

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 23rd May, 2019

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

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

PRAYER

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM ACK ST. BARNABAS KIPKENYO SCHOOL, UASIN GISHU COUNTY

The Speaker (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from ACK St. Barnabas Kipkenyo Secondary School in Uasin Gishu County.

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

I thank you.

VISITING DELEGATION FROM KATHITUNI PRIMARY SCHOOL, THARAKA NITHI COUNTY

Hon. Senators, I would also like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Kathituni Primary School in Tharaka Nithi County.

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

I thank you.

PAPERS LAID

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 23rd May 2019.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

REPORTS ON THE FINANCIAL STATEMENTS
OF VARIOUS COUNTY AGENCIES /FUNDS

Report of the Auditor-General on the Financial Statements of Kirinyaga Water and Sanitation Company Limited for the Year ended 30th June 2018;

Report of the Auditor-General on the Financial Statements of the County Government of Kiambu Emergency Fund for the year ended 30th June 2018;

Report of the Auditor-General on the Financial Statements of the Kiambu Alcoholic Drinks Control Fund for the Year ended 30th June 2018; and

Report of the Auditor-General on the Financial Statements of Kiambu County Education Bursary Fund for the year ended 30th June 2018.

(Sen. Murkomen laid the documents on the Table)

STATEMENTS

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I would like to seek a statement from the Committee on National Security, Defence and Foreign Relations.

Before I seek the statement, it is important to distinguish my responsibility in this House as the Senate Majority Leader whose responsibility is to facilitate the work of this House. The majority side is the party that has formed Government. In essence, it means that it is my political party.

Mr. Speaker, Sir, as I have said before, in my dual responsibility as the Senate Majority Leader and the Senator for Elgeyo-Marakwet County, there are days that I speak on the Floor as the Senate Majority Leader. There are also days that I must represent the cries of the people of Elgeyo-Marakwet County.

Mr. Speaker, Sir, some people have questioned why I raise these issues on the Floor of the House considering that I have the ear of the Government and that I have worked with the Government. It must go on record that institutions exist so that solutions can be found through them and for posterity. It is not about personal goodwill and good relationship with the Government of the day. Some things must always go on record because we are doing these things for posterity.

The critics, therefore, who say that if you are in the Majority side, you should not raise anything that deals with Government, my message to them is that we are doing so, because of the fidelity to the Constitution, our respect for the citizens that voted for us and a desire to ensure that all problems that are solved are institutionalized for purposes of institution memory.

WITHDRAWAL OF NATIONAL POLICE RESERVISTS
FROM COUNTIES IN KERIO VALLEY REGION

Mr. Speaker, Sir, the Kerio Valley Counties; Baringo, Elgeyo-Marakwet, Laikipia, Samburu, Turkana, and West Pokot have witnessed acts of violence perpetrated

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

by bandits who engage in cattle rustling. These bandits have over the last two decades caused havoc in the region, maimed and slaughtered men, women and children.

This has necessitated establishment of various parliamentary committees to investigate the matter. It has variously been established that the police alone have been unable to address this menace; hence parliamentary recommendations to extend operations of National Police Reservists (NPR) to the region.

Mr. Speaker, Sir, Part XV of the National Police Service Act establishes the National Police Reserve who:

“May be deployed in Kenya to assist the Kenya Police Service or the Administration Police Service in their respective mandates, including in the maintenance of law and order, preservation of peace, protection of life and property, prevention and detection of crime, apprehension of offenders and enforcement of all laws and regulations with which the National Police Service is charged.”

This strategy was well thought out and has helped in the restoration of law and order in the region. It has also tamed the proliferation of small arms and what could be referred to as the ‘arms race’ between and among communities in the region.

Mr. Speaker, Sir, you have served in that region before and you know that if you did not have the local police reservists, the local security was compromised. Most importantly, communities were arming themselves for defence against each other. Therefore, the local police reservist was found to be a very important solution.

One week ago, without any notice or consultation, the Government abruptly withdrew the guns allocated to the National Police Reservists (NPR). The reservists have also been suspended from duty. In our desire to seek for explanation, I spoke to the Cabinet Secretary in charge of the Ministry of Interior and Coordination of National Government and the Inspector-General of Police and we were told that vetting was being done and the police reservists would soon go back to duty. As a result of the move, over ten lives have been lost in less than five days. Almost 20 schools have been closed down for fear of attacks. Elgeyo-Marakwet County, for example, has specifically witnessed internal displacement with women and children rendered internally displaced persons (IDPs), to live in the cold without any basic needs.

Mr. Speaker, Sir, you know those areas; Lelan area, particularly, Kabioko Ward. You know the highest point of Cherangany Hills is in that area. It is at the border between Elgeyo-Marakwet and West Pokot counties. The temperatures sometimes go up to below 2 degrees centigrade. Children and women are sleeping in the cold because they are running away for fear of attacks. They are now living as IDPs in their county and country.

Mr. Speaker, Sir, I am happy the Vice-chairperson who is the acting Chairperson has captured this properly in the last one week. From the foregoing, I would like the Chair of the Senate Committee on National Security, Defence and Foreign Relations to answer the following critical questions:

(1) Why are the Cabinet Secretary (CS) Ministry of Interior and Coordination of the National Government and the Inspector General (IG) of Police whimsically altering the national Government policy in outright violation of the law? A Government policy that is captured by the National Police Service (NPS) Act and was established after

elaborate discussion from the Ninth to the Twelfth Parliament was abruptly altered in a week without any consultation.

(2) Considering that the former IG of police followed the NPS Act in recruitment, vetting, training and deployment of police reservists to the region, why is the CS and current IG of police unilaterally altering Government policy and endangering lives of citizens?

(3) How long is the purported vetting of reservists going to take and what is the criterion to be used?

(4) Is it true that upon vetting, some areas will be allocated back their police reservists while others will not, depending on the political considerations, personal relations and connections of local leaders with the Ministry of Interior and Coordination of the National Government?

Mr. Speaker, Sir, this is a question I would like the Chairperson to pursue. This is because we have been told that depending on how you talk nicely to officials of the Ministry of Interior and Coordination of National Government, one could easily get their reservists back as fast as possible. Those who are considered to be politically incorrect in the changing political times will not get the reservists returned. This is because someone must make their citizens suffer and portray the leaders from that area as incompetent and unable to provide security to their people, notwithstanding the fact that no legislator has the responsibility of providing security to his people.

(5) In the meantime, how is the Government planning to restore law and order in the region and to ensure that no life is lost, all property stolen or destroyed?

(6) What is the Government doing to ensure that children go back to school and citizens of that region access their homes?

(7) Considering the abrupt change of policy and the failure of the Ministry of Interior and Coordination of the National Government to guarantee protection of lives and property, what plans are there to ensure that the people protect themselves? That is an important question.

For the last six years in this Senate, I have been advocating for peaceful resolution of conflict among our communities. I do not believe that the gun is the long-term solution for peace. However, what does one do when citizens are left to fight bandits on their own and where policemen fear to confront any bandit? They run away!

If this was to happen in Wajir, Marsabit, Isiolo or Mandera where they have the danger of being attacked by foreigners, it could even be worse.

I am now asking myself whether it is now right for us to go the American way and ensure that every citizen is given a right to carry arms so that they can protect themselves. Is that what the Ministry is trying to perpetuate?

Mr. Speaker, Sir, lastly, there have been utterances attributed to a Member of the National Assembly. The NPR policy has been in existence for 30 years. It is now being withdrawn because it is considered that they are political supporters of one of the presidential candidates of the year 2022.

The question my people of Elgeyo-Marakwet and Kerio valley, including leaders in the region are asking is: "Is it now true that these elements and characters who have coalesced around certain offices of Government are working as a team to frustrate the

security of poor citizens because they want to frustrate political aspirations of one individual?"

Is it worth as a nation to kill women and children in the country because we do not agree with certain individuals to be aspiring to be President of Kenya, or we consider ourselves presidential competitors of a person who is purportedly going to run for the year 2022 elections?

That question must be answered because the people of Elgeyo- Marakwet are saying that if one has a problem with one individual, you leaders in political and highest offices should sort their problems in Nairobi. Do not resort to using children and women as examples as they die, as you fight for your political games in Nairobi.

Mr. Speaker, Sir, I hope that this very important Statement will be considered expeditiously by our Committee and a report brought to this House because it has a wide scale application and implications in the Republic of Kenya.

The Speaker (Hon. Lusaka): Sen. Sakaja, did you want to comment on the Statement?

Sen. Sakaja: Thank you, Mr. Speaker, Sir. I was just anticipating that at some point, I will have to give a commitment by my Committee. Allow me to give a comment when I have heard other Members, so that I take all of those into consideration.

The Speaker (Hon. Lusaka): Sen. (Eng.) Hargura, do you want to comment on the Statement?

Sen. (Eng.) Hargura: Yes. Thank you, Mr. Speaker, Sir. I thank Sen. Murkomen for bringing up this issue because it is a situation which is now prevailing in, I think, the whole of the pastoralists' region of this country. It is a decision which we, as leaders are trying to understand. This is because for all this time, we knew very well that the NPS does not have enough manpower to provide security in vast areas of this country, especially the pastoralist areas, because of the vastness of the area, the sparseness of the population and also the way of life of the people who have to move from one place to another.

It is because of that, that it was felt that the community be provided with security through the NPR which used to be known as the Kenya Police Reservists (KPR) and, it has been working.

Mr. Speaker, Sir, in Marsabit County, where I represent, the NPS can hardly provide security even within the county headquarters. When things happen in Marsabit Town, they come in the morning to know what has happened. Being a border county, a lot of illegal guns are there. The effect of those illegal guns has been countered by the guns with the NPRs. When the Government wakes up one day and says that they have to remove those guns, then we wonder what they are up to.

I know around 1990 when the Ethiopian regime of Mengistu Haile Mariam collapsed, there were lots of illegal guns which were brought in by the fleeing military personnel. They were literally exchanging a gun for a goat. The border communities got guns. What followed was that those who were not at the border now felt the brunt of those guns. We were being raided every other day. The Government was not there.

At one time, it reached a point where we used to call the police who wondered why we were not arming ourselves. This was because they had no capacity to fight any armed person in that terrain.

It is around that time that the Government felt it was fit and NPR were recruited throughout the greater Marsabit District by then. That was when the situation stabilised because the effect of the illegal guns was being countered by the Government guns in the hands of the community. It was basically a community security provision system. The police issued the guns and then on monthly basis, those NPRs were coming to the police station to have the guns checked. It has been working all this time.

Mr. Speaker, Sir, I know there are cases where it has been said that these guns are being used when communities fight. Basically, National Police Reservists (NPR) are on all sides. Sometimes the one being attacked is an NPR who is expected to defend himself first before defending any other person. When somebody is attacked and he has a Government gun, he has to defend himself. You are then told that you were involved in a fight.

It is the responsibility of the Government to train these NPRs and monitor them. It is not a matter of saying that because you have been having these guns for a long time and that one or two individuals are involved in illegal activities, then we withdraw all the guns.

I know in my county, the disarmament exercise started in March in a very insincere way. The NPRs from the four sub-counties were called and told that they were not being disarmed, but the Government wanted to meet and check their guns. Immediately they gave the guns to security officers, they were asked to go home. The next day when the County Commissioner was being interviewed, he said: "There is nothing like checking the guns. We have disarmed you and you will not get these guns."

Yes, you have disarmed those who have been providing security to our people, but what options do you have to provide security to them? Since that time, in Marsabit County, especially in Saku, incidences of cattle rustling have increased. Now, the rustlers even come to homesteads in broad daylight because they know they are the ones who are armed with illegal guns and nobody else. Initially, we used to have the NPRs and they would fear a village with an NPR; they would tread cautiously. Now, they come in broad daylight and confiscate animals and just go away like that.

Mr. Speaker, Sir, this disarmament has not solved anything. The police have not provided the security they promised to provide. I would like to know from the Chairperson of the Committee on National Security, Defence and Foreign Relations, what plans the Government has to contain the situation. When they hatched the plan to replace the NPRs, they must have put the other plan in place. If they have now realised that they have more regular police officers, then they should have established a post and posted them there before disarming the NPRs.

Mr. Speaker, Sir, somebody is experimenting with our people. I do not see any other reasoning for that disarmament because how do you disarm the security system of the communities and leave the communities at their own machination? It is very clear that there are many illegal guns in the hands of those same communities. It is now a matter of

who has the illegal guns. Insecurity will now be felt by those who have been relying on Government guns.

I urge the Chairperson to come up with a viable explanation. If not, then those guns should be returned to the NPRs.

The Speaker (Hon. Lusaka): Sen. Dullo, it is your turn and keep the riders short.

Sen. Dullo: Thank you, Mr. Speaker, Sir. I thank The Senate Majority Leader, the Senator for Elgeyo-Marakwet County for seeking that Statement.

We had a long history before issuing NPR firearms for the people living within pastoral communities. That history still exists. For us who come from pastoral areas, especially where cattle rustling is happening, NPRs have been a solution to our problems.

Secondly, the security structure on the ground was unable to handle insecurity and cattle rustling. Clearly, that position still stands.

Mr. Speaker, Sir, even after NPR was put in place, the current Governor for West Pokot County came up with very good legislation to govern the issues of NPR and this House was involved. We gave out input in terms of ensuring the structure is strengthened. The unfortunate withdrawal of NPR firearms has jeopardized the position. For example, in Isiolo County, immediately the firearms were withdrawn last week, two cattle rustlings took place. Up to now, those animals have not been returned.

Secondly, many people within those counties have bought their own firearms simply because the mechanism that is in place in terms of Government fire arms was unable to protect them. We have a long history to this. I believe if the Government was trying to review the policy, they should have involved the leadership of this country and, more so, the leadership of the affected counties. It is unfortunate that these counties are left bare without any protection. I am sure even the security agencies on the ground might not be able to go to those areas and protect the people. It is very serious. Something needs to be done.

As of now, there is no alternative solution to the current situation. Soon, people will turn against each other because clans have bought firearms. Pastoralism and cattle rustling are issues of clannism. If a solution is not found as quickly as possible, then we will be in a worse situation than before. To make matters worse, the current NPRs were being given a stipend. If they are not given that stipend, they will have to look for alternative measures to take care of their families.

Mr. Speaker, Sir, let the Committee thoroughly investigate the reason why this decision was taken and why the leadership of this country and those counties were not involved in the change of policy. This is a violation of the rights of the people who live in those areas because they are exposed.

Sen. (Prof.) Ekal: Thank you, Mr. Speaker, Sir, for also giving me the chance to give my views on this issue.

The idea of taking guns away from Kenya Police Reservists (KPRs) is ill-conceived. Why would you take away guns when you know that some citizens of this country are being left without any protection? If the Government wanted to take away the guns, they should have put in place other security measures to safeguard those zones with these ever changing circumstances; where people get killed on a daily basis.

I called the Inspector of Police at Kapedo Police Station after I got calls from all over Turkana County. I asked the County Commander why anyone would make such an uninformed decision to take away guns and leave people without any form of protection. What is this nonsense called “orders from above”? Is that person from “above” who makes such decisions thinking or living in some world that he does not know the situation in northern Kenya?

Mr. Speaker, Sir, I hope whoever made that decision will reconsider it and give back KPR guns, so that they can protect these citizens of Kenya. Otherwise, people are living in the bushes and in fear because guns have been taken away from them. Turkana County is a very volatile region. People of Turkana County need that protection. Do you want us to look for our own arms in order to protect ourselves?

Sen. Poghiso: Mr. Speaker, Sir, I support the Statement. It is very clear that in areas, for example, the northern Kenya where issues of insecurity prevail, we need official Government guns to protect us. The official Government guns are those that belong to the National Police Reservists (NPR). The options are not very good.

As the Senate Majority Leader has said – except I fault him for one or two things, one is drawing the names of presidential candidates into this. That should not come into this discussion. I do not think that will help us at all. Anybody who draws in names of politicians should know that politicians do not make those decisions about the NPR guns.

We should just pitch our request and say that we would like the NPR policy to be maintained in a much better organised way, so that you can disarm the locals if they have security. Disarming NPR would not be a very good strategy. We already know that there are many illegal guns in this area. When you withdraw the official guns, then the illegal guns become the official guns. That is not very good for the country.

Therefore, I would like us to put this forward very strongly; that, our people need to be protected. It is the duty of the Government. Therefore, even if I am riding on this, when the report comes, we will discuss more, but it is the duty of the Government to protect its people. The people are not just in Nairobi. Most of the people who need protection are so far away from Nairobi. They do not have the economic muscle or a voice but we are here speaking for them.

