road transport system, while ensuring the provision of safe, reliable and efficient road transport services;

FURTHER AWARE that motorcycle transport services have been rapidly embraced throughout the country leading to several challenges including: rise in road accidents involving motorcycle riders, unlawfulness, insecurity and road congestion;

COGNIZANT that the National Transport and Safety Authority (Operation of Motorcycles) Regulations that came into force on January 1, 2016 have not adequately addressed the challenges associated with the high numbers of motorcycles as a mode of transport;

NOW THEREFORE, the Senate resolves that the Ministry of Transport, Infrastructure, Housing, and Urban Development: -

1. Identify strategies to enforce the National Transport and Safety Authority (Operation of Motorcycles) Regulations;

2. In collaboration with County Governments, develop programs to sensitize and educate members of boda-boda associations and the public on the laws regulating motorcycle operations;

3. Submits a Report to the Senate within ninety (90) days outlining the short and long term strategies, and preventative measures that are being put in place to halt the rising cases of road carnage involving motorcycle riders.

*(Motion deferred)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Therefore, we will proceed with Order No.15. Also, that should be the Order to be debated for the remainder of the day. Accordingly, Order No.16 is deferred to Thursday this week.

**PAYMENT OF HONORARIUM AND PENSION  
TO FORMER COUNCILORS**

THAT AWARE that National Forum of Former Councilors petitioned the Senate regarding the need for legislative interventions to address the plight and welfare of former Councilors;

FURTHER AWARE that the Senate Standing Committee on Labour and Social Welfare considered the Petition and tabled its report on Tuesday, 16<sup>th</sup> February, 2016;

ACKNOWLEDGING that the Committee's report on the Petition made five recommendations among them that

1. One-off honorarium of Kshs1.5 Million be paid to former councillors who served a minimum of one term since independence; and
2. Monthly pension of at least Kshs30,000 be paid to former councillors.

APPRECIATING that the recommendations were based on the fact that former Councillors did not receive fixed emoluments and experienced disparities with regard to access to pension services and terms and conditions of pension schemes over the years, which made it difficult to fairly and equitably determine each councilor's rightful benefits retrospectively;

CONCERNED that the State Department for Social Services and Security, State Department for Devolution and the National Treasury have to date not implemented the Committee's recommendations on the Petition;

NOW THEREFORE, the Senate calls upon the Principal Secretaries to the said State Departments and the National Treasury to take necessary steps to implement the recommendations contained in the Report.

*(Motion deferred)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order No.17. Sen. Mwaruma is not here. So, it is also deferred to Thursday, this week.

#### COMPENSATION FOR VICTIMS OF HUMAN-WILDLIFE CONFLICT

AWARE THAT tourism is amongst key sectors of Kenya's economy contributing billions of shillings to the country as well as generating employment and livelihoods to millions of citizens;

FURTHER AWARE THAT, Kenya is endowed with different wildlife species which contribute substantially to the national economy through tourism;

NOTING THAT, cases of human-wildlife conflict are on the rise as a result of many factors key among them climate change and encroachment on parks and nature reserves leading to deaths and maiming of people by wild animals;

FURTHER NOTING THAT there's need to create a conducive environment for peaceful coexistence of humans and wildlife in the same space given the importance of wildlife not only to our economy but to ecology as well;

CONCERNED that victims and families of victims of human-wildlife conflict are not being compensated for loss of lives, being maimed or loss of their means of livelihood due to failure of the Treasury to allocate adequate funds for this purpose contrary to the Wildlife Compensation Management Act, 2013;

FURTHER CONCERNED that the regions and communities hosting the wildlife are marginalized and do not benefit from the proceeds of tourism in their area; NOW THEREFORE the Senate calls upon the National Government to-

1. Allocate adequate funds during the current financial year and subsequent years for compensation;
2. Ensure that victims and families of victims of human-wildlife conflict are always compensated within 90 days of submitting their claims; and
3. Come up with innovative ways of ensuring host communities benefit from the revenue accruing from wildlife tourism.

*(Motion deferred)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Next Order.

IMPROVEMENT OF KENYA'S RANKING IN  
WORLD TRAVEL AND TOURISM COMPETITIVENESS

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

THAT, AWARE that the Ministry of Tourism have developed and published the Kenya National Tourism Blueprint 2030 in May 2017;

FURTHER AWARE that Kenya Tourism Agenda 2018–2022, launched in April 2018, establishes the foundation for the National Tourism Blueprint 2030 and is the tool for initiating the components of the Blue Print;

ALSO AWARE that the contribution of travel and tourism to Kenyan GDP stood at 9.7 per cent in 2017, up from the 9.3 per cent previous year;

COGNIZANT that in the next 10 years every industry will be changed by technology;

ALSO AWARE that Kenya Tourism Board has partnered with *Google*, *Safaricom*, Kenya Wildlife Service and Tourism Finance Corporation to create new digital content for local tourism;

CONCERNED that Kenya tourism industry's potential is underutilized;

AWARE that Kenya's position in World Economic Forum's Travel and Tourism Competitiveness Index Ranking is 80 out of 136 in 2017, having improved by 2 points from 2015, while having currently the lowest score in cultural resources and business travel with 1.6 points out of 7;

FURTHER CONCERNED that majority of the solutions proposed by the tourism agenda are brick and mortar type and not addressing the trends; noting that in less than two years, the share of online booking globally has grown from 9 per cent to almost 33 per cent and the lucrative and fast-growing segment of business tourism;

ALSO CONCERNED that Kenya will continue to attract only beach and park type tourists ignoring the large number of conference and business travellers, who largely never leave Nairobi and are offered minimal exposure to Kenya;

NOW THEREFORE, the Senate calls upon the Ministry of Tourism to approach tourism sector with modern innovation and implement tangible, measurable and impactful solutions, resulting in improvement of Kenya's ranking in the World Economic Forum Travel & Tourism Competitiveness Index 2019 by 6 positions and improve the lowest score of cultural resources and business travel by 1 point.

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

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

Madam Temporary Speaker, if I pose the question to this House; how many tourists who love football visit Kenya? Someone might think this is a big question without an answer. However, this information is available.