I support and ask that we give a clear indication that we would like to be given protection. The property of our people requires protection from looting. They require that the Government takes care of people’s property. The NPR policy is not bad, however, we would just like to improve on it. I look forward to a good report. I will give my support.

Sen. Olekina: Mr. Speaker, Sir, I rise to support the Statement. Over the last few years, our people, mostly pastoralists from Laikipia, Samburu and Narok have been subjected to tough banditry activities. People who are out there taking care of their cows are attacked, yet they cannot defend themselves. Their cows are stolen. The best thing that could happen to this country is that we try to make it easy for people to survive.

There is no reason why we should control everything from a central point. Policies are better made by the national Government, but we can consult local authorities and arm the people who you know can defend themselves.

There was a situation last year where thousands of cows belonging to the Maasais in Laikipia were killed. If they had guns to protect themselves, at least their economy

would have been protected. This is not only an issue of security but also affects the economy. Therefore, we have to consider all these entities. If all their cows are stolen and they cannot defend themselves with the guns, they will resort to other measures. According to the Maasai, when you steal a cow, it is not really stealing; you are just repossessing it. Therefore, we have to be practical.

I support the Statement and hope that the Committee on National Security, Defence and Foreign Relations will come up with a better way of dealing with this issue. This knee jerk reaction to policies by the Ministry of Interior and Coordination of National Government is completely ludicrous.

Sen. Halake: Mr. Speaker, Sir, I thank you for giving me this opportunity. I rise to support the Statement by the Senate Majority Leader. He was speaking on behalf of the people of Elgeyo-Marakwet.

In 2017, we had additional NPRs; about 1,700. At that point, it was based on an analysis of the security situation in Turkana, West Pokot, Elgeyo-Marakwet, Laikipia, Baringo, Isiolo and other counties facing similar security challenges.

The NPRs found the need to recruit additional police reservists in 2017. What is the vetting for, a year and a half later? We are talking about 9,000 police reservists.

In Isiolo County, for example, there are only 130 of them and all their 130 guns have been taken away from them. Considering the volatility of northern Kenya and other parts in the north Rift, it is unacceptable. If there was need, based on analysis of the security situation that then justified the additional police reservists, what has changed in the few months between March 2017, at the time when the security situation needed supplementary support from the NPRs and now? How long does it take? We are aware that there are small arms that have proliferated into our country from the Sudan, Somalia and Ethiopia borders. Counties at the border have been under threat.

As we speak, our hospitals are not manned. Our schools do not have teachers because of insecurity. When we talk of marginalisation, this one goes right to the core of it. How do you withdraw security from these areas whereas the Government found this security necessary just a few months ago, in 2017?

If I may give the breakdown for these counties, we are not talking about big numbers. We are talking of small numbers. We are talking of a total of 7,000 as of 2017 and the additional 1,700, totaling to 9,300 where Turkana County had only 1,617; West Pokot, 685; Samburu, 1,400; Wajir, 336; Garissa, 116 and Tana River, 280. We are not talking about many arms. We are talking about very few guns that have been keeping the peace, complementing and supplementing our forces on the ground.

Mr. Speaker, Sir, it is unacceptable in this day and age for a Government policy to change just a few months without justification, participation of leaders or any explanation. The security docket has become rogue. We are told that because of national security, we cannot question the budget. We must ask why the NPRs have been withdrawn because they protect lives and our economies as our colleague from Narok has said. That is also a social right. We do not have teachers in schools, doctors in hospitals and quarry workers, because of insecurity.

So, who will look at the plight of people in hard to reach insecure places if we cannot be told why the NPRs have been withdrawn from Isiolo and other counties? Last

night, I slept at 1.00 p.m., because people deep in Isiolo were calling to ask what I am doing about the NPRs. I hope the Committee on National Security, Defence and Foreign Relations will take this very seriously because this is not just any other statement. It will determine life and death in parts of the country that we come from.

The Speaker (Hon. Lusaka): Hon. Senators, in the interest of time, I will allow Sen. Abdullahi Ibrahim, and then give the Chairperson of the Committee, Sen. Sakaja to comment.

Sen. (Dr.) Ali: Mr. Speaker, Sir, I stand to support the Statement. We have had insecurity problems in many parts of northern Kenya. In Wajir County, we were given over 100 Kenya Police Reservists (KPR) when we had the cross-border raids. Right now, we have the Al-Shabaab. The killing of those teachers even made things worse. They were to employ some KPR to reinforce security of the teachers and the other civil servants working along the border.

There are places in Wajir that do not have teachers, medical personnel and Government staff, yet the KPRs are being withdrawn. How does this Government expect those children to go to school? How will those children access healthcare? This is a sad affair. The local people have not been informed. Somebody in Nairobi just said that; "I have done this", which is wrong. The people from the grassroots are the ones who voted for this Government.

(Loud consultations)

Mr. Speaker, Sir, kindly defend me.

The Speaker (Hon. Lusaka): Hon. Senators, let us consult in low tones.

Sen. (Dr.) Ali: Thank you, Mr. Speaker, Sir. If the Senate Majority Leader is the one who is complaining, I do not know what will happen to those people who have no contact with the leadership at the national level. This is a sad affair and the Government of the day, which I happen to belong to, should do better.

The Speaker (Hon. Lusaka): We will hear from Sen. (Dr.) Lelegwe then Sen. Sakaja, who is the Chairperson of the Committee on Security, Defence and Foreign Relations.

Sen. (Dr.) Lelegwe: Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this Statement.

I want to inform the Government that we have a history of insecurity in this region and these people have lost their livestock, lives and land. We want to tell the Government that withdrawing the guns of the KPRs, who have been providing security is wrong. We condemn it and they should take those guns back to the people who provide security to the citizens. We do appreciate the work done by KPRs. The constituents call to tell us that they live in fear and are not sure of the security of their livestock. We, therefore, urge the Cabinet Secretary to reconsider that decision.

Sen. Sakaja: Thank you, Mr. Speaker, Sir. I was taking notes. We have heard from Sen. Halake and the Samburu, Wajir, West Pokot, Narok, Turkana, Marsabit, Isiolo and Elgeyo-Marakwet Senators. They have all said the same thing.

We will look at this issue widely for it is a human rights issue. Article 24 of our Constitution talks about the right to life. Article 28 talks about human dignity and Article 29 talks about freedom and security of the person. The Senate Majority Leader has said that more than 10 people have been killed in one week. The Senator for Marsabit County has told me that two people were killed last night and the Senator for Isiolo County has told us that there have been two cattle rustling incidences. All these things have happened, yet there is no outrage in this House or in this country.

If 12 people died in Nairobi, Nakuru or Kakamega, there would be serious outrage. Have we normalised death in the northern part of this country? Is the value of life less in Wajir, Mandera, Turkana and Elgeyo-Marakwet? A country that wants to be a first-class country---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Members. Let us listen to the Chairperson of the Committee on Security, Defence and Foreign Relations.

Sen. Sakaja: Mr. Speaker, Sir, a first-class country cannot have a second-class citizen. We cannot normalise such deaths. Those people are Kenyans just like any other Kenyans. We will look at this matter seriously because the sanctity of life must be upheld.

In the last Parliament, Sen. Hargura was my deputy when I chaired the Joint Committee on Cohesion and we went to all these places. We went to Samburu, Baragoi, Baringo, Turkana, Tiaty, West Pokot and many other places. While there, we realised that KPR officers offer a lot of assistance, for there are areas that the normal police cannot go to. We only have 7,348 KPRs. Why leave a vacuum if you want to vet the KPRs? Other security arrangements should have been made before disarming the KPRs.

It is shocking that leaders such as the Senate Majority Leader and the Senators from those areas are hearing about these things after they have happened. What happened to the culture of carrying leaders along when making decisions such as these? It costs nothing to consult, call a meeting and then tell the leaders that you are planning to implement a new policy. These are people who have been given the mandate in Article 1 of the Constitution, which talks about the sovereignty of this country and it gives delegated sovereignty to leaders who are elected by the people.

I have asked the clerk of my Committee to invite the security leadership in this country; Dr. Matiang'i, the Permanent Secretary, Inspector of General of Police and related agencies. We want them to appear before the Committee on Security, Defence and Foreign Relations between next Thursday and Tuesday. We invite all the Senators to attend this meeting. Let us stand with the Senators from the pastoral areas. We may not understand what they are going through but one life in Elgeyo-Marakwet is of the same value with one life in Siaya, Machakos or Kilifi.

The Speaker (Hon. Lusaka): Could we have the next Statement by Sen. Khaniri?

ADDITIONAL CHARGES LEVIED ON
RESIDENTS OF NAIROBI COUNTY

Sen. Khaniri: Mr. Speaker, Sir, mine is a request for a Statement under Standing Order No. 48(1).

Pursuant to Standing Order NO. 48(1), I rise to seek a Statement from the Standing Committee on Finance and Budget concerning additional charges levied on residents of Nairobi County seeking rate clearance certificates by the Nairobi City County Government.

In the Statement, the Committee Chairperson should-

- (1) Explain the rationale and the legal basis for extra charges imposed on residents of Nairobi County seeking rates clearance certificates for their properties;
- (2) explain the legality of the numerous and duplicate levies charged on the business people seeking for renewal of business permits; and
- (3) explain the measures undertaken by both the national and county governments to encourage development and growth of businesses in counties.

The Speaker (Hon. Lusaka): Thank you. I do hope that the Chairperson of the Committee on Finance and Budget has heard that. The Statement is committed to the Committee on Finance and Budget.

Next Statement is by Sen. Halake.

PREPAREDNESS FOR THE CYCLIC DROUGHT
AND FLOODS IN THE COUNTRY

Sen. Halake: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Committee on Security, Defence and Foreign Relations regarding the preparedness for the cyclic droughts and flood in the country.

This is a recurring issue and another question has been asked with regard to operationalizing the strategy. However, I would like to use this opportunity to request for a Statement.

In the Statement, the Committee should address the following-

- (1) State reasons why the country is never prepared for the recurrent cycle of drought and floods that disrupt our livelihoods, starve humans and animals, destroy infrastructure, render roads impassable thus paralyzing transport and cause a lot of damages for years.
- (2) State long term and immediate measures that have been put in place to prepare for the ravaging drought and flood disasters that keep recurring in our country after every rainy season. It is usually followed by drought and after six or seven years we have the La Niña effect. What is the Government and especially institutions like the National Drought Management Authority (NDMA) doing about this?
- (3) Provide a detailed plan of action and resources for mitigation and response beyond the reactionary heightened activities for further scrutiny and support in the event of occurrence of the two disasters.

The issue of floods and drought is becoming a laughable matter, bearing in mind that we keep going through the circle. This would be the best time for us to put our house in order and ensure that our institutions look into this. This House must act now because in a few months, we will experience severe drought that will cause havoc in our country.

I thank you.

The Speaker (Hon. Lusaka): We amended the Standing Orders. So, the Statement stands committed automatically to the Committee.

What is your intervention, Sen. Khaniri?

Sen. Khaniri: Mr. Speaker, Sir, I appreciate that we amended the Standing Orders and that statements stand directed to the relevant committees. However, the practice has always been that a chairperson gives an indication, so that we know when to expect the responses and hold them to account. Otherwise, if we just leave it open-ended, we will wait forever. So, it will be good for various chairpersons to indicate how much time they require to give those statements.

The Speaker (Hon. Lusaka): Our standard time has always been two weeks.

Sen. Murkomen, you have the Floor.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, this is a good Statement that seeks factual positions when it comes to rates and imposition of charges. It is not just about Nairobi City County. There is an outcry in relation to the manner in which own-source revenue in counties is being levied and the consistency in what is being levied. It touches on accountability of resources that are being collected in the counties.

As the Committee looks into this issue, there was another pending matter related to own-source revenue and ways of helping county governments to collect their own-source revenue in an accountable manner. There were even suggestions that counties should sign agreements with the Kenya Revenue Authority (KRA) or any other entity because the KRA has demonstrated that they are as good as the management of the day. So, we must find a mechanism that is verifiable.

I am glad that the Governor of Nairobi City County is on record saying that since he took office, there has been an increase of revenue collected in Nairobi. That can be demonstrated by virtue of investigation so that we determine whether that is true; the increase margin and the method that Hon. Sonko is using which should be an example to other counties.

In reality, nearly all counties' revenues have gone down because they are being stolen at source. Revenue collections are not entered into systems. That does not exclude my county but all the counties across the country, particular counties with cities and big towns such as Kisumu, Mombasa, Nairobi and Nakuru.

When we raise these issues, it is not because we want to attach any individual or because we have vendetta; our interest is to see how objectively collection of revenue, levies, fees and rates will be institutionalised, so that we do not have a situation where when Governor Sonko is in office, revenue collections go up but when another governor takes office, it goes down. It should not be dependent on the goodwill of the person in office.

I beg to support.

Sen. Sakaja: Mr. Speaker, Sir, I thank Sen. Khaniri for bringing this Statement. Across the country, business people are being bombarded by so many increases, different permits and levies. I know certain businessmen in certain fields who have to pay for up to 13 different permits in Nairobi. They are told to pay the Music Copyright Society of Kenya (MCSK), Public Relations Society of Kenya (PRSK), royalties and fire. There are so many payments to be made and there is no single repository of information on what they are supposed to pay.

The Committee on Finance and Budget should look at how all these can be harmonised because the country is improving on its ranking when it comes to the ease of doing business. For you to run a business in our cities, there are many hurdles but they are all hidden. You do not know where to go and start from. When you start your business, the following day, City Council *askaris* tell you *hujalipa hii na hii*.

The Committee should give us a framework through which they are working with the Council of Governors (CoG) to make sure that in every county, there is a place where you can go and be told everything that you need to pay for.

Secondly, when you cross one county and go to another, you are charged for the same thing that you already paid for. Our business people are suffering. There is no way we will grow our economy unless we harmonise all the levies and taxes.

Sen. Olekina: Mr. Speaker, Sir, I am baffled by how county governments increase charges or taxes to citizens yet when you look at their financial statements, that information is not reflected.

I just came from the County Public Accounts and Investments Committee (CPAIC) meeting where we were considering financial statements for Turkana County for 2017/2018. When you look at their financial statements, most of the streams of revenue are empty. In fact, in some of them, you will not see a single penny on rents and fees. What is happening? Despite that, many governors put blame on the Integrated Financial Management Information System (IFMIS) and Local Authority Integrated Financial Operation Management System (LAIFOMS).

It is time that this House looked at all the Acts---

The Speaker (Hon. Lusaka): Hon. Senator, you need to be relevant because you are now discussing people from a particular county which was before you.

Sen. Olekina: Mr. Speaker, Sir, I am guided. However, I do not think I am off if I discuss a document which is already public. This is public information that anyone in this country can download from the website of the Auditor-General. What I am relaying are facts and you cannot change facts. These are documents which are public. We should look at revenue streams. These are things we talk about when meet executives from each county when they come up with their budgets. A county may say that they are generating money from certain items but that is not reflected.

When Members of the Committee on Finance and Budget will be interrogating issues raised in the Statement by Sen. Khaniri, they should look at how realistic budget estimates are and whether the amount of money being charged on the residents of Nairobi City County is reflected in the financial statements.

I thank you.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I was to contribute, however, I have been alerted that the Statement that Members are contributing to has already been committed to our Committee. So, it is not the Statement of Sen. Halake. I bring to your attention that we have gone on a tangent somewhere so that you can correct it.

The Speaker (Hon. Lusaka): Yes. The Statement was committed. The next Statement is from Sen. Halake.

FRAUDULENT SACCO SOCIETIES IN KENYA

Sen. Halake: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Tourism, Trade and Industrialization, regarding fraudulent savings and credit cooperative (SACCO) societies' activities in Kenya.

Mr. Speaker, Sir, around 14 million Kenyans are members of more than 22,000 registered SACCOs in the country. The SACCO sector is critical to the economy, as it employs approximately half a million Kenyans both directly and indirectly.

The sector has a cumulative savings and credit of approximately Kshs700 billion which is over 25 per cent of all our national savings and an asset base of approximately Kshs1 trillion.

Despite the presence of Sacco Society Regulatory Authority (SASRA), the sector is still facing fraud, corruption and mismanagement that have resulted in misappropriation and loss of billions of shillings belonging to Kenyans from various SACCOs, essentially, impoverishing visiting Kenyans and wiping out any possibility of us creating wealth through SACCOs.

In the Statement, therefore, I would like the Committee to address the following-

(1) Provide information on all the cases of mismanagement and blacklisted SACCOs. How or what is the effective way the public is being notified of these SACCOs?

Mr. Speaker, Sir, there are quite a number of SACCOs that are blacklisted but the population does not know of.

(2) What is the plan of Government to regulate and protect all deposit taking entities and protect the savers or members of SACCOs who are impoverished?