All our tribes are endowed with a lot of heritage. As a Maasai, I pity other communities that do not take advantage of tourists who visit this country. There is location based data analytics which has been used worldwide to improve more resources in terms of the tourism sector. This is something which is underutilised in this country.

On Saturday, I travelled to South Africa. The moment I arrived, I received a text message welcoming me to South Africa and telling me how much I would spend making calls. That text gave me an opportunity to know what was there for me in South Africa. This morning I arrived at JKIA. Likewise, I received a text message from Safaricom welcoming me back to Kenya. This means that every tourist who comes into this country, whether they are going to participate in the Meeting, Incentives, Conferences and Exhibitions (MICE), receives the same text.

Noting that, last year alone we had 1.6 million tourists who visited this country. Majority of them attended conferences and exhibitions here in Nairobi. Later on, some of them went to Mombasa, others to Maasai Mara and others to Isiolo. Those of us who have land and beaches are benefiting a lot. A good example is the one I have given you of South Africa. Even in their airport, you will see pictures of Kenyans. You will see a picture of a Maasai man, woman, or a Luo man playing drums.

However, we do not take advantage of this. This is because we are currently relying on old data. This data was collected last year. We cannot even tell whether the tourists who come here and they want to experience our culture are given an opportunity by the Ministry of Tourism to do so.

I brought this Motion because last year alone we had 1.6 million tourists who visited this country. I am sure the majority of them came in through these big companies that organise all the foreign travel in this country. Therefore, about 90 per cent of all the money they pay remains in London, UK, Germany, China and so on. Very little of it remains here.

We can improve the competitive index of the tourism sector in this country by tapping in the tourists who come to attend meetings, exhibitions and conferences. If they visit Nakuru, Taita Taveta, Narok, Isiolo and other towns and end up spending \$USA100 in a day; that will amount to \$USA16 million that will go directly to the communities. That will create more jobs. It will also ensure that we are sold worldwide as a place to go to.

Earlier on this year we travelled to Australia. When you go to Australia the only thing they can brag that they have a lot are the Kangaroos. However, the tourism department there took the next step to ensure that when you land there you are told of many things that you can experience.

Madam Temporary Speaker, it is important that we now think about these statistics that we take. We have tall towers in Nyando, Busia, Narok and many other places which can be used to sell what we have to tourists in their cell phones. We can take this analytic data and put it into good use. This is the only way we can address the issues of unemployment and poverty in these counties.

Madam Temporary Speaker, one of the things I feel sorry about is that every Tuesday or Thursday, we have the Maasai Market at the Junction Mall, the Village Market and in these affluent neighbourhoods. When you go there, you will find people selling beadwork, yet they are not really benefitting. These tourists could do more; they can go to a village, Kibera or to Kajiado, down the road and participate in sports or in community development work where they can leave more money for our people.

It is imperative that the Ministry of Tourism and Wildlife comes up with a way of engaging these companies that deal with location-based data analytics to ensure that we find out the number of tourists – particularly French women between the ages of 17 and 30 years – who visited Kenya last year and where they went to. This data is available and it can help us to sell more and also reach out to our customers. For us in this economy – which some consider a developing or a middle income economy – we need to use technology to reach out to everyone who comes here.

Madam Temporary Speaker, there is a company called “Reach-U” which I have done some Google search on. This company can even take county government spatial plans, for instance for Isiolo, and ask about the number of national parks we have there. We have tourists and people in places such as America, who may never afford to get into a plane and come to Nairobi. However, after being given that virtual reality tour of Isiolo County and its game parks, they pay. Going online is everything. I know of young men who make millions and millions of shillings using the internet. Our children are on the internet.

Let us now engage the Ministry of Tourism and Wildlife in an exercise where they can now start tapping into our rich culture. For example, the Kikuyu, Somali, Luo and Luhya cultures are rich. The Maasai culture is very rich because it is the one that we

have benefited from immensely. However, I am not saying that these other cultures cannot also be very rich. There is probably something that I do not know about the Luo culture. However, if we engage to know the activities that can be carried out in those respective areas, we will then move from having tourists just come and spend billions here in Nairobi. This is because all they do is to go to these big hotels, most of which are owned by chains and, therefore, the money generated from tourists just keeps going abroad. We, therefore, need to bring back the money.

Madam Temporary Speaker, when one travels and reads a lot about Kenya, even the tourists who talk about Kenya tell you that it is one of the best places to go to; and it is very wrong if we do not take advantage of that. Let us tap into their cell phones – I am not saying that we listen in on their conversations – but let us see, using this data, what activities bring them into this country. We should not only be known because of athletics and the Maasai Mara Game Reserve, although I want more tourists to come. However, this country will develop more when we are able to diversify most of our tourism incentives and activities.

Madam Temporary Speaker, the Ministry of Tourism and Wildlife can also venture into promotions by partnering with companies such as Google and Safaricom, such that when a tourist lands, they can be told that there is Loiyangalani. In fact, very few of us, Kenyans, travel around the country. Therefore, utilising these statistics and ensuring that it is current will also help locals to travel, not only to Mombasa.

I am sure that during Christmas, everyone heads to Mombasa. However, we can also tour somewhere in Lake Turkana or in Taita, where we have the Mzima Springs. These can bring in certain attractions and help people build their richness in visiting and opening up their minds. Therefore, the pillar of place and how location intelligence reveals opportunity is really big when we rely on data.

Madam Temporary Speaker, I beg to Move and request Sen. Dullo to Second.

**Sen. Dullo:** Thank you, Madam Temporary Speaker. I wish to pass this opportunity to Sen. Sakaja to Second on my behalf.

Thank you, Sen. Olekina.

**Sen. Sakaja:** Thank you, Madam Temporary Speaker. I first acknowledge the innovation displayed by Sen. Olekina, by talking about tourism, not just in its traditional sense, but also on how we can take advantage of technology. In a world that is nowadays driven by data powered by information; and in a country that is now known as the ‘Silicon Savannah’ of the world, Kenya is famous and popular for various innovations by our young people across the country and in Nairobi. I am proud of my young people at iHub, iLab and all these innovation centres. It is, indeed, time for us to see how to use technology better when we talk about tourism.

As we say that, Madam Temporary Speaker, the first thing that we must realise is that Kenya is a uniquely beautiful and strategically located country. This is the only country where we have the whole range and full buffet of options for tourism. This is the only country in the world where one is in the capital city which has the best natural habitat of wildlife, and which has the Big Five. In the background of this habitat, one can see the skyline of a capital that is an international and regional hub.