(3) Find a pragmatic framework or policy currently in place to ensure good governance, financial health and management of risks to protect savers of SACCOs and deposit taking entities.

(4) Confirm that there are comprehensive laws and regulations to manage SACCOs but only honoured in breach than in practice. If so, what is the plan so that these regulations are applied by the relevant authorities to protect members' savings?

(5) Is the Committee aware that the Sacco Societies Regulatory Act provides a Deposit Protection Fund, yet this part of the law is yet to take effect despite being in existence for the last 10 years?

(6) Can the Committee provide reasons and, hopefully, answers why the law protecting deposit funds has not come into effect?

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

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

Sen. Cheruiyot: Thank you, Mr. Temporary Speaker, Sir. This is a very important issue. If you watched the developments around the infamous Ekeza Sacco, you saw what the owner, whom I do not wish to call a con but I cannot find a better way to describe him, did to millions of Kenyans who put in billions of shillings into that SACCO.

Mr. Temporary Speaker, Sir, many of our people are so innocent such that they imagine that any person who operates a SACCO business has gone through the rigorous Government processes of ensuring that they are legit and what they are doing is genuine and, therefore, they can invest their money. Unfortunately, the failure rate of many of our SACCOs in this country is so high.

This is an issue that the Committee on Tourism, Trade and Industrialization needs to treat with so much seriousness. This is because cooperative development is squarely a devolved function. Therefore, time has come for us to ensure that we have proper regulation on how county governments can regulate the SACCOs that operate within our counties.

Many Annual General Meetings (AGMs) of various SACCOs have ended in disarray with officials either frog-matched to police stations or beaten by members of the society when they read the statements of what has happened.

Therefore, I urge my colleagues who sit in the Committee on Tourism, Trade and Industrialization to ensure that SASRA appears before them and first of all, gives an update of how many SACCOs have gone under to date. The only one that we have heard about is the Ekeza Sacco because the money is in billions of Kenya shillings. However, what about the small time SACCOs that are formed in our villages, where 200 people come together and within two to three years, they raise a significant amount of money but the treasurer takes off and disappears with the money? Who is regulating this particular sector?

Mr. Temporary Speaker, Sir, this is perhaps part of the reason why there is so much despondency amongst our people. This is because as a House of Parliament, we have not given the proper legislation on what needs to be done.

I wish the Senator for Embu, Sen. Ndwiga, was here. I remember the amount of work he did during his days as Cooperative Affairs Minister. In fact, some of the regulations that are still being used are part of his work and what he left behind as his legacy. Unfortunately, some of them have been outdated. We have not been able to capture how electronic finances of SACCOs move. A person wonders which bank and regulations were put in place such that a person can move Kshs1.5 billion savings of members of a SACCO without being questioned by the Central Bank as it happened during the infamous Ekeza Sacco saga.

If we had proper and stringent regulations, a person could not do that in proper investments arms where, at least, there is a chain. A person cannot have a SACCO with that amount of savings yet there are no checks and balances. For example, he or she only

has two signatories, where in many of these cases, one of the signatory is a spouse to the other.

Therefore, I urge my colleagues to treat this matter with the seriousness it deserves. This is an issue that if we do not take care of, will cause a lot of trouble to many people in this country.

Mr. Temporary Speaker, Sir, with those many remarks, I look forward to the work that will be done by this Committee and the response that they shall bring to this House, perhaps, before we break for recess.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, there are several Senators who are interested in contributing to this Statement. However, we are short of time. Therefore, I will give only two minutes to those Senators who wish to contribute to this Statement.

Sen. Shiyonga: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to the Statement by Sen. Halake.

As my colleague has put it, it is time for the right people to conduct checks and balances for our SACCOs. The initial urge to form these SACCOs was to improve livelihoods. However, the current and former SACCOs have been turned into milking cows and personal financial gains.

The SACCOs in the counties are supposed to improve the livelihoods of people at the county level. However, people regulate them like personal accounts.

This Statement will come to the Committee of Tourism, Trade and Industrialism of which I am a Member. Therefore, I assure Sen. Halake that we will look at this particular Statement and deal with it accordingly.

Auditors need to go to the ground because SACCOs are used for personal gains and they are eroding the gains or interests made by the people who have invested their money. Therefore, when the Statement comes to our Committee, we will put our minds together to help the SACCOs and make sure that people are not exploited, but gain their benefits.

Sen. (Dr.) Langat: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to make my contribution to this Statement. I was alarmed last week because of the number of mushrooming cooperative societies where I come from. All of them demand a lot of contributions or help from the county government.

Mr. Temporary Speaker, Sir, most of the SACCOs all over this country are facing a lot of leadership challenges. As my fellow Senators have said, most of them have become cash cows for some individuals. I sense that there exists a lot of gaps in the regulations of these cooperative societies. If you check across, you will notice that most of these societies have leaders who have been there, controlling them for a long time. They continue enriching themselves at the expense of the citizens.

The Committee that this statement will be committed to should help us to establish the number of SACCOs that exist so as to help the county governments to come up with the criteria of how to help them.

The other problem that most of these SACCOs are facing is the formation criteria. For instance, you will find a SACCO in a particular village maybe having 30 members. When you visit the same village a few days later, you will find the same

SACCO with the same members but with different names. Regulations should, therefore, be put in place to control these SACCOs in their formation of leadership and the number of years that leaders should exist in those positions. Otherwise, some will continue being leaders and exploiting the members for the rest of their lives. Serious attention should be given to this issue so that the citizens or members of these SACCOs are assisted and protected.

I beg to support this Statement. Thank you.

Sen. Kibiru: Thank you, Mr. Temporary Speaker, Sir. I stand to support this Statement and, from the onset, I think it is directed to my Committee. I have seen that most of the Senators who have contributed are Members of my Committee. I assure the Senator and the other Senators that, indeed, we are going to take this matter very seriously.

Mr. Temporary Speaker, Sir, SACCOs and cooperative movements are what one would call “social entrepreneurship.” The intentions are good, but these SACCOs are experiencing issues of governance. We need to find a way of ensuring that the people who head these SACCOs are people of integrity.

We summoned the Cabinet Secretary (CS) in charge of the Ministry of Industry, Trade and Co-operatives to appear before us next week so that we can deal with these issues. We have been inviting the CS and he has been refusing to come to our meetings. We hope that now that we have summoned him, he will attend and we will get to the bottom of what is happening in this important sector of our economy.

Thank you.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Proceed, Sen. Nyamunga.

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

The Temporary Speaker (Sen. (Dr.) Lelegwe): What is your point of order, Sen. Madzayo?

Sen. Madzayo: Mr. Temporary Speaker, Sir, I have noticed something very interesting in the way we conduct our business. As much as I would not want to interfere when my colleague is talking, I think it is high time that the Speaker forcefully applied the Standing Orders.

When one seeks a Statement under Standing Order 48(1), instead of others adding an addendum to that Statement and asking questions, they now turn it into debate. We are not debating here. That is why when you allow that kind of thing to take place, there is no one left on that side, because they have already debated and gone. You should, therefore, forcefully apply these rules; the Standing Orders.

Thank you.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, kindly be advised.

Proceed, Sen. Nyamunga.

Sen. Nyamunga: Thank you very much, Mr. Temporary Speaker, Sir, for giving me this opportunity. I think we are also misguiding the Chair. That was the agreement initially, but every time a Statement is made, the same, same Members want to make comments. In the process of making comments, they end up debating. We are, therefore, confusing ourselves and I do not think there is anybody to blame here. We should just

stick to the rules and there should be no apportioning of how we carry out the business in this House.

(Sen. Madzayo spoke off record)

I am not directing it to you, Sen. Madzayo---

(Loud consultations)

No, you cannot guide people on what to do here. However, we are the same people who have been misguiding each other,

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order, Sen. Nyamunga!
Proceed, Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Temporary Speaker, Sir. Is my colleague, Sen. Nyamunga, in order to address Senator and retired Judge, Sen. Madzayo, in the manner she is addressing him? Although she sits in the Speaker's Panel, we have not accused the Speaker's Panel of violation of the Standing Orders. We are just saying that there should be order. Is she in order?

Meanwhile, Sen. Madzayo is right under Standing Order 48(3)(a), which states:

“Where a statement has been requested from a Committee pursuant to paragraph (1)-

- (a) the Speaker may allow comments in relation to the statement for not more than 15 minutes---

‘May allow’ means that it is at the discretion of the Speaker. Therefore, you are either making comments or additional statements. We should be guided. I do not think that my colleague, Sen. Nyamunga, is in order to address a colleague Senator that way.

Thank you.

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

The Temporary Speaker (Sen. (Dr.) Lelegwe): Proceed, Sen. Nyamunga.

Sen. Nyamunga: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I would like to ignore all that and proceed to make the comments that I want to make.

(Sen. Mutula Kilonzo Jnr. consulted loudly)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order, Sen. Mutula Kilonzo Jnr.!
Proceed, Sen. Nyamunga.

(Loud consultations)

We have already been advised; we know what Standing Order 41(1) says.

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Temporary Speaker, Sir. We all respect one another. I did not stand up so that I am ignored. The point is that, it is not up to the Senator to ignore me; it is up to you to make a finding.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order, Sen. Mutula Kilonzo Jnr.! Hon. Senators, we are advised as per Standing Order 48(3)(a), that the Speaker will allow comments on the statements by hon. Members.

Proceed, Sen. Nyamunga.

Sen. Nyamunga: Thank you, Mr. Temporary Speaker, Sir. I would like to make a small comment on the Statement made by our colleague, Sen. Halake, which is very critical to me.

In the rural areas, people started what we call “table banking,” from which they graduate to become a Community Based Organization (CBO), and from that, we move to SACCOs. This process was meant to teach our people, because there are so many people who are afraid of the banks, and they cannot approach any bank for credit. However, through table banking, CBOs and SACCOs, they learn as they move forward.

Mr. Temporary Speaker, Sir, the most important thing here is that the formation of SACCOs is of importance to each and every one of us, because it affects the people at the grassroots. Where can the youth and women get money to take advantage of the direction by the Government, that 30 per cent of tenders should be allocated to them? The money can only be raised from either the CBOs or the SACCOs.

It is, therefore, through the development of these SACCOs that women and youth can get to the level of getting credit from the banks. However, the way our SACCOs are being run is a disgrace, and it is a hoax from day one. I, therefore, urge the Committee that will deal with this Statement to look at the issue of management critically. This is because the problem here is the management, since the people who are given the mandate to manage these SACCOs have, from day one, the intention of defrauding the communities. Therefore, it is critical that they look into this matter and that we come up with a very good way forward on the way we should run our SACCOs so that they can benefit the people at the grassroots, for whom they are intended for.

Thank you.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, the Statement stands committed to the Committee on Tourism, Trade and Industrialization.

The next Statement is by Sen. (Dr.) Milgo.

NEW ARMY WORM ATTACK IN PARTS OF NORTH RIFT

Sen. (Dr.) Milgo: Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries on the new army worm attack, which has already destroyed more than 2,000 hectares of maize farms in parts of the North Rift. The same farmers have been advised to use a specific pesticide and spray their crops very early in the morning. This scenario is signaling a threat to food security this year.

In the Statement the Committee should address the following-

(1) State the measures being taken by the Ministry of Agriculture, Livestock and Fisheries to address the army worm problem.

(2) Clarify whether there are any arrangements in place to subsidise the cost of the pesticides, so as to motivate the farmers.

(3) State whether there has been any compensation rendered to the farmers who have suffered severe loss of their crops as a result of the army worm attack. If not, state when the farmers will be compensated.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Since there is no interest to comment on that Statement, we proceed to the Statement by Sen. Madzayo.

EVICTIONS AND EXCESSIVE USE OF FORCE
BY POLICE IN MTWAPA

Sen. Madzayo: Thank you, Mr. Temporary Speaker, Sir. Pursuant to Standing Order No. 48(1), I rise to seek a Statement from the Chairperson of the Senate Committee on National Security, Defence and Foreign Relations on the forceful evictions, arbitrary arrest and excessive use of force by police, leading to the shooting and eventual loss of lives in Mtwapa, Kilifi County on Tuesday, 21st May, 2019.

In the Statement the Committee should address the following-

(1) Explain the circumstances under which police may use excessive force and ammunition against unarmed civilians, especially on Tuesday, 21st May, 2019 in Kijijini Village of Mtwapa in Kilifi County.

(2) Who ordered the police to forcefully evict the owners and residents of a piece of land in Kijijini Village?

(3) What action has been taken against the persons who ordered the eviction and the police officers who shot and injured unarmed residents of that area?

(4) What action has the Government taken to compensate the affected residents most of whom lost their property and livelihoods?

(5) What kind of assistance has been offered to the residents who were shot and are currently recuperating in various hospitals in Mombasa and Kilifi Counties, especially the Standard Eight pupil by the name of Mohamed Hassan of Mtwapa Primary School, who has bullets still lodged in his shoulder and head?

Thank you, Mr. Temporary Speaker, Sir.

Sen. Faki: Asante Bw. Spika wa Muda kwa kunipa fursa kuchangia Taarifa hii iliyoombwa na Seneta wa Kaunti la Kilifi, Mhe. Madzayo. Hili swala la watu kuvunjiwa nyumba na makazi kiholela limekuwa donda sugu katika Kaunti za Kilifi an Mombasa.

Mnamo tarehe moja Mwezi huu wa Tano, ambayo ilikuwa siku kuu rasmi ya Serikali, watu wa sehemu ya Mukani kule Bamburi walivamiwa alfajiri na polisi wenye bunduki. Walivunjiwa makazi yao wakati huo ambapo walikuwa na majadiliano na Kamishna wa Kaunti ya Mombasa kuhusu ardhi hiyo.

Bw. Spika wa Muda, watu wanavunjiwa makazi bila kupewa makazi mbadala. Kuna sheria maalum kuhusiana na maswala ya watu kubomolewa nyumba zao. Kama ni *eviction*, lazima yule anayetakikana kuondolewa apewe arifa sawasawa na makazi mbadala wakati atakapohamishwa. Lakini utapata kwamba mahamisho mengi yanafanyika siku ya Jumapili ama siku ambazo ni siku kuu rasmi za Serikali. Amri za

mahakama hazifai kutekelezwa siku za Jumapili, Jumamosi ama siku kuu rasmi ya Serikali.

Tulitarajia kwamba hili donda sugu litatuliwa na National Land Commission (NLC). Lakini Tume hiyo ilitumia muda wake wa miaka sita na ambao uliisha bila kuondoa tatizo kubwa la dhuluma za kihistoria kuhusiana na ardhi katika miji ya Mombasa na Kaunti za Kilifi na Kwale.

Bw. Spika wa Muda, tungeomba Kamati ya Seneti ambayo itapatiwa jukumu la kuchunguza swala hili, iingilie kwa undani swala hili; ichunguze sehemu ya Kilifi na Pwani nzima ambako kuna dhuluma za kihistoria. Mpaka sasa miaka karibu kumi baada ya kuwa na Katiba mpya, dhuluma hizo hazijashughulikiwa.

Asante, Bw. Spika wa Muda.

Sen. Boy: Asante sana, Bw. Spika wa Muda. Ningependa kuchangia Taarifa hii ambayo imeombwa na Mhe. Madzayo. Hili ni jambo la kusikitisha sana kwa sababu kwa sasa shida kubwa ambayo tuko nayo ni swala la ardhi. Utakuta mtu anaondolewa katika ardhi na nyumba yake kubomolewa siku ya Ijumaa au Jumamosi asubuhi.

Hiki kitendo kilitokea huko Mtwapa na watu walionyeshwa katika runinga wakipigwa. Mwakilishi wa eneo la Mtwapa katika Bunge la Kaunti (MCA) ameshikwa na kutiwa ndani. Mimi niliona jambo hili likiwa mbaya sana. Swala hili lazima litatuliwe kwa haraka sana.

Kamati itakayopewa jukumu la kuchunguza jambo hili inafaa kwenda huko Mtwapa kwenye hiyo ardhi, ijue chanzo cha hiyo shida ni nini. Utapata mtu anakuja na Cheti cha Kumiliki Ardhi na hata hajui hilo shamba liko wapi, kwa sababu ametoka mbali sana. Akikuja anawapa polisi “kitu kidogo” na watu wanavunjiwa nyumba zao.

Bw. Spika wa Muda, hili ni swala ngumu sana, lakini kuna njia ya kuitatua. Tunapata shida sana kuhusu mambo ya ardhi katika sehemu za Kwale, Kilifi, Taita na sehemu zingine za Pwani.

Ninaunga mkono Taarifa hii ya Mhe. Madzayo na ningependa sheria ifuatwe. Kamati ambayo itachunguza mambo kuhusu hiyo ardhi inafaa iende mpaka Kilifi ili itatue hiyo shida. Wasizunguke tu hapa Nairobi; hapana!