We have wildlife and animals that cannot be found together anywhere in the world; and we have birds and butterflies. Many do not know that Kenya is the one place with the highest number of species of birds and butterflies located in one place in Kakamega Forest.

Madam Temporary Speaker, we have the most beautiful white sandy beaches that are quite pristine, and which people from all over the world would love to see. We have forests and serious gems of our culture. I remember many years ago around 2008/2009, I worked on a proposal for UNESCO on unearthing the gems of our culture with a professor from Kenyatta University. This was based on what we said we can map of the cultural and creative economy in this country. That project was funded and I am proud that even recently, my Committee on Labour and Social Welfare attended a National Communications Corporation Limited (NATCOM) event and we will be going to Paris to follow up on that; just mapping out what we have.

Madam Temporary Speaker, the word “*Safari*” is a Swahili word for “journey” or “travel” and it is known the world over today. However, it came from the *safari* in Kenya and the traditional Maasai Mara tours and our national parks. We are home to one of the wonders of the world; the wildebeest migration. Beyond all of that, this is a country where the oldest fossil of our species, as man, has been found. This means that Kenya can be marketed as the “Garden of Eden” or “home,” such that when anybody comes to our airport, they should be told, “Welcome back home.”

Madam Temporary Speaker, despite all these blessings that God has bestowed upon us, it is embarrassing that we are discussing how to get new information on 1.5 million tourists. Turkey, for instance, had 42 million tourists in 2014. All they had to show is the Mediterranean Coast and, of course, its history. The world’s biggest tourist destination today is France, which got 82.6 million tourists in 2016. They had more tourists than our population, yet they have much less to show than we do as a country.

Madam Temporary Speaker, when I was in Turkey a few years ago, I had a discussion with a gentleman who loves this country very much. His name is Dr. Ali Bozatli. He was the honorary Consular General for Kenya for a while before we set up base in Ankara. He is based in Istanbul. Dr. Ali used to be an aerospace engineer in the United States of America (USA), working for Boeing.

In the 1980s, he was approached by his country and they told him to go back home to work in the tourism industry, because they had some leadership changes. He made a few calls to his friends in some of the Bretton Woods Institutions and they told him that they knew what they could do to revive each country. However, they told him that unless their proposals were implemented to the letter, they would not be interested. When Dr. Ali got that commitment, he went back to his country and set up shop. A lot of the success that you hear about Turkey can be ascribed to him and people like him.

Madam Temporary Speaker, what they did was simple. One, they understood their product. As a country, we must understand what our product is and what we will show uniquely to the world. There are countries that are doing amazingly well in tourism numbers, for example, Germany and the United States of America (USA), which gets 77 million tourists a year. It is because they know how to market and sell the little that they have.

If you go to Yellowstone National Park in the USA, as a Kenyan, you will be underwhelmed by what they have to show. But they get more visitors than all our parks combined in five years. If you go to the beach in Dubai, there is nothing unique. In fact, as a Kenyan, you should not stay at the beach. Many Kenyans do not like going to Jumeirah Beach and other places, because they cannot be compared to Diani, Kilifi or Kwale.

Madam Temporary Speaker, they diversified their offering. Today, in Kenya, if you go Mombasa, there is no difference between Serena and Whitesands Hotels. They are all the same, yet in actual tourism planning, there needs to be one that is set up like a cultural place. The next one can be a Five Star hotel and the next one can have cottages. Therefore, we must first understand our product and diversify it, and do some research.

There are people who want to come and see our sportsmen. Kenya is known for athletics and high altitude training. There are millions of people, many of them in Boston and London, who go to watch the marathoners. They would love to come and tour some of the places that produce the fastest men and women in the world. We do not sell that. There are also those who want to come and understand our rugby.

I remember when the Government tried to ban graffiti on *matatus*. I went to see a friend of mine called Moha in Eastleigh, Section 3. He does what is called Moha Graffix. On the same day the Government announced the measure, there was a delegation from South Africa that had come to understand the *matatu* culture and how we put graffiti, art and music. The point is that all these things are just beneath our noses. It is up to us to wake up and decide to sell it as a product. Tourism is a huge income earner in a country where there is talent and beauty.

Why do we not use the unique geographical location? Kenya is the most natural country and transport hub for the world. If today we had a duty free port at the airport, where people would do duty free shopping, there would be many flights into this country. Therefore, we would do conventional tourism around Bomas of Kenya, where we have more than 300 acres. Tourists would get onto a light rail and on their way to their hotels, they would see wildlife. No other country in the world can offer such things. However, we have fallen to the trap of mediocrity. We are trying to raise our tourism numbers from 1.4 million to 2 million. That is only but scratching at the surface.

At a time when our greatest challenge as a country is job creation and employment, it is sad that when you go to some of our hotels--- Especially when we had issues of insecurity, most of the hotels were sustained by parliamentary delegations. We would hear those lovely people from the Coast and the Maasai say that whenever we would leave, they would not have a job for the next two or three months because it was the low season. Kenya is a country with beautiful weather all year round. Why do we have tourism seasons, yet countries that have terrible weather that a person cannot stand, have tourism all year through?

I am glad that we are looking at this and now combining it with technology. We need to have e-tourism. On top of the virtual tours, we need to understand our consumer and their profile. This applies not only to those who come to Kenya, but also the potential visitors wherever they might be, so that we can then tailor-make our tourism offerings. We need a search engine optimization. If you google some of the things that we have in

our country, Kenya will come up on the second page, yet we are the best in it. This is because we have not done search engine optimization of what our country has to offer the world.

Madam Temporary Speaker, I support this Motion. Since we are a world that is now driven by data information, we want the Ministry of Tourism, not to try and do the same thing the same old way as it has always been done, but actually redesign our approach to tourism. I hope that this will be the last time I will talk about it, because the Government is now treating our rugby team better. They once removed the Brand Kenya logo from their kits and said that they could not sponsor them anymore. They need to realize that the most beautiful thing about our country is the people, and that is what people love when they come here. Anyone out there who has come to Kenya will tell you that Kenya is the warmest country with most hospitable people that you will ever find. Let us get creative about our tourism and our people.

Madam Temporary Speaker, let us talk about urban tourism. I am not talking about taking tourists to Kibera and telling them about the projects that we are doing that need funding. They need to understand the culture and the lifestyle of a country with more than 43 communities. This is a country where you can move, on the same day, from the most beautiful sandy beaches to the most exotic forest in Kakamega. You can then move to Maasai Mara; see the big four animals and come to Nairobi and see the *matatu* culture, the arts and music at the Kenya National Theatre. They can see all of these in one country. They can also go to Turkana and see where their ancestors came from. It is a beautiful country.

I am glad that we have people like Mr. Mucheru, who worked with Google, and other young people who are innovative. The Ministry can tell these young people to give them their ideas on how we can integrate technology and tourism in our country. They can create hacker spaces. If we put them together, give them facilities and the equipment that they require, they will come up with amazing tools and innovations.

Madam Temporary Speaker, I was in a place called Palo Alto, in San Francisco; what they call the Silicon Valley. I told them that I am from the Silicon Savanna – Kenya. They asked me: “Why is it that the kind of innovation that comes from Kenya is much better than what comes out of their country? I told them that the world has changed, but the tools are the same. The computer used in New York or San Francisco, is the same as the one being used in Narok by a young boy. We have internet but our needs are different. Necessity being the mother of invention, the kind of innovation that we are coming up with in this part of the world is world changing. Let us now channel it to be innovation that will raise the flag of our country and take our tourism numbers high.

I hope that the Committee on Tourism, Trade and Industrialization will interact with this Motion. They should stop accepting the mediocrity of being told that we want to get 2 million visitors, while Turkey got 42 million visitors in 2014. In fact, when they had issues to do with security and there was a slump, at their very worst, they had 25 million visitors. Surely, there is something that we are not doing.

Madam Temporary Speaker, with that, I second.

*(Question proposed)*

**Sen. (Dr.) Zani:** Thank you, Madam Temporary Speaker. Allow me to start by congratulating Sen. Olekina for this Motion and the passion with which he presented it.

This is a Motion that touches on different cultures and ethnic groups. It is aimed at improving our resources as a country. Tourism is the second largest source of foreign exchange after agriculture knowing that we also export, for we are an agricultural society. I am a Member of the Committee on Tourism, Trade and Industrialisation and we need to take this Motion seriously as it infuses a lot of life in the Kenya national tourism blue print. The Kenya national tourism blue print might be there on paper but as legislators and actors, we need to find a way to infuse life into it versus the realism. We go with the realism that we want to increase our resources in this country but with the realism, we also allow so much to go to waste.

There are many tourists who will clog into a hotel and when they ask the hotel attendants or the hotel owners where they can go, the attendants or the owners do not want to give that information because they feel that it is better to keep them in the hotel for them to spend more within that hotel. What we miss is that they could have gone to a cultural village and seen something which they would then inform others about. Tourists are very fond of exchanging information.

The tourists from China and Japan send messages and they have a lot of enthusiasm. They send information telling their friends that: "I have been in this place, come back". During the wildebeest migration, they will be there running from corner to corner, trying to see that lion. This is because for him, it is about going to certain places.

Apart from people thinking about investing and buying a house, the social indicators show that people's sense of actualisation is coming from travel. Therefore, there is a big market to tap into. In Kenya, we have focused a lot on conference tourism and business travel but we could move more to eco-tourism and cultural tourism which is not just about having Eco lodges where tourists go to, but we can have innovative things.

I once passed through a region in Kwale where I found so many English people in one scene. When I asked what they were doing there, I was told that they were there for a week, living like the Digos. People are now looking for that cultural experience. They want to go somewhere else and live like those people. We have cases of young men and women who have lived among the Maasais.

As one of the Senators before me said, we could have centres for sports tourism where tourists targeting to meet the best athletes can do so. We have people who are happy to go to countries or come to Kenya to meet these athletes and when they meet them outside the country, they do recognise them more than we do. That variation and a little bit of creativity is what is needed. Looking through the figures, we could do better. The average given now is that in 2017, we had 81,997 visitors. It is an average because we have not done as well in some periods because of political strife in the country and the issues that have arisen here and there. We have also had cases of inflation within the country. That is an average but we can do much better.

Using technology is the way to go and we could also use data. Apart from knowing that Mr. Smith arrived in Kenya, do we know where he went to, where he would have wanted to go and what sort of things interest him as a person? This sort of data is

everywhere and we can have a cyber café and technocrats sit in and sort of profile them. We need to know the tourist who is coming and the interest that they have, for us to have a message to greet that tourist as he lands in Kenya. We can say that we have scuba diving and camel riding in Garissa such that we offer a package that is directed to a certain group.

You could have statistics which is not difficult to collect as it does not have to go on individual basis. That could probably help us know that visitors from Spain prefer this sort of sport and those from Germany might be more interested in football. We want to find a way to collect the data for us to target a particular tourist or a particular group of tourists and we can even explain to them what we have to offer before they leave.

For those who are coming to Kenya, we will welcome them with a message reading ‘welcome to the land of beaches in the Coast, land of athletes in the Rift Valley, land of cultural heritage in Baringo and Kajiado and many more. This is because you will find that there is not a lot of information for the tourists in the hotels where many reside. What stops us from having a courtesy bus like what we have seen in other countries? We can have each county showcase what they have to offer. We can even have legislation across that direction. The tourism board can be mandated to have a shuttle bus in each county showcasing the issues in that county. A particular tourist in Kakamega might be happy to know that there is the crying stone and might go there to see it then tell others about it.

We also need to look at tourism from within Kenya; that is local tourism. We should encourage local tourism. We should also try to find out what people want to do even as we target Africa, Uganda and Tanzania and offer a specific package. What we have in many hotels in the evening, especially where we have beach tourism, is a cultural dance which you will see in 2017 yet it is the same one that you saw in 1999. It is performed by the same Bomas of Kenya, starts with the same song, goes through the same moves and then it ends abruptly, the same way it ended five years ago.

If you go to the beaches in the evening, you will find tourists lazing around. In the evening they are entertained but there is nothing exciting. The innovativeness and creativity is not there and that is where we can do something to sell us. For example, during the entertainment, cultural dances could be showcased or talk about a crocodile farm so that the tourists know that it exists.