Asante sana, Bw. Spika wa Muda.

Sen. (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to support my colleague in this Statement. The residents of Mtwapa should know very well that they have a defender in the House in Sen. Madzayo, who has come up with this Statement.

I am against what the police did and we must condemn it as a House. You can even read the confusion in my mind. The residents of Mtwapa are on my mind. From the way he has put the Statement, I can tell what they are going through, their homelessness and how they desperate they are. You can even see the way it has affected me psychologically.

Mr. Temporary Speaker, Sir, there is need for the Government to intervene and ensure that we give protection and security to our people. The Constitution demands that the Government should give security to its people. There is need for the Government to intervene with speed and ensure justice is done. It is unfortunate that the police can be trigger-happy, where they just go shooting un-armed residents. It is very unfair and the

Senate must condemn this. The law must ensure that the police who did these acts are brought to book. Under what circumstances did they just decide to evict the residents? Were they authorised to do what they did?

This Statement should be dealt with speedily and action taken, so that people know that the Government provides security, as stipulated in the Constitution.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Sakaja: Thank you, Mr. Temporary Speaker, Sir. I thank Sen. Madzayo for bringing this issue, and commiserate with the people of Mtwapa in Kilifi County for having gone through this. Sen. Cherargei is shocked that Mtwapa is in Kilifi County, because he frequents that place.

Mr. Temporary Speaker, Sir, the inhumane nature in which some of these things are implemented is a matter that we have raised time and again in this House. I have brought a petition to this House on a similar matter in Nairobi City County. The petition was about the residents of Chokaa, but we have not heard anything from the Committee on Land, Environment and Natural Resources. It also happened in Kasarani, and the other day it was in Roysambu Constituency, where there were demolitions of houses built under the power lines.

Mr. Temporary Speaker, Sir, in as much as you are implementing something where you might even be legally correct, we ask these agencies to look at the faces of the people. Can they treat them as human beings? You do not just go there, find somebody's investment over the years, and demolish a house. Subsequently, a child ends up with no place to go to, and the parents do not have anything to say. People have been paying mortgages for years, but you are just implementing policies with reckless abandon. This must be looked at within both aspects; the inhumane nature with which it is being implemented, and then we can go to the core issue.

Secondly, Mr. Temporary Speaker, Sir, is my concern, as the Chairperson of the Committee on National Security, Defence and Foreign Relations. There seems to be problem with our officers. I do not know whether it is stress, like what Sen. Kasanga is bringing to this House on mental health, but they are expressing so much terror as if they are going through something. When you are oppressing, after you have also been oppressed; that is how people behave. That is a sign of something bigger. We hear cases, every day, of policemen shooting each other and killing their families. We need to be concerned about the mental health status and what is happening within our police lines.

Mr. Temporary Speaker, Sir, I commit that we will take up this matter. I will not give a timeline, because it is not necessarily required. All the other Statements that have come have been sent to my Committee. However, I assure Sen. Madzayo that if this is brought to my Committee, we will expedite it at the soonest possible available time. If time allows, we shall take our Committee to Mtwapa to look into that situation.

Mr. Temporary Speaker, Sir, I am now sorting Sen. Madzayo's issue, yet my issue of Nairobi City County has not been sorted. I request that you impress upon the Committee on Land, Environment and Natural Resources to expedite my issue. This is because Nairobians will wonder why I am sorting out the Mtwapa one, yet I still have a present problem in Kayole, Dandora, all the way to Roysambu and down that other side. Sen. Kwamboka can attest to it.

Thank you, Mr. Temporary Speaker, Sir.

(Applause)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, pursuant to Standing Order No.51 (1) (b), I defer Statements (a) to (e).

ACTIVITIES OF THE COMMITTEE ON DEVOLUTION AND
INTERGOVERNMENTAL AFFAIRS

(Statement deferred)

ACTIVITIES OF THE COMMITTEE ON EDUCATION

(Statement deferred)

ACTIVITIES OF THE COMMITTEE ON ENERGY

(Statement deferred)

ACTIVITIES OF THE COMMITTEE ON FINANCE AND BUDGET

(Statement deferred)

ACTIVITIES OF THE COMMITTEE ON HEALTH

(Statement deferred)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM ST. GEORGE'S GIRLS
SECONDARY SCHOOL, NAIROBI CITY COUNTY

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, I wish to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from St. George's Girls Secondary School, Nairobi City County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

Thank you.

(Applause)

Let us proceed to Statements pursuant to Standing Order No.52(1) by the Senate Majority Leader.

Sen. Sakaja: On a point of order, Mr. Temporary Speaker, Sir. As is the tradition, I know that we have taken a lot of time. However, I hope that you can allow me, on behalf of the other Senators, to welcome the students from my county. You can give more Senators the same opportunity---

The Temporary Speaker (Sen. Lelegwe): Proceed, Senator.

Sen. Sakaja: Mr. Temporary Speaker, Sir, I wish to welcome the students and teachers from my County. St. George's is a school that we are very proud of. I have a very rich history with St. George's, but I will not give out the details.

(Laughter)

It is a school that is very close to my heart. It is actually also the school nearest to my residence. They are my neighbours and I want to welcome them.

Mr. Temporary Speaker, Sir, I encourage the girls from St. George's. We believe in you and are proud of you. The world is your oyster, and you can achieve whatever you want to achieve. Just be diligent in school. I know that my colleagues might tell you that, one day, you will come to this House, but that is not a measure of success. Success is achieving God's purpose for your life, because all of you are unique. As you can see, you are wonderfully and fearfully made to achieve that purpose. God bless you and I hope to visit you soon.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Lelegwe): Proceed, Senate Majority Leader.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 28TH MAY, 2019

Sen. Dullo: Thank you, Mr. Temporary Speaker, Sir. Pursuant to Standing Order 52(1), I hereby present to the Senate the business of the House for the week commencing Tuesday, 28th May, 2019.

The Senate Business Committee (SBC) will sit on Tuesday, 28th May, 2019, to schedule Business of the House. Subject to further directions by SBC, the Senate will consider Bills due for Second Reading and Committees of the Whole on Tuesday, 28th May, 2019. The Senate will also continue with the consideration of Business that will not be concluded in today's Order Paper. On Wednesday, 29th May, 2019 and Thursday, 30th May, 2019, the Senate will consider business that will not be concluded on Tuesday and any other business scheduled by the SBC.

Hon. Senators, there are several Bills before the House at the Second Reading and Committee of the Whole stages. There are also a number of Statements and Petitions pending before Standing Committees. I urge the respective Standing Committees to ensure that the process of consideration of the said Business is expedited and reports on them tabled.

I would like to take this opportunity to thank you for your dedication and indulgence yesterday during the passage of Bills at Second Reading, the Committee of the Whole stages; and the Motion on the adoption of the Mediation Committee Report on

the Warehouse Receipts System Bill, which is being prepared for assent by His Excellency the President.

You may note that we now have 20 Bills pending at the Committee of the Whole. Your patience and indulgence will be required as the House navigates the Bills at this stage. I, therefore, appeal to the Committees to take the appropriate measures to file any amendments they have to respective Bills, and table reports on them to facilitate the House to enrich debate at the Second Reading stage.

I hereby, lay the Statement on the Table of the House.

Thank you.

(Sen. Dullo laid the document of the Table)

The Temporary Speaker (Sen. Lelegwe): We will now proceed to the Personal Statement by Sen. Kang'ata.

PERSONAL STATEMENT

DEFAMATORY REMARKS BY GOV. MWANGI WA IRIA AND MURANG'A COUNTY ASSEMBLY MAJORITY LEADER

Sen. Kang'ata: Thank you, Mr. Temporary Speaker, Sir. Pursuant to Standing Order 53, I rise to make a Personal Statement.

Mr. Speaker, Sir, pursuant to Standing Order No.53, I rise to make a personal statement on defamatory remarks made against me by the Governor of Murang'a County, Mwangi wa Iria and the majority leader of Murang'a County Assembly.

Yesterday, on 22nd May, 2019, at Ihura Stadium, the Governor of Murang'a County, His Excellency Mwangi wa Iria and the majority leader of Murang'a County Assembly made defamatory remarks against me. The governor made an innuendo that I must have taken some bad stuff following the questions that I posed when he appeared before the County Public Accounts and Investments Committee (CPAIC) of the Senate on 17th May, 2019.

The county assembly majority leader further made disparaging remarks against my late mother. The remarks were aired live on *Kameme TV*, which is the most popular Kikuyu station in Murang'a County, hence, they were broadcasted to millions of Kenyans yesterday.

The remarks were meant to intimidate me and peddle falsehood through character assassination in relation to my constitutional duty of oversight as provided for by the Constitution.

Mr. Speaker, Sir, I assure the residents of Murang'a County and my fellow Senators that I will continue to discharge my functions as a Senator without fear or favour, as a representative of the good people of Murang'a County.

(Applause)

The County Government of Murang'a is yet to respond to the issues that I raised, which were purely objective. They were raised in the Auditor General's Report of the Financial Year 2015/2016. Those issues relate to-

(1) When will the Murang'a County Milk factory that is being constructed in Maragua be completed?

(2) When shall the people of Murang'a County, in particular, the milk farmers, start reaping the benefits of that factor, specifically, ensuring that they get Kshs40 per litre once they take their produce to that place?

(3) There have been complaints by the landlords who have given out their premises to Murang'a County Assembly for the establishment of milk coolers over unpaid rents running into millions of shillings.

I will continue raising those and other issues.

I, therefore, remind the people of Murang'a County that when I became a Senator, I started raising issues concerning that milk plant. As a result, the county government started to reconstruct it. Therefore, it shows my interventions have been positive and helpful. Therefore, I ought to continue raising those issues, so that they are addressed.

I believe that my oversight role has been positive and may cause the county government to complete projects, which are beneficial to the people of Murang'a.

Allow me to state that I will not reply to those personalized attacks by virtue of this House being a House of dignified Members. I am also reminded of one of my favourite musicians who said these words: "These little hands and the simple fingers that I have, they were not made to pinch nor tear, you hear, but to move in deeds of kindness, you see, and to fold in thoughts of prayer; to help my brother pray for the betterment of his life." This song is called, '*I am a humble African.*'

I thank you.

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

Sen. Sakaja: Mr. Temporary Speaker, Sir, the Statement that has been made is under Standing Order No.53, which deals with statements of a personal nature. Of course, that then prohibits any debate on it, but the content of his Statement is not of any issue of a personal nature.

It is an issue of his oversight role and threats or intimidation. This should have come under Standing Order No.48. We must discuss this matter in this House. Governors are being called to account and they decide to turn those meetings into personalized issues with their Senators, whereas, the issues being raised deal with Auditor General's report.

Therefore, as in as much as Sen. Kang'ata has dealt with this matter from a personal nature, I do not see any personal thing, apart from the kind of insults, which we are getting from Murang'a. This Senate must discuss this and come out clearly; that all of us, individually and collectively, will continue to play our oversight role no matter what they do, locally, in the Senate or in the rallies.

I hope we can bring this matter and discuss it substantively.

(An hon. Senator spoke off record)

You are not the Speaker. The Speaker is Sen. (Dr.) Lelegwe.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order!

Sen. Sakaja: Mr. Temporary Speaker, Sir, I hope that one of us can bring this up next week. It is a trend. Yesterday, we witnessed what happened with the Governor of Isiolo; the day before it was Murang'a. The other time it was Nairobi City County. Every county seems to have issues.

They have now known that for them to get away from the issues, they come and bring sideshows here and then, we will dwell on those issues. They then go unscathed with impunity; scot free. We will not allow it as a House.

The Temporary Speaker (Sen. (Dr.) Lelegwe): What is it, Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, I agree with Sen. Sakaja that the oversight role of Sen. Kang'ata is not personal. Please, do not allow the governors to think that our role is personal to them. I have listened to the one of Meru saying that Sen. Mithika Linturi cannot oversight because it is a collegiate issue.

Just as Sen. Sakaja has proposed, this matter is not personal to Sen. Kang'ata. An insult to a Senator by a governor is an insult to all of us. We will deal with Mwangi wa Iria. We will name and shame him with his majority leader. So, please, do not make it a personal statement.

What is personal is where they deal with your late mother; sue them for defamation. But where they deal with you as a Senator, bring the matter here because next time it will be me, Sen. Madzayo and others. Sen. Irungu Kang'ata, do not let go. Please, make another statement and tell them that this is the House that will deal with people like them.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Madzayo.

Sen. Madzayo: Asante Bw. Spika wa Muda. Ninataka pia kuezeka juu ya yale waliyoyasema ndugu zangu, Sen. Kang'ata, Sen. Sakaja na vile vile Sen. Mutula Kilonzo Jnr. Kitu cha kwanza ni kwamba heshima sio utumwa. Tunawaheshimu sana magavana lakini ikifika wakati wanaanza matusi, inakuwa *personal*. Walimtukana marehemu mama wa Seneta. Hatutakubali jambo hilo. Hilo litakuwa limepita mpaka.

Kwa hivyo, Bunge la Seneti lichukue hatua mwafaka ili tujue njia tutakayotumia ili hawa watu wafuate sheria zinazotakikana kikamilifu.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Thank you, hon. Senators. We now proceed to the next Order.

I defer Order Nos.8 and 9.

COMMITTEE OF THE WHOLE

THE IMPEACHMENT PROCEDURE BILL
(SENATE BILLS NO.15 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE**THE PREVENTION OF TERRORISM AMENDMENT BILL
(SENATE BILLS NO.20 OF 2018)**

(Committee of the Whole deferred)

Next Order.

MOTION**ADOPTION OF REPORT ON THE COUNTY GOVERNMENTS
BUDGET IMPLEMENTATION REVIEW FOR FY 2017/2018**

Sen. (Eng.) Mahamud: Mr. Temporary Speaker, Sir, I beg to move the following Motion-

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the Annual Report of the County Governments Budget Implementation Review for Financial Year 2017/2018, laid on the Table of the Senate on Wednesday, 27th March, 2019.

Mr. Temporary Speaker, Sir, the county budget implementation review is based on quarterly reports submitted to the Controller of Budget (CoB) by county governments, through respective county treasuries for purposes of expenditure control and expenditure performance reporting.

The county budget implementation review report before us was tabled on 11th October, 2018, notably late by more than two months, centrally to constitutional and enabling legislation guidelines.

According to the CoB, counties have made progress in addressing some of the challenges highlighted in previous annual county budget implementation review reports. This is mainly attributable to enhanced capacity, relative improvement due to utilisation of IFMIS and compliance with the budgetary timelines.

Nevertheless, there are still persisting challenges such as late submission of financial reports. This leads to late submission of such statutory reports by CoB to Parliament.

There is also poor internet connectivity affecting operational systems such as IFMIS and e-procurement. Section 9 of the Controller of Budget Act, 2016 provides for the legal provisions to be followed by the CoB when reporting on the implementation of the county budgets. A review of the legal adherence indicates that there is persistent late submission of implementation reports by CoB to Parliament and respective county treasuries to CoB. This impedes legislative oversight and scrutiny on budget implementation, including monitoring and evaluation as well as timely resolving of some of the challenges on budget implementation on the account of the delays.

The format of reporting of the total funds released to counties is not by programmes as required by the Controller of Budget Act, 2016, thus further affecting

effective accountability and transparency in budget implementation, as budget estimates are prepared in a programme based format, as provided for in Section 130 of Public Finance Management (PFM) Act, 2012. Moreover, county appropriations are also by programme, for both recurrent and development expenditure.

The CoB implementation reports do not provide information on the extent to which the amounts received by counties comply with the Cash Disbursement Schedule approved by the Senate. This means that the releases to counties are not based on the approved Cash Disbursement Schedule, and thus, subject to discretion. This may pose inherent risks including negating the provisions of Article 219 of the Constitution on the need to transfer county allocations, without undue delay or deductions except where it involves stoppage as per Article 225 of the Constitution.

The total approved county budgets amounted to Kshs410 billion, made up of Kshs270 billion, which is 66 per cent recurrent and Kshs139.81 billion, which is 34 per cent for development for the period under review. In aggregate terms, this level of approvals before budget implementation indicates compliance to the fiscal rules that stipulate that at least 30 per cent of the total county allocation is towards development outlays, while not more than 70 per cent is approved for recurrent activities. This is to foster strategic use and improve allocative efficiency of county resources.

However, a compliance review for individual counties indicates that five counties breached the legal threshold, while the other 42 counties were at between 30 to 47 per cent development allocation. The non-compliant counties included Bomet, Garissa, Taita-Taveta, Nairobi City and Kiambu.