We need to stop monopolizing sectors within this particular industry. If I am in the tourist industry, I should not protect it so much so that sports tourism does not steal our tourists from us and vice versa. The same applies to other sectors of tourism such as eco-tourism or beach tourism. Conference tourists should not worry us because it is one and the same thing and it happens in other countries. It starts at the place where; when you go a hotel, they expect you to eat in that hotel. When you go to a next hotel, they are not happy about it.

In other countries, you can find a hotel with many kiosks around it. That gives you a variety to choose from. After all, the revenue remains in the country. There might be a variation on how it will be shared at the individual level but it is for all of us. We need to have that diversification which is not difficult. That is the way to go. It is just a

question of putting our minds together and coming up with a strategy for us to be able to do so.

As the Motion indicates clearly, we can partner with Google, Safaricom, Kenya Wildlife Service (KWS), the Kenya Tourism Finance Corporation (KTFC) and other bodies. The digital platform has given us a vast array of techniques that we might use to ensure that our economic progress is enhanced as a result of this. I think this is critical and important.

We must look at the media and technology that inform tourists and be broad about it. As I said earlier, we could also ensure that hotels – this is something that the Kenya Tourism Board (KTB) can do effectively – have a package material. Even if we miss them at the point of entry, maybe because that Short Message Service (SMS) that welcomes them is not broad, let us mandate hotels to give a variety of activities that tourist can engage in and allow them to move around peacefully.

In order to do that, we must improve our competitive index by targeting tourists. We must find out and know that by the time the tourists come and by the time they leave the country, not only have we enhanced our resources in terms of the financial aspects they bring in the country but we have also showcased ourselves in many other ways. By doing that, especially in a situation where issues of local content have been put in place, then the tourists would have mingled with the people and the institutions.

When we went to Uasin Gishu County, we had a chance to visit Eldoret Technical Training Institute. That is like local tourism; going around to see what we have. It was amazing to see what that institute has. They already have Robotic Engineering as one of the courses offered. So, the more we showcase, the more we increase our employment potential and the more we showcase what we have, the better for us because when the tourist go back, they also remember, for example, the young dynamic men they met in Kwale who knew a lot about mining or the young warriors from Kajiado.

The mind is broad and ideas come from interaction. However, when we keep it closed, then other countries and communities will definitely move faster than us and take advantage. They have already taken advantage where we have been slow. For example, we know what happened when did not patent our kiondo, *shuka* and *kisutu*. *Kisutu* is the traditional Mijikenda outfit. If we showcase what we have but other cultures borrow and make it appear to be theirs, we will already have showcased. So, a lot of publicity and innovation has to go into this.

As I conclude, I urge the Senator to look at the different facets of Acts that we have and Bills that are coming and try to see how we can take the practical aspects of this Motion and infuse them. If we need to go the legislative way, I am not sure whether this will warrant a Bill because we have various Acts but we could have a review of those Acts and look for particular Articles which we can infuse to enhance the mandate and vision that this important Motion has.

I support.

**Sen. Halake:** Madam Temporary Speaker, I rise to support this Motion. Allow me to congratulate our colleague, Sen. Olekina, for bringing this very timely Motion.

I was listening to contributions on this Motion. As we say that our country is underutilizing its potential in tourism and that we are taxing the existing products, perhaps this is where we should be filling our deficits from and not taxation but I digress.

I have heard that we need to make sure that we do not have just the same things of safaris and the beaches. As Sen. (Dr.) Zani has mentioned, we need to diversify and showcase even our cultures, sporting and business alike. However, there is a major challenge that this country should look at because tourism is one of the economic sectors and it happens---

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senator, you have not digressed. I wish you could expound on that because to me, this is one of the fora where the Government gets to know what Senators think about.

**Sen. Halake:** Madam Temporary Speaker, I was going to come back to it but thank you for the encouragement that I have not digressed.

We have been missing our targets in terms of revenue collection. We have been looking at the list of things and people to be taxed. The latest is taxation on petroleum products which is having a ripple effect on everything.

There are sectors that we have not taken advantage of. One of them is the tourism sector, as Sen. Olekina has eloquently articulated in this Motion. I could not help but wonder about the USD400 billion or 5.6 per cent deficit that we have. If we take advantage by diversifying and showing that our economic sectors such as tourism are well developed and take advantage of the potential unleashed, we would not be taxing the already overtaxed population of this country.

As you know, taxation affects the vulnerable more severely than anybody else because they do not have the cushioning power to cushion themselves against taxation, not because they do not have any savings but because it affects even their own lives and livelihoods. I will come back to that.

Tourism is one sector of our macro-economy. I have had the privilege of working in this sector and I know the challenge is not the products because we have one the most wonderful products and that has been articulated by everybody. We have the best safaris in the world; the only safaris in the wild because if you go anywhere else, they are not wild. Kruger National Park, for instance, is just one big zoo but the real safaris in the world are in Maasai Mara, Isiolo, Samburu, Kakamega Forest and the Great Rift Valley.

The real safaris are in Kenya and nowhere else. That one, I have no doubt about. The best beaches are here too. However, the gap is that this country has not invested in the diversification that Sen. (Dr.) Zani, Sen. Olekina and Sen. Sakaja have mentioned. The infrastructure and circuits – tourism is about circuits – that should take people to the great big North where I come from does not exist. The tourism for our country has been placed to be accessed by only the super-rich. This is because it is only those who can fly to destinations and those that can land inside these exotic places that are able to access these products.

Madam Temporary Speaker, Sir, today's tourism, as you have been told, is when the young people want to interact with nature. They do not need to sit in cages which are the tourist vans. They want to interact with nature, scale mountains and rocks and find out what it is to interact with nature. As a country, we have not invested in tourism where

people are actually involved and not just participating passively and staring at animals or lying on the beach and reading a book. Then, what is attracted is the very old people. This is evident in our beaches and beach beds. It is very old people that come to Kenya. This group is very narrow. Yes, they have the money but they are very few.