With regards to county actual expenditure performance, total expenditure for the Financial Year 2017/2018 amounted to Kshs303 billion. This translated to expenditure level of 74 per cent against the approved budget. Moreover, this expenditure level is also lower compared to the previous years of 2016/2017 and 2015/2016. Recurrent expenditure amounted to Kshs236 billion, which is 87 per cent of the total recurrent budget. This is also relatively higher than that of the previous year, which was Kshs215 billion.

A further review indicates that 28 counties are below 50 per cent utilisation of development budget, while 19 counties reflect expenditure performance between 52 per cent and 76 per cent. On recurrent expenditure, Laikipia County had the highest expenditure performance at 99.4 per cent, while Vihiga County had the least expenditure of 62.03 per cent.

In view of the actual expenditure, compliance to fiscal rules deteriorated during the budget execution, perhaps due to reallocation and virements of allocations between programmes towards the current expenditure over the implementation period. Only nine counties, that is 19 per cent of the counties, maintained the development recurrent mix threshold. Thirty eight counties did not comply.

This implies that any approved allocation towards recurrent activities affects the creation of asset capacity and poses a potential risk to county expenditure performance. Moreover, the underperformance of development expenditure adversely affects county development plans and delays implementation of key county programmes and projects.

This puts to question the realism of approved budget at the counties in view of optimal utilisation of development allocations.

The expenditure of Economic Classification indicates that there is growing trajectory of personal emoluments, which recorded the highest increase at Kshs151 billion in the period under review, compared to the previous years, whereas development expenditure is going down. This is an indication of rising nondiscretionary expenditure, which could mean that counties are still recruiting and spending additional expenditure on personnel emoluments.

This is also likely to be a source of potential fiscal risk build up, especially in view of the decreasing utilisation of development outlays. Such an outcome is likely to lead to inflexibility in the budget or reduction of fiscal resources, whereby resources towards development expenditure are further constrained.

Similarly, Operation and Maintenance component of the recurrent budget has increased marginally to Kshs85.8 billion from Kshs84.7 billion in the previous financial year. The fiscal responsibility principles in both the PFM Act 2012 and PFM Regulation outline fiscal limits on expenditure relating to wages and benefits at 35 per cent of the county's total revenue. However, the share of total personnel emoluments to total revenue available to counties for the period was at least 39 per cent and, therefore, breaching the legal limit.

The less than expected performance in development expenditure is perhaps indicative of several challenges affecting counties. Some of the challenges include election exigencies that may have disrupted continuity in service delivery.

In addition, there is weak technical and administrative capacity impeding counties to actualise programme implementation during the period under review.

According to the CoB, county governments' total pending bills for the period under review stood at Kshs108.41 billion. This is as compared to the cumulative pending bills of Kshs35.84 billion as at the end of June, 2017. That means it increased by about Kshs70 billion or about 202 per cent the following year.

A further review of the CoB Report reflects that some of the counties did not submit status of their pending bills in previous years unlike in the FY 2017/2018 when the disclosure was done by respective county treasuries. The counties include Nairobi City, Kshs 64.8 billion; Kisumu, Kshs2.045 billion; Machakos, Kshs975 million; Mandera, Kshs107 million, among others. Comparatively, this translates to an average of 36 per cent of the 2017/2018 Equitable Share that was disbursed to counties in the previous year, which was Kshs302 billion. When we are fighting for counties to have more money, their pending bills are about a third of what they got from the sharable revenue.

The total pending bills for the FY 2017/2018 is composed of 74 per cent recurrent component and 26 per cent development component – you can see that recurrent component consumes more – being the respective value of invoices and commitments, whose services are deemed to have been rendered and not honoured as at the end of June, 2018. An appendix is attached to our Report which we submitted.

The county governments have four main sources of revenue to fund their county budgets. The first one is equitable share or the revenue raised nationally. The second is

conditional allocation from the national Government revenue. The third is conditional allocation and grants from the development partners, and the fourth is own-source revenue.

For the FY 2017/2018 county governments received Kshs387.09 billion, which was comprised of Kshs302 billion equitable share; Kshs17.36 billion as conditional allocation from the national Government revenue and Kshs9.49 billion as conditional grants from development partners. In addition, county governments collected Kshs32.49 billion as own-source revenue.

A review of the revenue released to the counties for the FY 2017/2018 revealed that 100 per cent of equitable share of revenue for the FY 2017/2018 was disbursed. This is in line with the Division of Revenue Act, 2017 and the County Allocation of Revenue Act (CARA), 2017. However, the CoB report does not comprehensively indicate the status of some conditional allocations such as construction of county headquarters and European Union (EU) grant for Devolution Advice and Support as well as the leasing of medical equipment. So, we have a serious problem in terms of reporting on conditional grants.

Moving to county own-source revenue, the total revenue collection for the period under review by the counties was Kshs32.49 billion compared to an average of Kshs32.52 billion for the same period in the previous year. The collection is lower than the target of Kshs49.22 billion for FY 2017/2018. That is the target they set and they were slightly lower by about Kshs10 billion. The slight decline in actual revenue collection may be attributed to removal or reduced rates of some revenue raising measures such as cess tax by some of the current county governments after the 2017 elections, but majority of them was because of laxity in collection.

There is urgent need for implementation of a mechanism of mobilising of revenue for counties that will ensure increased revenue collection and also safeguard counties from collecting substantially less revenue than previous similar periods. In fact, a policy was tabled in this House, which aimed to develop a mechanism to enhance revenue collection measures in the counties. We should think of how to make it become law.

The performance of own-source revenue collection for the period compared to the annual targets indicates that Tana River, Migori, Kwale, Uasin Gishu, Nakuru and Bomet performed very well. According to the formula by the Commission on Revenue Allocation (CRA) if a county improves in revenue collection, it gets some bonus. The few I have mentioned did very well. The counties with the lowest performance are Kisii, Mandera, Garissa, Nyamira, Busia, Wajir and Taita-Taveta.

Notably, the revisions in the annual target for own-source revenue collection during the year, as reported by the CoB, reduced from Kshs55.92 billion at the beginning of the financial year to Kshs49.22 billion by the end of the financial year. This reflects overly optimistic revenue targets at the beginning of the financial year or the in-year underperformance of revenue that often results to adjustments of the county expenditures through supplementary budgets when targets are revised.

Moving to county exchequer releases, during the period under review, the CoB authorised withdrawals from the County Revenue Funds amounting to Kshs324.12 billion. Notably, 77.7 per cent of the withdrawals were for recurrent expenditure and the

remaining 22.3 per cent were for development expenditure, for both the county assemblies and County executives. Moreover, a total of Kshs32.53 billion were funds for county assemblies and Kshs291.59 billion for county executives.

Indeed, a bulk of the recurrent spending was geared towards salaries and allowances that are mostly non-discretionary. Further, it is necessary to prioritise development spending in support of productive investment in counties that can result to improved service delivery with long-term sustainable impacts on increased job creation for the youth and poverty alleviation.

The Committee made the following observations-

(1) There is delay in release and submission of the CoB implementation reports for counties. There is need to engage the CoB with a view of addressing the cause of such delays, as it greatly impedes timely fiscal oversight and monitoring of county budget performance.

(2) There is substantial shift of development allocation to recurrent outlays during budget execution and thus also breaching legal threshold. There may be need to enhance oversight especially by the county assemblies to curtail supplementary budgeting that breaches fiscal responsibility principles. In addition, there may be need to assess the CoB requirements from respective counties as basis of exchequer releases.

(3) Review of expenditure performance reflects majorly on financial performance and the format does not include programme performance and results-based budget implementation. It is imperative that the reporting format on county budget implementation include programme and sub-programme performance to foster results-based budget implementation, including monitoring and evaluation. This will also promote accountability to further evaluate components and quality of development spending, which is currently not provided.

(4) There was increasing pending bills across the counties, which portend risks of budget inflexibility in the medium term. It is not clear why counties do not provide for pending bills of the previous financial years in subsequent budgeting on a first charge basis. To contain further build-up of unsettled expenditure and attendant risks, there is need to foster legislation around prompt payment and adequate disclosure around county pending bills.

(5) It will be important for the National Treasury and the implementing agencies to report to the Senate on the status of the conditional allocation, such as construction of county headquarters, leasing of medical equipment and various conditional allocation in form of grants.

In fact, because of the confusion, this House recalls that we suspended the funding of medical equipment because we did not see why it was appearing in the Division of Revenue Act (DORA) and County Allocation of Revenue Act (CARA). That is a matter of mediation between us and the National Assembly.

(6) The stagnant performance of local revenue collection, Own Source Revenue (OSR) indicates an increase in reliance by county governments in equitable share allocation. This points to fiscal risks in county budget implementation. The Senate may consider legislating on revenue measures that cut across several counties in view of

addressing leakages, poor revenue policies and practices that hinder economic optimization in counties.

(7) The delay in disbursement of funds has affected budget implementation in counties. The current Cash Disbursement Schedule approved by the Senate in line with CARA, 2017 was not adhered to, as allocations such as the equitable share were not released according to the expected timeliness. Huge amounts of funds were released barely two months to the end of Financial Year 2017/2018. These delays hamper implementation of development projects, partly resulting into accommodating of pending bills, thus affecting overall service delivery in the counties.

Mr. Temporary Speaker, Sir, finally, the Committee recommends that-

(1) The National Treasury should fast-track the formulation of the policy on county government's revenue mobilization measures and submit to the Senate by 30th April, 2019. This policy has been submitted, as I said earlier. We need to consider it as a Senate.

(2) The National Treasury should adhere to the Cash Disbursement Schedule to ensure timely release of funds to promote predictability of transfers to counties and allow adequate time for absorption of development allocations.

(3) The Controller of Budgets should engage the relevant stakeholders, including the Senate, National Treasury and Council of Governors (CoGs) with view of developing measures of alleviating the following persistent challenges facing county governments-

(a) late submission of financial reports by counties (county treasuries and accounting officers) to the Controller of Budgets, which then leads to late submission of the statutory report by the Controller of Budget to Parliament;

(b) poor internet connectivity affecting operational systems, such as Integrated Financial Management Information Systems (IFMIS) and E-procurement;

(c) high and increasing pending bills;

(d) under collection of own source revenue; and,

(e) high and increasing expenditure on personal emoluments.

(4) The Controller of Budgets should adopt a programme based reporting framework, as provided for in Section 9 of the Controller of Budgets Act, 2016.

(5) The county treasury should formulate a mechanism to ensure pending bills are cleared as a fast charge in the succeeding financial year.

(6) The National Treasury should submit to the Senate the implementation status of the projects financed through conditional grants from loans and grants from development partners.

(7) The CoGs and the County Assemblies Forum in consultation with the relevant stakeholders should engage the Senate on legislative and policy interventions, which are necessary to enable budget implementation with regards to-

(i) own source revenue;

(ii) pending bills; and,

(iii) absorption of development expenditure.

(8) The county governments that had surpassed the recommended threshold of expenditure on wages and benefits for public officers (as prescribed in the Public Finance Management-County Governments Regulations, 2015) should-

- (i) stop further recruitment of new employees;
- (ii) develop a mechanism of reducing the expenditure on personal emoluments to ensure it is within the acceptable limits, and,
- (iii) finally, submit the mechanism in (ii) above to the Controller of Budgets within six months.

Mr. Temporary Speaker, Sir, this report was submitted to us late. Therefore, in future, we expect to, at least, table the report on quarterly basis, so that it is current and we are able to follow.

In terms of budget preparation and implementation, there could be weaknesses. From our contact with the Controller of Budget yesterday on another matter, she says that there is a weak link. The office of the Controller of Budget is a weak link itself because budgets are prepared and complied with at the time when we are making the budget in terms of the ratio between 30 and 70 per cent of development and recurrent expenditure. However, at the implementation stage, it gets a little distorted.

The other thing is that budgets are programme based and there is a lot of abuse of programme based budgets. This is because they are lump sum. Monies are released to counties and they use them for whatever they want. Therefore, the idea of having itemized budget is good.

Going forward, this Committee will continue to engage with the Controller of Budget, the National Treasury and all stakeholders to see how we can best make our budget, implement it and get real value for money.

As it is today, there is a lot of confusion, including what is in the papers when various governors appeared before the County Public Accounts and Investment Committee. These are things that one can never imagine. Such things should not happen in the Kenya of today and in this Century. This must be dealt with.

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

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Temporary Speaker, Sir. I rise to second the Motion to adopt the Report on the budget implementation.

The Chairperson has gone into great details about budget implementation. In supporting this Motion, I will pose a few questions which have bothered me, having been a Member of the Committee on Finance, Commerce and Budget for the last seven years.

We travelled to the Republic of Germany on a tour funded by a foundation. A lady who is an auditor in one of the states wondered why we need a Controller of Budget. She found it to be unnecessary and bureaucratic; leading to delays. Possibly, it is one of the reasons we have a low absorption rate of funds.

I have pondered over this issue. Every time I think about it, I think that the Office of the Controller of Budget has not achieved the objects for which the Office the Auditor-General was split. The Office of the Auditor-General was in charge of this docket. The Office of the Controller of Budget has become a conveyer belt for signing budgets. They are doing that portion so well. They are making sure that all the counties and national Government have money. However, are they controlling budgets?

A governor has been arrested today and his daughter has Kshs117 million in her account. The fundamental question is: Was that amount of money approved by the

Controller of Budget to be withdrawn by Kiambu County? What exactly is in the paper in the Office of the Controller of Budget and in Kiambu County?

The county government, through the executive, is supposed to submit a quarterly report showing how they have implemented the budget. Can the Controller of Budget show us how Kshs117 million ended up in the account of the governor's daughter? I have no hesitation in saying that the problem that we have at the national Government and county governments is as a result of the failure of the Office of the Controller of Budget.

We have spoken about corruption in counties, but it is not reducing. This morning in the County Public Accounts and Investment Committee, there was the biggest circus of Kshs753 million which was withdrawn, misused, re-budgeted and put in recurrent expenditure. All these amounts have the sanction and approval of the Controller of Budget. Why do we need this office? What is the purpose of them submitting quarterly reports?

In fact, I have told my Chairperson that the only way to make sure that our counties are performing their work is by every Senator being supplied, on a quarterly basis, with the report submitted to the Controller of Budget by the County Executive Committee (CEC) Member Finance of every county. This will ensure that we look at their withdrawals, expenses and budgets lines.

The Speaker asked me about what they call headquarters project. Governors are budgeting huge amounts called headquarters projects. The Controller of Budget says that she cannot check the performance of this programme called 'headquarters' because there is a lump sum amount not itemized and then when it gets to the county, they do what they feel like.

We have given Sen. M. Kajwang's Committee so much work and headache. They sit the whole day and every week to do post mortem on budgets where, in fact, the person who should find fault mid-stream is the Controller of Budget. In that case, then the Controller of Budget in one of the quotas should tell us: "The Governor of Makueni or Governor of Mandera Counties is stealing and that money has been pilfered; could you please, under Article 225 stop the funds?" Since the advent of devolution, Ms. Agnes Odhiambo has been in office for eight years. She is about to go but we have never received any such recommendation, and yet Governors are known to be pilfering funds.

Mr. Temporary Speaker, Sir, the Chairperson of the Committee on Finance and Budget and I are having a difficult time in the Mediation Committee. The National Assembly is giving us a run for the money. They are really laughing at us because we are telling them that counties are not financed. Meanwhile, we are getting information that a certain governor has been arrested; another one has a hotel, another has bought a house in Runda and another one was arrested carrying Kshs26 million in cash. How did this happen? In the last Committee session, we had a case where one lady received Kshs314 million in her personal account from the Chief Executive Officer for Bungoma County. That money was withdrawn shilling by shilling, and that was the end of the matter.

Mr. Temporary Speaker, Sir, we must help devolution. I think we have been playing too nice with the Office of the Controller of Budget. Mr. Ouko is doing a good job; he is exposing the rot and corruption in this country both at the National Government and county government level. However, he is doing it when it is already too late. About

25 governors will leave office. At the current rate, by the time we go for the next elections, they will be in the Isle of Man, Seychelles or some exotic places in the Orient. They will have taken off because we have not found a method of arresting the situation.

Article 228 says that there shall be reports submitted to the Senate and the National Assembly every four months. That is supposed to arrest such a situation. We are not arresting any situation. This has become a lamenting House. I have listened to the Chairperson and he is lamenting about the late release of funds and slow implementation of budgets.

Senators are accused of waiting for governors here and waylaying them in the Sen. M. Kajwang'-led Committee. We are waylaying them here because we have no other method of dealing with them. We wait for them in Committee Room No.5 and take a beating. It happened during the hearing of Murang'a County, where Sen. Kang'ata was insulted. It has also happened during the hearings of Meru and Nairobi City counties. It will happen to all of us. However, is it enough to engage these Governors in a shouting match in the Committee when money is already lost?