We have not invested in products and circuits because young people would not afford or be interested in flights. They want to go by road, engage in adventure tourism, backpack and do all these things that interact with nature. In essence, we have locked out the largest part. My colleagues talked about the big numbers going to France, Turkey and the United States of America (USA). It is because people can get around. This week we would like to visit some of these conservancies but just getting around has been so impossible that we must hire an aircraft. We have outpriced ourselves out of the market that would be young, vibrant, interactive and which will come back in the next decades.

We have talked about diversification of products and selling and marketing. Again, we have not invested in the marketing of our tourism and the road network because you must get from point A to B. Even for those who can afford to fly, you find yourself having to go to an airstrip that is 200 kilometres away because the one closest to where you want to go is not functional. A case in point is recently when we went to Samburu County, we had to go to a different airstrip then go for two hours by road to get there. Again, we must look at the underlined determinants of improvement of our index which is the road network, infrastructure, marketing and security.

Madam Temporary Speaker, One of the reasons why a place like France and others attract people is because people do not think about security and how to get from point A to B because the road networks are there. Neither do they have to think about middle men through whom they have to book their safari. They will just book on booking.com or whichever platform as Senator has put very well, using digital platforms.

To come to Kenya, you have first to call Pollman's Tours & Safaris and other middle men who have done a great job for this country. I do not want to belittle the work they have done but we need to open up the space so that people can book and make their own safaris. This is what the young people need. They just want to go online from the comfort of their couches, bedrooms or sitting rooms, quickly put together something online that is cheaper because it cuts out the middle service providers and vendors. We have not done all these things as a country.

Our transport system even in our biggest city where 60 per cent of our gross Domestic Product (GDP) is, is wanting. For our tourists to go to Nairobi National Park, they have to go to a hotel that charges them US\$50 for the van before they can pay the US\$50 for the Park. In other places, you will pick a map from the airport, go on the platform, put in your details and a van will come and pick you from under a tree or you can just use public transport. In Geneva, people go to airports in public transport. For all the times that I have gone to Geneva up and down while working for the Red Cross, I have never used a taxi. From every hotel, there is a bus that you will book on a digital platform that will take you inside much more than the taxis would do.

We need to look at tourism in the broader macro environment in which it operates; security, road infrastructure, transportation, communication and all the other facets of it. Even for local tourism or what we call domestic tourism, it is for very few of

us. It is not for lack of interest that we do not explore our country. How do I get to Kakamega Forest from here or the Great Rift Valley and back to perhaps somewhere else during the December holiday, without going through the grueling road trip with bags?

It means then it is only the rich that can fly into exotic destinations. We need to rethink that so that we make these products available to everybody. That is where the volumes and the money is. I do not wish to belabour most of the things but we need to look at these bigger macro issues. That way, people will look at our country as a safe place to visit, vacation and easy to get around. Young people will find it a place where they can take control of their itinerary as opposed to having to pay middle level vendors that make our tourism products way out of reach to many of us.

Madam Temporary Speaker, I support this and look forward to its implementation; not just for us to go six steps but also in revenue terms. If this is our Motion, maybe Sen. Olekina should be --- The bottom line is; it is not enough to jump a few. What does that mean for us? How much revenue? The measure should be the amount of revenue that comes into our country. Also, the number of infrastructural and facilities that have been created to make sure that the environment is created for people to enjoy the good things that we have; and perhaps, the indices or determinants such as how our security has improved and how the network of airports and airstrips has improved. After that, I we will not even need to say anything as the rest will sell itself. I look forward to working with you to implement some of these things from a point of view of our economic engine that must be turned on, so to speak.

I support.

**Sen. Dullo:** Thank you, Madam Temporary Speaker. I beg to support this Motion. First and foremost, let me take this opportunity to thank Sen. Olekina for this important Motion that is long overdue. Tourism is the largest revenue earner in this country but, unfortunately, we are living in ancient days where we keep on looking at what we have and we do not look for innovative ways of improving tourism in our country.

Madam Temporary Speaker, as much as I come from an area where tourism is one of the revenue earners, I know that this sector is set aside for a particular group; which means that there is clearly no involvement of the stakeholders. We have about two parks and one or two reserves; I am not very sure. There are many people who neighbour those parks and reserves but, unfortunately, they do not value them. This is simply because the Ministry or the institutions involved do not consider that these people need to understand and appreciate what is happening within those parks. To that effect, I feel that we need to come up with innovative ways of getting locals to appreciate tourism attractions and the sector itself.

Madam Temporary Speaker, for a tourist to come to Kenya, they will have to look at the many options available. For example, if they want to come to Isiolo, they will look at the issues of whether there is malaria; whether there is a road network or insecurity. They have to look at all these components and sometimes they may not get the necessary information. We have very good research institutions in this country that can put all that information in a database instead of tourists relying on some agents or companies that are benefitting themselves instead of benefitting the country and the communities in those areas.

Madam Temporary Speaker, research is very critical. How do we improve our tourist attraction areas? How do we expand them? For example in Isiolo, there have been only three places that tourists can go to ever since I was young. How do we improve this situation because a lot of resources are available? There are a lot of opportunities that need to be explored to ensure that tourists benefit from what we have in our country. Therefore, this Motion is timely in helping our people to benefit from tourism, and also to improve the tourism sector.

Madam Temporary Speaker, accessibility to clean water in the areas tourists visit is another issue. There are people who fear that if they drink water from a tap in a certain place – Isiolo, Narok, Maasai Mara or Kajiado – they will become sick. How do we ensure that we have clean water in the areas our tourists are targeting? How can we improve the road network, maybe going to North Eastern? I know that there are so many tourist attractions there.

For instance, there are animals in North Eastern, especially in Garissa, Wajir and Mandera; and there are a lot of tourist attraction sites. However, how many people are ready to explore those areas to make sure they are open for tourist attraction? We are losing a lot. If those areas are opened, they will provide job opportunities for our people and also improve our revenue collection. There is no improvement in the revenue collected from the parks we already have. We have not diversified the ways of collecting revenue; we are still relying on the old system.

If this Motion is clearly structured, it can advise the relevant institutions. This will ensure that we have proper mechanisms in place to improve our tourist attractions. I come from the Borana Community. How many Kenyans know about the Borana people, despite having a lot of research and institutions that we can bring out how many communities live in Kenya? The communities that are commonly known in Kenya are the Kikuyu, Luo and Kalenjin because they have been ruling this country. What happens to the rest of the communities; the 42 tribes in Kenya? Their cultures can actually be appreciated. They have rich cultures that tourists can get to know and also establish history out of that.