Mr. Temporary Speaker, Sir, stealing through budgets is now official business in Kenya. All you need to do is to come up with a programme, give it a name that does not make sense and put in Kshs200 million, which the Controller of Budget cannot ask about or audit. The county assemblies are in bed with the governors. The Senate does not know that the National Assembly is laughing at us when we say that we are protecting counties. This is such a tragedy. Counties are slowly becoming the theatre of the absurd.

This morning, the Chairperson of the Committee on Finance and Budget and other Members like I who are doing mediation had to stomach a lot. We have become a laughing stock due to the insinuation that we are using committees as an opportunity to just fight with governors, when we appear to be doing nothing. It has been highlighted in the article "*The Corridors of Power*," it is in the public domain and the grapevine that even when they come here, there are people they pay so that their reports look good.

There are reports that the audits that are done by the county governments are being cleaned officially. It is called paper record. Somebody is complaining that budgets have been sent to counties, but there is nothing to show for it. They have disbursed all the money and we have such beautiful reports either qualified or unqualified.

Mr. Temporary Speaker, Sir, the people of Makueni County keep complaining that this is corruption. They tell me: "Senator, there is a good report by the Auditor-General, but there is corruption; somebody is stealing." I have been asking them: "Where are these reports? Where is that report from the Controller of Budget to say: "you budgeted to buy a car but you changed it and bought a table?" Who authorised you to do so?" With a recommendation from us to say: "Do not release the development budget of county 'X' until you rectify this or surcharge somebody."

Mr. Temporary Speaker, Sir, the Controller of Budget has never, in the last eight years made any such recommendation. It is always suggested that we should call the National Treasury and the Council of Governors (CoG) and have meetings. There is too much talking and no action. The person who should have given us an alert when the National Government refused to release the exchequer on time as per our schedule is the Controller of Budget. However, what did the Controller of Budget do? She found a way

of releasing reports to make counties look bad. We watched on *Citizen Television* that County 'X' has spent zero on development, County 'Y' has spent 'Y' on development and yet, that report is not before the Senate. The Controller of Budget is not saying that for this particular quarter, the National Government withheld funds belonging to a county.

We receive nice and glossy blue reports from the Controller of Budget, which are not saying anything; just whitewashing. This is a violation of the Constitution. Today in our mediation meeting with the National Assembly they said that they have done well by deducting Kshs9 billion belonging to counties. How do we ensure that the counties spend well the money that they have been given?

Mr. Temporary Speaker, Sir, on the issue of pending bills, the PFM Act says that you cannot spend money that you do not have. How have counties accumulated Kshs108 billion in pending bills? Where was the Controller of Budget because the Auditor-General cannot do it? Now the Auditor-General is spending Kshs200 million doing special audits for all counties on pending bills. Assuming that 50 per cent is not due, there is still Kshs50 billion, which is not in the shareable revenue.

In Machakos County Government, budgets are made for paying creditors and people who have given services. However, that money is not paid until June. Come July, it is budgeted for, and again, not paid. The County of Kitui has issues because Kshs1 billion was not paid by the previous governor.

Sen. Kibiru has brought a Motion here on stalled projects, where governors have chosen not to pay for projects that were started by previous governors who were removed. Counties are stalling because people are playing around with budgets. The County Executive Committee (CEC) members in charge of finance and county governments are playing around with finance. That is happening when the Controller of Budget is enjoying security of tenure, sitting in office and allowing these misadventures by counties.

Mr. Temporary Speaker, Sir, we have had a problem with the Managed Equipment Services (MES), which deals with the leasing of medical equipment. The MES is a mess. The Governor of Kitui County wrote to the Cabinet Secretary for Health, Sicily Kariuki, saying that the cost of the equipment supplied to Kitui County is Kshs312 million and that they should not pay any more. The National Government should not pretend to be paying any more for medical leasing. So far, the counties have paid Kshs450 billion.

County governors led by Hon. Oparanya said: "We have never seen the contracts." The CoB has approved the payment of this amount. There is no note in this Report by the CoB as to what I call the "Afya Gate" scandal, which is theft in the Ministry of Health for the leasing of medical equipment. We are talking about Kshs3.8 billion for the first year; Kshs4.5 billion the second year; Kshs6.1 billion for the third year, and Kshs9.4 billion for the fourth year. The variation of more than a 100 per cent by the national Government on behalf of counties is already a violation of the Constitution.

Mr. Temporary Speaker, Sir, the CoB is silent. The Vice-Chairperson of the Senate Committee on Health is sitting here, and they have been unable to unravel the mystery. This is because the CoB could have given you information that would have

allowed you to do a proper audit as the Committee on Health and the Committee on Finance and Budget. We are all stuck and are looking at one another. We have removed the Schedule from the Division of Revenue, and I must say that I am disappointed.

However, we took an oath to protect the Constitution and counties. We must deal with these independent offices here, so that they do not take us for a ride. Otherwise, the years that we have spent here are so wasteful. I sometimes think I have wasted my youth sitting in this Senate, because we have not been useful to anybody.

Mr. Temporary Speaker, Sir, I beg to support.

(Question proposed)

Sen. Nyamunga: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I would also like to join my colleagues, being a Member of the Senate Committee on Finance and Budget, to make a few remarks or comments on the Report that is before the House this afternoon.

Just the way my colleagues have displayed a lot of displeasure with the Report and the way we run the affairs and finances of our country, it is very unfortunate. However, this is not only restricted to the county governments alone. Even if you look at the national Government, most of the corruption that we see at the county level starts in Parliament with the budgeting. Right now, budgeting is going on. The national Government and all the counties are doing budgets, but the level of corruption that we see at the national level and even at the county levels is as a result of the way we do our budgeting.

When we passed the Constitution of 2010, the intention was very clear. It was very clear to most Kenyans that a lot of money was being wasted somewhere. However, at that time, we thought that it was only at the national level. However, the way things are going, the same wastage is now being reflected in all our counties. Why do I say that corruption starts during budgeting? It is because there is a lot of lobbying by different stakeholders during the time of budgeting. That is when all the interested parties bring in the projects that they would love to be funded. We cannot, therefore, say that corruption is a new thing, and it will stop today, unless we, as Kenyans, take it upon ourselves to deal with it once and for all.

Mr. Temporary Speaker, Sir, there are so many commissions and other offices. Look at the offices of the CoB, the Auditor-General, Parliament itself, the county governments and the national Government. The problem that we have in this country is about the individual Kenyan, put in any office to take care of the resources of Kenya; and that includes all of us. I do not think any of us can take a stone and throw it at anybody, when we know very well that we have all been part and parcel of the running down of the resources of our country.

Something drastic should be done in the Senate to the effect that there must be a proper--- We should stop politicising the relationship between governors and Senators. If we make it political, the governors will get away with so much. They make a lot of mistakes; they do not want any Senator to do oversight, and if you ask any question about any county government, you are seen as witch hunting the governor. That is not the case.

The case is that we are put here for a purpose, and the purpose it to make sure that the county governments work.

I know that our core responsibility is to make sure that we support the counties by ensuring that there is enough money going to the county governments. However, how much money will we allocate to the county governments, yet we can see very well what is happening down there? Right now there are so many governors who will not return to office come 2022 because they are doing their second term.

There are a lot of pending bills which were incurred by the previous governors, some of who did not come back. The current governors who have taken over do not want to deal with the pending bills. For example, pending bills of more than Kshs2 billion were incurred in Kisumu County. Anybody should be able to follow up and see that some Kshs2billion or more has been spent. However, as it is, we want to give money to the county governments. We want the county governments to be funded even more. We want to increase the allocation that goes to the county governments, but the people at the grassroots are not seeing value for their money.

Mr. Temporary Speaker, Sir, it is very unfortunate that Kenyans have never resolved to do justice to Kenya and its people at the grassroots, who suffer at the expense of a few people who are benefitting. How can a child of a governor, who is a university student, have a bank account with over Kshs100 million? How did it happen? How did it get there? How did that money move? Was it given to some contractors? It is very difficult to understand how it happened, how it slips and nobody sees it. It is not only in Kiambu County, but all over; and it is not rumours.

Mr. Temporary Speaker, Sir, if you go to our counties, you do not see value for money. You cannot go to any county and say: "At least in this one you see what has been done." If you see, they are very few. Even in counties where people say, "Oh, this county is working very well," you will find only one item, like in Makueni. I do not know what is going on there, but there is a lot of praise there. However, when you speak to people from Makueni, they also have the same reservations that we have in any other county. That is very punitive.

Mr. Temporary Speaker, Sir, if the reports of the Auditor-General can be anything to go by, in my view, he does some very good work. However, he is addressing history, dealing with things that occurred two or three years ago. That may not take us anywhere. As much as we want to fund our counties and support county governments, and it is important that we do so, I do not think that we should be the same people who would want to kill devolution. Devolution is the best thing that has happened to Kenya and its citizens.

However, it is very unfortunate the way that we are running our affairs and spending our funds with a lot of impunity at every level. It is a sad story and it will go in history that some of us served in the Senate during a time when county governments lost so much money yet we are here being paid salaries. We should be looking into these things. We should be very proactive in the way we handle the affairs of county governments and even the national Government.

As I said earlier, corruption starts with budgeting be it at the level of the national or county governments. It is a cartel; there are people who lobby to make sure that a few

projects are put in the budget because they know about them. How would somebody steal Kshs200 million or Kshs2 billion from a project if it was not initially intended and put in the budget for that same purpose?

Mr. Temporary Speaker, Sir, I serve in this Committee. If you look at the Report, there is nothing to celebrate or take home and tell people that we are headed in the right direction. We are headed in the wrong direction, judging by the way we are handling our affairs in this country. It is like we do not belong here. We want the best for the people of Kenya.

Regarding the leasing of medical equipment, we invited the Cabinet Secretary for Health to our Committee and she came. However, the questions that we asked were never answered. This whole arrangement was signed and the governors were not for it. Why were the governors not for it? Why did anybody not listen to them? The amount was supposed to have been constant, starting at just over Kshs3 billion. It then went to Kshs4.1 billion, Kshs6 billion, Kshs9 billion and then to Kshs6 billion.

It was supposed to be one consolidated amount of money which should have been distributed amongst the 47 counties. It was very clear how much money would have been paid at the end of it. I think it was supposed to be about Kshs27 billion. At the end of it all, with these fluctuations in the yearly deductions, how come it is varying? If you ask why it varies, nobody gives you the answer.

Mr. Temporary Speaker, Sir, some of this equipment is not operational yet. Nobody has touched some of these equipment; they are still covered the way they arrived in Kenya. The people who are supposed to be operating the machines are not there or they have not even been trained to use them. If you ask any of those questions, nobody will answer them. Nobody will tell you why we are paying this amount of money and why we cannot purchase the equipment directly. Nobody answers all the questions that you can think of or ask.

As Kenyans and leaders, we do not mean well for Kenya and our people. The people put in constitutional offices or commissions are not doing their work. If you are the Cabinet Secretary for the National Treasury or a governor and you know that your people are languishing in poverty but your children and a few individuals are benefiting, this does not help anybody. I do not think we have the interests of this country at heart. We will continue to serve in this Committee and let Kenyans know what is happening in finance and the way the national Government and county governments are running the affairs of this country.

Mr. Temporary Speaker, Sir, it is fortunate that nowadays we get to know some of these misdoings but before, we would never know what was happening. We would never even know how much money was being budgeted and for what. At the end of the day, we would just see red figures. At least we now participate. Even with that level of participation and devolving the use of resources, we still participate in a lot of corruption.

Corruption starts with budgeting and everybody who is involved is known but nothing is actually being done to apprehend them or bring this to a stop. Everybody is singing about corruption but I do not think there is enough goodwill to deal with this situation and make sure that we slay the dragon called corruption. If we do not do it, we will have sold this country and our children will never forgive us for some of the acts that

we are doing, the way we are running our country and the way we use the resources that belong to each and every person in this country.

Thank you, Mr. Temporary Speaker, Sir.

Sen. (Dr.) Ali: Thank you, Mr. Temporary Speaker, Sir. First and foremost, I am Member of the Committee as well. We have many problems with the institutions which are supposed to assist the Senate in performing its functions.

As earlier said, the Controller of Budget is supposed to be helping these Committees to perform their duties but unfortunately, nothing comes out of it. When you talk to the officers at the National Treasury, all these problems are there. Governors do what they do best; they steal as many Kenyans do nowadays. Unfortunately, people are brought to court to face corruption charges, but we do not see people going to jail. When that happens, nobody really bothers. It has become routine to bring people to court or before the EACC but because we have become very good at the art of stealing, nobody is taken to jail.

We know what happened in the case of Samburu County Government. We were told there were billions involved but at the last minute, we were told it was just a few millions. The governor is free. Now, we are being told the Governor of Kiambu County, Gov. Waititu, was arrested today. We were told stories of his daughter having millions of shillings. The same thing happened with Migori County. Nothing is happening in this country. Sometimes you wonder, is this a circus we are playing or are we serious about dealing with corruption?

Mr. Temporary Speaker, Sir, according to the table here, the total pending bill for 2016/2017 was Kshs25.8 billion. Now, one year down the road, it is Kshs108 billion. How did that happen? What does that mean? From Kshs36 billion to Kshs108 billion is more than threefold within one year and we allow this to continue. On performance of local revenue collection, you can see the target is Kshs850 million but they collected Kshs450 million which is 50 per cent less.

When some counties were municipal councils or town councils, they used to collect more money than they do now. Why should that be the case? These counties are getting billions of shillings per year which they did not have before. They are giving contracts to contractors who they are supposed to be collecting money from. They are supposed to be collecting money from their own sources which they had before; that is roads, rates and licenses. However, they cannot collect what they used to collect before. They do not even collect 20 per cent of what they used to collect. What does that mean? Is it just corruption?

The more money we take to the counties the more corruption there is. You hear of people becoming billionaires overnight but you do not know where this money came from. Nothing can be done to them. When a Senator talks they are told this is just political rivalry. That is not the issue. Whether you keep quiet or talk, it makes no difference to these county officials. You see young boys and girls building massionetes everywhere which we cannot afford. Some of us have been in politics for over 20 years but we do not have that sort of money or houses worth what they have. They have apartments and houses everywhere in Nairobi City County and you get shocked and wonder where they got this money from.

The security apparatus of the EACC and the DCI know these things. They are also part and parcel of this problem. The EACC is in every sub-county every other day. What are they doing? Nobody has been arrested. Some of them are just told to come and write statements then they go scot-free. What does that mean? It means that money is changing hands. Nothing is happening.

Recently, we were told that the Controller of Budget will give us information about our counties for the last seven or eight years. They send us allocations per departments. That is not enough to do the job we are supposed to do. We do not have the specifics. In some counties, people are given contracts and the project details are sent to the Controller of Budget. When money is released to the counties, it is not given to the specific projects that it was released for. It is not even given to the specific departments it was released for. It goes to another department and gets diverted. The next time they write again, they say: "We used those monies for the purposes, can you again re-finance this?" Why should that be acceptable? Why should that be allowed? Why can the Controller of Budget not act on some of these issues?

We are lamenting every time that the national Government has reallocated Kshs9 billion and that they have done it irregularly but what are these counties doing with these monies they are given? The way things are, if we continue like this, yet we call ourselves the custodian of devolution, I think we are falling short of that by far. Something somewhere has to be done. You may remember that we asked for some money for oversight. It is nowhere. The National Assembly is doing their things. The National Treasury is also doing their things.

We are fighting one another instead of fighting the people who are stealing. When will we leave these supremacy battles which are not helping this country? Kenya is a very good country. It is very rich. From Independence it is being looted, and it is still there, but if things continue this way, in the next 20 or 30 years, there will be no country called Kenya. In the next few months, we will not be able to pay our debts. Will we become a province of China? We cannot even be one province of China, anyway. So, I do not know whether we will become one of their small outposts here.

The political landscape in this country is not good. We can see how things are. Instead of helping Kenyans and doing our jobs, we are fighting one another. We talked about the "handshake" and now we are talking about other things – *Tanga Tanga*, *Kieleweke* and so on. I do not know where we are heading. Nobody is talking to one another. Each one is hitting the other one. The new thing is the so-called gold, dollar scam and the fake money. Where are we going? We have a big problem in this country. If this thing is not looked into, it is not good. The Senate has to come out properly, seriously and summon all the concerned people; the EACC, the DCI, the DPP, the Controller of Budget and the Auditor-General.

While I support the Auditor-General, we still need more facts. We were told that by now, the special audits for the counties should have been released. I do not know what is happening. Things are not going the right way. We, as Senators, should do more.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Omogeni: Mr. Temporary Speaker, Sir, I also rise to support the Report that has been tabled by the Committee on Finance, Commerce and Budget. I will make a few contributions.

When we enacted the new Constitution in 2010, the hopes and expectations of Kenyans were that we would spur growth and development in our counties. It was never the dream or expectation of Kenyans that what we wanted to devolve is corruption, gross mismanagement, theft of our resources and creating instant millionaires in people who have been placed to be in charge of our counties.

The problem we have is serious. As Kenyans, we need to be worried. We are courting a revolution. We expect Kenyans at the county level to feel that there is some hope that devolution is bringing to counties but we are seeing despair and hopelessness. Instead of people getting health services at the county level, they are still travelling several kilometres in search of services. Instead of us seeing good roads so that we can spur growth in the agricultural sector, there is nothing. Year in year out, you get damning reports on audit queries by the Auditor-General but you never see any action.

I remember that in one dispensary in North Mugirango Constituency, the Auditor raised an issue that in Orwak Dispensary that was undergoing renovation, the county government had provided a budgetary provision of Kshs3.3 million for excavation yet the Bill of Quantities (BQ), what was supposed to be done is a mere renovation of that building. This means that somebody somewhere pocked Kshs3.3 million, but up to date, nobody has been held to account.

This means that money went into somebody's pocket. How can we live in a country that condones corruption, that is placed on the table for everybody to see? It is like a mathematical precision; one plus one is equals to two. If you have been told that Kshs3.3 million has been used for something that could possibly never have been done and you do nothing, why are you in office as the DCI or the EACC? Some of these things are so glaring.

We need to hold our constitutional offices that are supposed to fight corruption and mismanagement to account. The Chairperson of the Committee on Justice, Legal and Human Rights should summon these people to the Senate, face the Committee and answer some of these questions because we have these audit reports. Why did Kenyans in their Constitution, make provisions for the office of the Auditor-General if he can highlight these anomalies in the way we spend our money in counties and nothing happens?

In three areas in my county, Nyangena, Matunwa and Nyagware, where people have no water, the county government is alleged to have spent Kshs7million to drill boreholes to avail water to the people. If you go there today, there is no water yet we have sunk Kshs7 million in three different places. We cannot continue to run our business like that.

If we do not see action from the DCI and EACC against some of these governors, we will create a situation where impunity will reign in our counties. They will say: "We will mismanage resources and spend where there is no project on the ground, the Auditor-General will come and highlight these anomalies but *mta* do?" Nothing will happen. That is what we call impunity. If you highlight illegalities every year and then no

action is taken, what is the purpose of you continuing to audit the finances of counties? We need to see action. In law there is something we call deterrence. You need to take action that can deter future occurrence. We need to send a wakeup call to the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) for them to take action.

The other day, His Excellency the President said that there will be a lifestyle audit, but if you go to the counties, you will see that the lives of the governors have changed yet nothing has happened. In the counties, one will tell you that: “Governor “X” used to stay here when he took office and we also knew the assets that he had and what he has today.” In Nyamira County, we have high-rise buildings coming up and the people know the owners of those buildings.

Was the lifestyle audit meant to be or was it a public relations exercise? What was it for? If it was meant to shake some people who stole our public resources, we should see heads rolling. No governor is scared of the animal called lifestyle audit. Are we in a state of hopelessness as a country? Is our state giving up or are we a country that is at peace as people steal the resources that are meant to spark development? That is not the way a country should be managed.

The wage bill issue is not just a county government problem. It is a problem that is emanating from the national Government. In this country, we collect taxes from Kenyans, and some of them are extremely poor, just to spend 60 per cent of those taxes in maintaining salaries of less than one million Kenyans.

We need to audit our Constitution. We have created so many offices like the ones that we refer to as independent commissions and given the commissioners huge salaries, personal assistants and drivers. Issues of land are under two components; the Ministry of Lands and the National Land Commission (NLC). Each of them insists that they are independent and are discharging functions as per the Constitution of Kenya. That is wastage and it is the same problem that has found its way to the counties. The counties are now spending more than 70 per cent of their revenue allocation on salaries. When will our counties catch up with Nairobi City County? We will never catch up.

In Nyamira County, there was a staff headcount whose intention was to weed out the ghost workers. The report of that exercise indicates that 1,000 staff in Nyamira County are ghost workers who have been earning salaries. That is a sorry state of affairs. How did we get there? How can you have 1,000 ghost workers yet you claim to be the chief executive of a county? How can 1,000 people be in your payroll for the last six years just for you to wake up in 2019 and claim that they are ghost workers? We cannot run business like that. It is a *jua kali* way of running business. This problem is not just in Nyamira County, it is replicated in many other counties.

The other issue is the Integrated Financial Management System (IFMIS). The other day, somebody appeared before the Committee on County Public Accounts and Investments where it was alleged that he had spent money on functions that are dedicated to the national Government. In yesterday’s newspaper, the Auditor-General was quoted to have said that the IFMIS issue could be a gimmick for people to steal Government resources. The question is: Who created this animal called IFMIS and where does the

money that is being stolen from IFMIS go to? Is it an animal that the Auditor-General, the DCI and the EACC cannot crack? Where does the money go to?

If money was put erroneously in the financial statements of Kiambu County Government or Kakamega County Government, who pocketed that money and where did it go to? If IFMIS is a clear way of people swindling Government money, why do we still have it? Why can we not own up and say that IFMIS cannot work for us to use the manual way that will enable us follow people and know how Government money is being spent? Sitting back and saying that money disappeared from IFMIS is a disservice to Kenyans.

[The Temporary Speaker (Sen. (Dr.) Lelegwe) left the Chair]

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

This Senate will never be effective in discharging its oversight functions if it does not get the full backing of the President and the oversight funds. We cannot talk of oversight with no funds. In that case, we will continue talking from Nairobi because we do not have funds to facilitate us visit the projects. As that happens, the governor will be smiling for he knows that Sen. Cheruiyot has not been facilitated to discharge his functions at the county. Sen. Cheruiyot needs to speak to the people that he represents in Kericho. He needs to have money to call for meetings so as to talk to people, look at projects, get reports from the county government and understand where the projects are. In the case of my county, I need to understand why Manga Stadium has not been completed six years down the line yet counties like Machakos took six months to have their stadium up and running. Those are the problems faced by the people in the counties.

The accountability issues in the counties need support from the national Government. The Senate must be given the capacity to enable it discharge its oversight functions. Short of that, we will be talking year in year out, go through the paper work and close our business without changing anything.

I support.

Sen. Shiyonga: Thank you, Madam Temporary Speaker, for giving me this opportunity to support the Report of the County Governments Budget Implementation Review for Financial Year 2017/2018.

The budgets that we have in this nation are a total mess. The Controller of Budget was given an opportunity to serve in a public office but she has left the budgets to be a mess for eight years. What is she doing in that office? The systems in the Controller of Budget's office have totally failed and that is why we are left to blame one another. The entire office needs to be restructured because we are wasting resources in budgets that are not assisting Kenyans.

We have an animal called IFMIS that was supposed to assist Kenyans but is being misused. There is a difference between investing in a system and the products of the system. The IFMIS is a total letdown. Like my colleagues have said, it should be abandoned, so that we have a new system in place because the one we have has been compromised.

Kenya has three independent arms. We have the Executive, the Legislature and the Judiciary. They all have different functions. We should not have a Controller of Budget who lets everybody down. There is need to ensure independence of independent offices and leave bodies mandated with the oversight function to do their work because we have those that oversight themselves. We are required to oversight but we have been denied funds to oversight and monitor projects. We have been left with nowhere to run to. We need to be there but have a budget. The Controller of Budget does not give us reports hence everybody points a finger at another.

Devolution was meant to empower citizens. As it is now, we have devolved corruption, nepotism, name it all. If a person gets to an office with a budget, the office will be full of people from one tribe, clan or family. They are blaming the Senate for nothing. I pity Members of the Committee on Finance and Budget but we are there for them. *Aluta continua*. We shall fight until we get to the end.

We have institutions like the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) doing their work but you will find suspected culprits being released after two or three days of arrest because the same money they steal is the same they use to give bribes.

This House should be given money for oversight because oversight is not work for one committee. The Auditor-General is doing his work. Therefore, the Controller of Budget also needs to do her work. We need to protect Kenya.

Thank you, Madam Temporary Speaker.

Sen. Cheruiyot: Thank you, Madam Temporary Speaker, for this opportunity. I am a Member of the Committee on Finance and Budget and it is a privilege and great honour serving in the Committee. It is great honour because our work is to ensure that counties are sufficiently funded to operate and provide requisite services to the people who voted us into this House, such that they do not lack basic services. The dream of Kenyans, when they voted for the Constitution, 2010, was to ensure that services are taken closer to people.

We have been looking at audit reports and the monthly releases from the Controller of Budget. It is unfortunate that we struggle for resources to go to the counties to ensure that there are drugs, people have clean water, clean environment and good roads. On many occasions, the reports that we read in the Senate are completely opposite of what is happening in many counties in this Republic. It is a worrying trend. If we, as a Senate, do not crack our heads and figure out the ultimate solutions to the problems, we will be shooting ourselves in the foot and very soon Kenyans will also give up on us.

Under Article 96 of the Constitution, the Senate is the custodian of devolution. We serve to protect the interests of counties. If we are not careful, very soon we shall be termed as morticians who oversaw the process of burying devolution in this country.

This Report is extremely worrying. I urge my colleagues to individually take time and read the Report of the Controller of Budget on their respective counties. I would like us to look at the architecture of county governments with governors as the Chief Executive Officers (CEOs) and Senators as chairpersons of boards that oversight them, if I were to use an analogy of a company. Therefore, as chairperson of boards, we cannot sit

here innocently and say that as long as we ensure that counties are properly funded, there is nothing else to do.

I sympathise with my colleagues in the mediation committee. What gives them the energy to wake up to go and meet our colleagues from the National Assembly and ensure that we have more money going to the counties? Cardinaly, we believe that as long as we continue to fund our counties, somewhere along the line, we will get some of the things right. The question is: When shall we begin to hold people accountable?

The truth of the matter is that Members of County Assemblies (MCAs) are “arrested” politically. In my county assembly, MCAs have been trying to impeach a very powerful Chief Executive Committee (CEC) Member. They will tell you the intrigues because sometimes I sit and listen to them. Sometimes they are afraid to sign on an impeachment form because when they intend to do so, they are called to a particular corner and asked how much their signature is worth so that they withdraw it.

The sponsor of the Motion is a gentleman I know well and I see the struggle each and every time. Nowadays, I find it difficult to pick his calls because every time I pick, he laments that they have lost so and so. Previously he had 20 MCAs on his side but I think he is now left with five or six because the rest have been bought. That is the reality of what is happening in our counties.

Madam Temporary Speaker, the truth of the matter is that you and I know that a big percentage of the money should be committed to development. Mark you, it is only a paltry 30 per cent of Kshs335 billion that Sen. Mutula Kilonzo Jnr. is fighting for to go to the counties that will do meaningful development. The rest 70 per cent is under a huge animal called recurrent expenditure.

I know that amendments to the Public Finance Management (PFM) Act are before the National Assembly. I am waiting for that Bill to come to this House, so that we interrogate it. We should ask ourselves critical questions. How do we achieve the balance of 70-30? It was possible to have it at the beginning of devolution but it cannot be forever. It is like running a business where a person knows their capital expenditure (capex), operating expense (opex) and how much they are using to fund the business. It cannot be the same amount of money used at the beginning of funding the enterprise. For example, if they are paying salaries of Kshs1million and they are making Kshs1.2 million, it cannot be the same three, four and five years down the line. If the business is not growing, it means it is dying.

If we continue to retain the formula of 70/30 for development and recurrent expenditure in the next budget cycle, then we are the ones who are killing devolution. Why are we giving governors an open check that so long as they have not clocked 70 with their recurrent expenditure, it is okay? This is unfortunate.

Madam Temporary Speaker, I want my colleagues to take their work a bit more seriously. I have seen how we operate in this House. If there is a political Motion that is on the Table, something that will give us brownie points and make the media to be here, this House will be full. People will come and everybody will be pressed for time. They will say: “Because of the interest, allow me two more minutes.” What can a person prosecute within two minutes?

Madam Temporary Speaker, very soon, let it be proposed that before we apply the rule of two minutes, we ensure that those who sit until late, for example, 6.00 p.m. to 6.30 p.m. are given priority. This business of people coming here to talk to us for five or three minutes then they leave does not help this House. We need to be serious with our work.

As we consider this particular report, time has come for us, as a country, to ask ourselves critical questions. The Bible says in Mark 8 “for what shall it profit a man, if he gains the whole world but loses his soul” for example, the rush for money and desire to be seen to be driving the sleekest of vehicles.

I am happy with what has happened in the gold saga because it has burst the bubble. A friend of mine---

(Sen. Mutula Kilonzo Jnr. interjected)

(Laughter)

Madam Temporary Speaker, Sen. Mutula Kilonzo Jnr. is misleading me. A friend of mine shared with me his struggle---

The Temporary Speaker (Sen. Pareno): Sen. Mutula Kilonzo Jnr. is not misleading you; he is putting words in your mouth.

Sen. Cheruiyot: Exactly, Madam Temporary Speaker. That is what he is doing.

My friend shared with me and said that for a long time, he has been living a very depressed life. When he is driving his small Toyota Premio on Lang’ata Road some people overlap him with Cayennes and big vehicles. He looks at them and thinks that they are the hard workers of this life, he is sleeping too much and that he is not struggling. However, when he sees them being swept around with some of these fake gold and cash scandals, he goes back, sleeps and is motivated that, at least, he has peace that no matter how small the ramshackle of a vehicle he drives, it is his and it is money that he has earned out of his sweat.

What happens to the days of celebrating success where it will be said that so and so is known? Our media is not doing a favour to many of our young people by referring to some of these conmen as flashy businessmen. A business whose business you cannot tell! What kind of a business are they running? These are thieves. However, we want to play semantics, be good people and manage the environment.

This is the same attitude that is permeating into our county governments which were the test tubes of our Republic. We looked at it and said that because we have failed in managing our resource as a single enterprise, let us create 47 others where, at least, if we are able to replicate and manage public resources well, we can celebrate and be happy.

The question that we need to ask ourselves is: If county governments fail what we shall do as a country? This is because we have tried the unitary state and it is not working. If we allow it to fail, you will hear some of these things where people are saying that we better sell the Republic, everyone is given his or her share and look for where to repatriate to, for example, become a citizen of Timbuktu or whichever part of the world that they feel they want to belong to. This is unfortunate.

As a House, we must critically question ourselves. Have we expanded our thinking? Sen. Mutula Kilonzo Jnr., when you wake up in the morning, you dressed, put on your Tommy Hilfiger tie, that you are dressed today, and stared at yourself in the mirror. Do you feel that you have sufficiently used your brain power and offered the best you can as the Senator for Makueni County and as a Senator in the Republic of Kenya? Is it enough for us to come and lament?

We have a board up there naming this House the Senate. We may soon consider changing it and refer it to the 'House of Lamentations'. That will become the title of this House because we do not have agreeable working points. What is it that we want to achieve? I have challenged my colleagues, especially, those who sit in the Leadership of the House, that a time has come for us to retreat and reconsider our ways. This business of chasing almost 10 to 15 goals at a go is what has made us to be what we are. Can we narrow it down to two or three specific goals? For example, for the next cycle or six, seven or eight months, this is what we want to achieve as a Senate. We want to ensure that if it is about the reports which come to this House from the county governments, we deal with them thoroughly and properly. We should ensure that we take the Auditor-General to task.

Madam Temporary Speaker, for example, the County Public Accounts and Investment Committee only deals with the report that is tabled before it by the Office of the Auditor-General.

All of you come from counties. If you take time to read through the report of the Auditor-General, they capture 30 to 40 per cent of the errors that are in the county governments. Some of the auditors are strangers. For example, I have seen a specific road in my county that I know so well and was made by the multinationals and the tea estates. However, it is captured in the county books as a road that was done by the county government.

The auditors who have come from Nakuru do not have the kind of geographical knowledge of my county that I have as a Senator. They do not know that the 10 or 20 roads that have been captured out of the list, 15 are works that have been done by counties. However, the other five are routes that were used to pilferage public funds.

The Auditor-General is not able to pick out such errors. Therefore, I agree with what Sen. Omogeni said that if we are also not properly facilitated as Senators to carry our oversight seriously, then it is impossible to give out some of these reports.

The County Public Accounts and Investment Committee (CPAIC) only reacts to what the Auditor-General has pointed out. The Office of the Auditor-General has refused to reform. It is still operating in the days of provinces. They have provincial offices where we have people seated in Nakuru over sighting eight to ten counties.