Do we have mechanisms in terms of the number of tourists that come to this country? What kind of information do they carry out of this country? For example, when you land in Heathrow, London, the country already has your history. They know the kind of person you are, and where you are heading to. When tourists land in Kenya, we do not care. We leave them to the institutions that bring them to this country. I think we need to improve in terms of even getting feedback from the tourists.

Madam Temporary Speaker, we can make tourism one of the units within the curriculum from the primary level. The Kenya Wildlife Service (KWS) has wildlife clubs within their institutions. However, in most of the areas they do not even know why we have them. But if we want to improve on our revenue collection, tourism should be a core unit within learning institutions, where communities appreciate in our country and develop how we can improve tourist attractions and the revenue we earn from the tourists that come into our country.

Madam Speaker Temporary, how do we improve our market? We have many good artifacts in our communities. However, we do not have a resource center where our

culture, as a country, can be showcased and artifacts from different communities bought. If you go out of this jurisdiction, you will find that many countries have such centers, where people visit and get the artifacts from particular communities in those countries.

For example, the Kenyatta International Convention Center (KICC) could have artifacts, as opposed to going to Kariakor or other funny places. They can be found in a decent place and fetch good prices, as opposed to, for example, buying a Maasai *ushanga* at Ksh100 or Ksh200.

The other issue I want to bring out is that of e-visa programme in our country. If you go to some countries, you may not even get Visa. That is why we end up appointing honorary Consulars in various parts of the country. Why can we not have an e-Visa programme, where a tourist can sit in the farthest part of this world and get a Visa to Kenya, without going through any embassy or honorary consul?

That way, we can be able to increase tourist attractions in this country. The issue of establishing regional agreements, for example, when we have regional agreements---. I remember when I was in the previous Parliament, we visited several countries but the embassies came up with good agreements within the missions but unfortunately, those inter-countries agreements are not implemented at all.

Some do not reach the Ministry of Foreign Affairs and some are just thrown in archives. If we have those kinds of regional agreements, it will be able to improve tourism attraction in our country.

The linkages with countries that are performing well are very critical. For example, we have various jurisdictions that have better facilities or organized tourism sites or tourism strategies in improving the economy in their countries. Do we have those kinds off interlinkages with those countries so that we can be able to improve our tourism attraction and revenue collection?

The other issue I wanted to bring up is budgetary allocation. I remember 20 years ago, the Kenya Wildlife Services (KWS) used to get a lot of allocation and they also collected a lot of revenue. Today, if you go to the KWS, it is a dead institution. We cannot expect the KWS and other institutions to perform when they do not have facilitation to generate revenue. As a country, we really need to refocus how our institutions are doing, more so a place like KWS where the budgetary allocation should be increased.

Finally, you will find that some tourists' main purpose in visiting our country is camp sites, which are in very few game reserves and parks. Why can we not have camp sites even in our own villages, in areas we come from? A Maasai or a Borana or a western manyatta; where they can be able to interact with the communities. We should not restrict ourselves to those camp sites in game reserves, national parks and other areas.

With those few remarks, I support the Motion, thank you.

**The Temporary Speaker** (Sen. Nyamunga): Valid points there, Sen. Dullo. Sen. Omogeni, you may proceed.

**Sen. Omogeni:** Thank you Madam Temporary Speaker. I also want to congratulate my good friend, Sen. Olekina, for bringing this Motion to the Senate.

Tourism is a booming industry worldwide; it controls about US\$1.2 trillion as an industry. In Kenya alone, tourism generates close to Kshs1.2 billion annually, so it is an

industry that contributes a lot to the growth of our economy. But, have we fully exploited the tourism industry in this country? My answer is; no.

The reason is the Government has not given enough support and incentive to the industry. Countries that receive the highest number of tourists in the world have taken care of the basics. One of the basics is infrastructure. If you look at the state of the roads; even the tarmacked road from Nairobi to Narok, the potholes alone on that stretch would give an impression that the government does not care about the number of international tourists that head to Narok on a day to day basis.

The situation even gets worse the moment you leave Narok town to go to Masai Mara. Is it not an irony that we have done the railway network all the way from Nairobi and terminated it at Naivasha instead of extending it closer to Masai Mara, which is the leading tourist destination in this country?

Madam Temporary Speaker, when you mention the word “safari”, it is synonymous with Kenya. Every tourist from the United States of America (USA) or Europe wants to have an experience of visiting the famous Maasai Mara National Reserve. During the animal migration, hardly can a local find accommodation in the Reserve because we receive international tourists. For us to make that an experience worth the effort of coming all the way from Europe, we need to have good infrastructure. I do not understand why the Kenyan Government has never thought of tarmacking the road from Narok to the Maasai Mara, because the Maasai Mara National Reserve really makes a huge contribution to our economy.

Secondly, Madam Temporary Speaker is the issue of security. The leading tourist attraction destinations in this world are places where they have the 24-hour economy. This is where someone can walk to his or her room at 1.00 a.m. or enjoy themselves up to 3.00 a.m. and they will be assured of their security.

I want to give a case of Bangkok. We travelled there with a group of lawyers in 2008, when I was the president of the Law Society of Kenya (LSK). We were all amazed. When we were leaving dinner at 11.00 p.m., the situation outside was like what you see in Nairobi at 1.00 p.m. This is because the Government has assured tourists of their security.

In this country, when you get into Hilton Hotel, the first thing you are told at the reception is to watch out for your safety as you walk in the streets of Nairobi. What kind of message are we sending to our visitors? How will we ensure that visitors who come to our country are spending on our own businesses, if we do not guarantee their security? Bags belonging to tourists are snatched in broad daylight and we do not have any effort by the Government of the day to ensure that tourists are safe. We will not grow this industry, unless we fix our infrastructure and improve on the security of international visitors.

We must move out of the traditional tourist attractions. The leading tourist destinations in the world are not necessarily areas where you do a safari to the rural areas. One of the leading destinations in the world is New York. We were in New York sometime back. When we asked our host where we could make a visit there, we were told the leading tourist attraction is the Central Park. It was amazing. When you go to Central Park, there will be temptations to spend. That is how the economy of a country is

structured. Those who are coming in as tourists must spend, because we need to have our economy supported by visitors.

Madam Temporary Speaker, the other issue is that we must ensure that our visitors have lasting memories. They must leave this country feeling there was a special touch. If you visit Bangkok, it is renowned for its traditional healing massages. Everybody visiting there will be given an invitation. In this country, we are rich in the kind of food that we offer. However, you will never get a tourist coming to Kenya to taste our food. We have the very famous Bama Market where you find *nyama choma*. Instead of the Government converting that into a market that can welcome our international visitors, we are moving towards closing that market. That is not the way it should work.

I once visited Fiji and the first thing you will be told there is that the first tourist attraction is to visit the Fijian villages, where you will be offered Fijian traditional food. That is the only way the Fijian people will say we received international guests; and that is how it should be for us, as a Country.

Madam Temporary Speaker, am looking forward to a time when visitors come to this Country, they will be told that they must visit Kisumu and enjoy *ohangla* music. That is what will give us a unique identity and attract tourists from our neighboring countries like Uganda, Tanzania, and South Africa. We cannot continue doing it the traditional way.

Madam Temporary Speaker, when you visit Hong Kong, one of the leading attractions for international guests are the trams. When I look at how unexploited the Mai Mahiu terrain is, I wonder. This is because that is what is in Hong Kong, where people queue for an average of 2 hours before you can get a chance on the tram. When you ask about the kind of revenues being generated for that Country from that tourist attraction, it is amazing.

What this Government needs to do is to move away from these traditional tourism destinations of *safaris* to go and watch elephants. We need to encourage investors to move into this Country and do other investments that will attract more tourists. When people come with their families, they do not want to just go and see the elephants and lions; they also want to take their children to recreational parks, where they will have memorable experiences. We can tap into that potential, because I do not think there is any country in the East African Community (EAC) which has gone ahead to have those kinds of attractions.

Madam Temporary Speaker, we must challenge the Government to improve our airport. The Jomo Kenyatta International Airport (JKIA) in Nairobi receives an average of about 100,000 visitors; while New York is doing about 20 million. How can we say that we want to be competitive in the international market when the plan that we had in the 60's – of building two runways at the JKIA – has not been implemented almost fifty years later?

New York already has a number of international airports and tourists can either land in the John F. Kennedy International Airport or LaGuardia International Airport. The same is true for Britain. Therefore, I want to challenge our Government to think outside the box. They need to improve our infrastructure – from our roads to the airport – so that tourists coming to this country can have an incentive of coming back again.

Tied to that, Madam Temporary Speaker, is the idea of granting visas on arrival to all our African brothers. I must laud the President for his initiative early last year or this year, in allowing visitors from a number of our African countries to process their visas on arrival. What is the justification of allowing visitors from Europe and America to process their visas on arrival, while we do not extend the same favor to our brothers from the African Continent? We must acknowledge that the boundaries we have in Africa are a creation of the colonialists; but we are one and the same thing, as African brothers.

Finally, Madam Temporary Speaker, we must improve our hotels and our hospitality industry. There is no way we are going to attract tourists to travel all the way to my county of Nyamira, unless we have hotels that can meet international standards. How are we going to encourage investors if the people who have constructed their hotels – like my good friend, hon. Manoti, who had done a building worth billions – just to wake up one day to find the building has been brought down?

How are you going to encourage people to come and invest in this country if there is no sanctity of the title deed? Therefore, this Government must foster a climate that is attractive to investors. We must make life comfortable for our investors so that we can have enough hotels that can receive more visitors.

With those many remarks, Madam Temporary Speaker, I beg to support the Motion by Sen. Olekina.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Olekina, are you ready to reply?

**Sen. Olekina:** Yes, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): Please, go ahead.

**Sen. Olekina:** Thank you, Madam Temporary Speaker. First of all, I would like to thank all the Senators who have contributed immensely to this Motion, which is important. I am quite impressed with the issues raised by Sen. Sakaja. It reminds us that in this country we have got a lot of talent that is mostly untapped. We have got hubs which can help us understand and increase our tourism revenue.

I can put one on one together from what Sen. Omogeni has said. The biggest question that the tourism sector should also be asking is: What happens to a tourist when he or she lands in Kenya? Should we come up with strategies in tourism based on only arrivals and departures? We need to ask about where that tourist goes when they leave the airport.

We would not be having a lot of problems when it comes to issues of immigration in this country if we relied heavily on location based data, which is very important. As Sen. Sakaja said, when the tourists come into the country, it is imperative that we go an extra step and take advantage. With this data, it behoves us and more so, the Ministry of Tourism and Wildlife, which I now hope will be able to do that--- When a tourist gets into this country and he or she wants to go to a particular place, they can search for the place on their phone and locate it. If there is a new tourism route, they should also be able to be directed to it.

I would like to thank Sen. (Dr.) Zani for contributing heavily on these issues. One of the most important things she spoke about is the need to show people our country. When you travel to London, the first thing you will see all over is the bus tour which Sen.

(Dr.) Zani spoke about. That bus tour shows people what is available to be seen in London. There is the London Bridge and other places that you can travel to. As Sen. Sakaja said, we have more in this country than just relying on buildings and so on. It is important for even the county governments to do a skills audit of what they have. This will ensure that they sell their counties properly and attract tourists.

As I mentioned earlier on, I came back from South Africa this morning. While there, I got a chance to be hosted by a very good company called Best Friends. We are sourcing the fence for Mau Forest. One of the places that I visited in South Africa is an eco lodge and spa called Lambana. It is built in a mountain that is rocky. They do not have the animals that we have in that place. As my dear sister, Sen. Halake has said, when you go to some parts of this world, particularly where they are making a lot of money from tourism, like the Kruger National Park that she spoke about, it is a big zoo. Here, we have animals. At the Tembo Eco Hotel and Spa, they have a lot of activities and facilities for tourists. They even hold weddings and people come from Italy and other countries.

**The Temporary Speaker** (Sen. Nyamunga): Order! Sen. Olekina, you will have a balance of 10 minutes to conclude the reply.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the House. The Senate, therefore, stands adjourned until Thursday, 11th October, 2018, at 2.30 pm.

The Senate rose at 6.30 p.m.