When shall they reform and ensure that they have a representative in a specific county whose number I have, as the Senator of Kericho? Therefore, I can send him or her a message and tell him, Mr. "X", "Y", "Z", that road that the county executive has captured was not built by them. For example, that Early Childhood Development Education (ECDE) classroom was a donation by the community. It was not build by county funds.

That way, after a particular time, I can hold him into account and tell him: “*Bwana* auditor, how were you not able to capture this particular issue?”

We have County Executive Committee (CEC) Members whom we are well aware that within two to three years after being appointed into office, they are buying properties all over town. The things that happen in the national Government are worse off in our counties. This is because they do not have the kind of publicity that is given to Cabinet Secretaries (CS) of the national Government. The ones in the counties walk scot-free.

If you ask any particular Kenyan where the corruption is happening in their counties, they will point to you. They will tell you it is this particular water project, go and look at. In the county books it is captured as completed, but the truth of the matter is that only two or three pipes were laid down.

I have a practical example where somebody sunk two inch plastic pipes, but the county books of accounts captured it as six-inch Galvanised Iron (GI) steel pipes for almost five or 15 kilometres. When the auditors come, if you, as a Senator, do not have direct participation in the audit process, how will they capture some of these things? They will just be told that: “Beneath that mound of sand, there are huge pipes that are buried there, supplying water to a particular village.”

In conclusion, Madam Temporary Speaker, we have done our bit as a Committee. We have raised these concerns with our colleague Senators and with the rest of the House. It is my sincere hope that they will take time to read through it. We hope that during the next cycle of the Leadership Retreat of the House, we shall consider the remarks that have been made by many of our colleagues; whether it is enough for us to just lament, as a House, or consider doing something that will change the lives of Kenyans. Otherwise, the future is not so bright for many of our county governments.

With those very many remarks, Madam Temporary Speaker, I support this Report. Thank you.

The Temporary Speaker (Sen. Pareno): I see that probably Senator Cheruiyot has said it all, and there are no more requests. I, therefore, call upon the Mover to respond. I am told that Sen. Mutula Kilonzo Jnr. is holding brief for the Mover of this Motion.

Proceed.

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Temporary Speaker. The intention was not actually to reply, but since Sen. Cheruiyot has raised pertinent points, I had proposed solutions. I found one of the solutions to bad audits in the National Council for State Legislature in the United States of America (USA). I will be travelling there again in August. It is something we call “Legislative Audit.” The same way we have a Parliamentary Budget Office (PBO), we should have a Parliamentary Audit Office so that we can send our own auditors, at any time, to audit these counties.

Secondly, this country glorifies thieves, who make it to the headlines. We glorify criminals; they get coverage on the front pages of the *Daily Nation*. No person who does good deeds ever gets that sort of attention. You will most likely be called to Jeff Koinange Live (JKL) or you will most likely have a press interview, because we admire thieves, criminals and we glorify criminal activity. This country needs prayers. I have suggested that the National Prayer Breakfast be held in Parliament, because this is where

the real prayers are required. This is where Parliamentarians will be told, like Moses, “Please remove your shoes. This is holy ground.” The moment we know that, then we will change.

Thirdly, I have proposed for Senator Cheruiyot, and I hope you can assist us in this, that every Report under Section 67,164,165 and 166 from the Executive Committee Member (ECM) directed to the Controller of Budget should be forwarded to us. That way, we will not be relying on the summaries given by the Controller of Budget. I must tell you I have lost all faith – and I am speaking now as a Christian – in the Office of the Controller of Budget. They are doing nothing much than just glossy reports for us, and it is not helping.

Madam Temporary Speaker, lamenting will not help. What will the people remember you for; it is being here and making law. Therefore, let us make those amendments. I think that you are right; we are chasing too many rainbows in the Senate and not concentrating on the right things. We walk in and out as if we can walk in and out of devolution. Kenyans trust this House. If we do not do our jobs, and I have said this before, history will judge us harshly. You will go down as the House that supervised, superintended and assisted the death of devolution. There will be nothing to say. You will be hiding when they call you “Senator.” You will say: “I am no longer a Senator.”

Thank you, Madam Temporary Speaker. This is a matter concerning counties, although that is your jurisdiction to make. However, I am submitting that this is a matter concerning counties. We propose to vote for the Report - now I am speaking as Whip. I am, therefore, asking, under Standing Order No.61, that you defer putting the Question to a later date.

Thank you.

The Temporary Speaker (Sen. Pareno): Hon. Senators, I rule that this is a matter that affects counties. Therefore, we cannot vote. The matter is, therefore, deferred for voting on another date.

(Putting of the Question on the Motion deferred)

Let us move on to the next Order.

MOTION

COMPLETION OF STALLED COUNTY PROJECTS THROUGH BUDGETARY MANAGEMENT

THAT, AWARE THAT Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

FURTHER AWARE THAT, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees

that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

COGNIZANT THAT, any diversion from the Vision 2030 blueprint as well as the President's "Big Four" Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

NOTING THAT, whereas the National Government's Budget is based on Vision 2030 and "Big Four" Agenda, the County Governments' Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

CONCERNED THAT, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

ACKNOWLEDGING, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

FURTHER ACKNOWLEDGING THAT, the National Treasury in its circular No.9/2018 detailed the five hundred and forty five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

NOW THEREFORE, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

1. Ensure that all the County Integrated Development Plans (CIDP's) and Annual Development Plans (ADP's) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;

2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and

3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

Hon. Senators, I am informed that Sen. Kibiru who is supposed to move this Motion is not in at this moment. This matter is, therefore, deferred.

(Motion deferred)

Next Order.

MOTION

ADDRESSING THE PLIGHT OF STREET FAMILIES IN URBAN CENTRES

Sen. Kwamboka: Madam Temporary Speaker. I beg to move the following Motion-

THAT, AWARE THAT the Street Families Rehabilitation Trust Fund (SFRTF) was established on 11th March, 2003 by the then Ministry of Local Government to address the concerns of all homeless, destitute and vulnerable persons in urban areas, and was registered as a body Corporate in August, 2010 under the Trustees (perpetual succession) Cap 164, Laws of Kenya;

FURTHER AWARE THAT the mandate of SFRTF includes coordinating rehabilitation activities for street families; conducting public education on street families issues; mobilizing resources and fundraising as well as receiving donations and funding street families rehabilitation programmes; managing donations for the rehabilitation of street families through a trust fund; monitoring expenditure and disbursement of donations; and advising the government and other relevant agencies on matters relating to rehabilitation of street families;

NOTING THAT Article 43 (1) of the Constitution of Kenya provides for the right to every person to the highest attainable standard of health, accessible and adequate housing, adequate food of acceptable quality, clean and safe water in adequate quantities, education, and social security;

CONCERNED THAT the street family phenomenon has persisted despite the existence of the SFRTF and street families do not enjoy the rights enshrined in the Constitution due to lack of a national policy on the rehabilitation of street families, with women and children being the primary victims;

COGNIZANT THAT the Ministry of Devolution and ASAL Areas through the SFRTF supports children and youth through charitable and community-based organizations which are vetted and approved for

funding under the rescue, rehabilitation and reintegration of street families programme;

NOTING THAT both the National and County Governments have a role to play in addressing the plight of street families across the Country;

NOW THEREFORE the Senate resolves that Ministry of Devolution and ASAL Areas in collaboration with the Council of Governors (CoG)-

(1) conducts a census of street families in all urban centres in the country to determine their numbers and demographics;

(2) develops a clear policy on street families rehabilitation and reintegration at county level; and,

(3) tables an audit report of how funds allocated to the SFRTF have been utilized since the Fund was established, indicating the impact of the rehabilitation exercise.

Madam Temporary Speaker, the issue of street families is not a new phenomenon but it gets worse every day. We see the rising number of street children in all the counties. There have been rehabilitative measures although they have remained inadequate because issues of street families are complex. Among the issues that must be addressed in rehabilitation need to include the well-being of these people, the process of integration into communities and self-dependency.

If you go around the country especially in Nairobi City County at Grogan Street, you will find these street families and they stay under a bridge.

Sometimes in the rainy season they are affected. Some of them have small children. There is nobody to take good care of them. Sometimes they are infected with diseases and coughs. We have some fund, which was meant to rehabilitate them. As of now, the Ministry has done nothing.

Madam Temporary Speaker, on the issue of the women who are living in the streets, we know ourselves as women; we have some days in month when we have our menstrual periods. At that time, they have nothing to use. They use dirty clothes, which sometimes cause them to be infected with serious diseases. No one is there to take good care of them.

The Government had allocated Kshs110 million in the 2017/2018 Financial Year, meant to fund institutions caring for street families but we still have them in the streets and in the same conditions. As a matter of fact, human rights are being violated openly since child abuse and child labour is normal on the streets. Children sell sweets, chewing gum and peanuts. They also beg, and for some reason, they may insult you while an adult watches. Some females carry or display babies to persuade for help. This is a serious one. If you are driving along University Way or the streets of Nairobi, you will find those children there. Sometimes they are given conditions that if they do not go home with anything, they will not eat. That is child abuse.

As I conclude, I urge this House to agree with my sentiments for the need for a census of street families. I believe this will assist to plan effectively and efficiently in the rehabilitation process and eventually tackle these issues once and for all. The audit report will also assist in accountability and provide a wider view of future allocations and

expenditure of available resources in relation to rehabilitation of the street families. Policy will aid in monitoring the impact of the rehabilitation process.

According to the statistics of the consortium of children, there are 300, 000 children living in the streets across Kenya, of which, about 60,000 are in Nairobi. It is not their wish to be on the streets. There are some causes. I will not mention a lot of them because they are many. One is child abuse and neglect. Children are abused. They could have even been sexually abused when they were small children, which made them run away from their homes.

That is how they found themselves on the streets. The challenges faced by these street families are too many, including, diseases and unwanted underage pregnancy. After that, what happens? They pose dangers to us, for instance, crime and drug abuse leading to harassment of members of the public during their hustle in town.

Madam Temporary Speaker, with that, I call upon Sen. (Dr.) Musuruve to second this Motion.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker, for giving me the opportunity to second this Motion. I commend Sen. Kwamboka for coming up with this Motion.

This Motion has come at a time when we have so many street families in our towns. Some urban centres such as Eldoret and Kakamega did not have many street children. You could almost count the number of street children but they are now uncountable. At the moment, we have communities on the streets. We must make it clear to Kenyans that no one chooses their families. Therefore, we must empathise with the street children because they are innocent and never chose to be in those families. I feel them and see what they are going through. We need to think of what we can do to curb street families.

This country belongs to the citizens and according to the Constitution power belongs to everyone including those who are in the streets. They have a right to be heard and a right to get basic necessities as stipulated in the Constitution. Given an opportunity, everyone is a phenomenon. We all have the unknown potential. Ten years ago, I did not know that I would be here and I am sure that the same applies to most of us but an opportunity presented itself and we met the unknown potential; we are currently leaders. That opportunity has not arisen for the children on the streets but I believe that everyone is phenomenon. It is just that opportunities are not available for everyone. We have to think of how to arrest the issue of street families.

Article 43 of our Constitution talks about the basic human rights such as education, food, shelter and health but street families do not have that. When children are on the streets, very few people care to know how they are getting their food, shelter and clothing yet those are primary needs as stipulated in Maslow's Hierarchy of Needs.

I want to caution those people who sit in the ministries to listen to what the Senators are saying so as to come up with policies. The discussion on street families should not be used as a means of allocating Kshs18 billion for street families just for the money to get into people's pockets. As a Senate, we want people to have feelings for the street families, look for ways of curbing street families and ensuring that those who are in the streets are treated with dignity as stipulated in the Constitution.

The Constitution states that everyone should be treated with dignity but that does not happen on the streets. The girls are vulnerable and are raped by men who pretend to be gentlemen during the day. The women on the streets also suffer because they are also vulnerable. The reputable men who rape them disappear during the day only to go back to them at night when nobody is seeing them. The mothers are then left on the streets with the children who cannot even go to school.

Uneducated children are a big problem to this country. Every country must endeavour to ensure that its children get education. If our children are educated, then they will be the right leaders. Therefore, we will pass on the baton to the right people with an education. Therefore education is important. When I talk about education, I should not be misconstrued. It can be vertical, where one goes all the way to the university, or they can join technical and vocational institutions as long as they acquire it.

Kenya is among the nations that ratified the United Nations (UN) Convention on the Rights of Children in 1990. The International Law demands that children should not be on the streets and they should be given education, food, shelter, clothing and so on and so forth. So, there is need to have a policy framework in place to ensure that we have feelings for the children.

It is unfortunate that we have people with no feelings on the plight of people who live on the streets. This is because we have people who abuse those children. Some people even initiate young boys living on the streets into criminal gangs. Those children are vulnerable because they are perceived to have no values. You cannot blame them for not having values because a child never chooses where to be. If they found themselves on the streets but they have not been taught values, why should they be taken to cells and accused of doing things they do not know whether they are right or wrong like picking people's handbags? There is need for a mechanism to be put in place to ensure that we cater for street families.

If you go to a country like India – I was in India for quite some time when I went there for treatment, there are streets families but they are known and respected. The children go to school to get an education and go back to their families on the streets. A street man there knows his wife and children and all that. You will see them cleaning where they live. That is something that has been accepted. The Government takes care of them because the poor get rice for free.

There is need for this country to ensure that the poor on the streets get food for free. As I speak, in this country, there are people with a lot of food which they do not know what to do with. However, you will find that we have people who do not even have water to drink. It is ironical and it should not happen that way. We must have feelings for the vulnerable families living on the streets.

As a Senate, we must endeavour to walk our talk. When we talk of programmes for street families, we should ensure that they are put in place. We should be remembered for fighting for the rights of families living on the streets by coming up with programmes for them. That will help to reduce the number of street families.

It is unfair that the Constitution talks about equality and non-discrimination. When we talk about people who are marginalised, it is not just about Persons with Disabilities (PWDs), people in the North-Eastern part of Kenya, cancer patients or

persons living with HIV, but also people living on the streets who do not have anywhere to go.

Article 43 of the Constitution clearly states that there is need for the Government to provide social security for people who cannot provide security for themselves and their dependants. We have street families who cannot provide security for themselves.

Madam Temporary Speaker, as we speak, we have street families who are not able to provide security for themselves. Sometimes, when they try to do this or that to eke a living, they are bundled in vehicles by *askaris*. We must defend the Constitution. When we stood and affirmed to lead and defend this country, we said that we will fight for the vulnerable and be their voice. That entails being the voice of street families.

Madam Temporary Speaker, there is need for us to ensure that we walk the talk. Time will judge us. What did we do as a Senate for street families? Most of the times, when we are driving to our homes, they are there helpless. I do not know how God will judge us.

As a country, we must endeavor to attempt and curb the issue of insecurity. Street families are vulnerable to insecurity. For example, you find that sometimes, their children are insecure. Therefore, with time they get immune to insecurity and they become a security threat. They find themselves doing things and getting into habits that they do not know of. They are given a culture that they did not ask for.

Madam Temporary Speaker, culture is a way of life. If children are born in the streets and they see their parents begging, it becomes a way of life for them. Therefore, when they get their children, they will also start to beg. The cyclic nature of being in the streets will continue to the next generation. That is something we must bring to a stop because we want transformative leadership.

Therefore, we should endeavor to ensure that we are making an impact in the lives of women and the boy child in the streets. When we talk about issues of women and the youth in the Senate, why do we forget that in the streets we have youth and women? Let us embrace them and ensure that we bring them on board. If we get gains as women and youth, the women and youth in the streets should also get the gains.

Madam Temporary Speaker, worse still, you can picture Persons with Disabilities (PWDs) who live in the streets. It is worse for them because they are marginalized and disabled. Therefore, there is need for us to ensure that we do something as a Senate to address the plight of PWDs.

There are many organisations that purport to support street families. However, when you follow them, you find that they are not doing anything yet they are given a lot of money. I condemn that habit. If a person takes money to help street children, he or she should ensure that the money goes to the right use. This is because he or she will not only be condemned in the Senate but also by God for taking advantage of the vulnerable.

Madam Temporary Speaker, as we talk about the Big Four Agenda, we can achieve it if we are not thinking about the street families. We must ensure that that street families are embraced in the Big Four Agenda in terms of education, basic needs and all the fundamental issues that are stipulated in the Constitution.

Finally, Madam Temporary Speaker----

The Temporary Speaker (Sen. Pareno): Order, Senator. You will have a balance of four minutes when this matter comes up next.

ADJOURNMENT

The Temporary Speaker (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the House. The Senate, therefore, stands adjourned until Tuesday, 28th May, 2019 at 2.30 p.m.

The Senate rose at 6.30 p.m.