

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 4th July, 2019

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

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

PRAYER

PAPERS LAID

The Deputy Speaker (Sen. (Prof.) Kindiki): The Senate Majority Leader and his Deputy are not present in the House.
Next Order.

NOTICE OF MOTION

The Deputy Speaker (Sen. (Prof.) Kindiki): The Chairperson of the Mediation Committee on the Irrigation Bill (National Assembly Bills No. 46 of 2017) is not present in the House.

Sen. Nyamunga is also not present in the House to give a Notice of Motion.
Let us move to the next Order.

STATEMENTS

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, let us start with the Statement pursuant to Standing Order 51(1)(b) on activities of Committees.

The Chairperson of the Committee on Agriculture, Livestock and Fisheries is not present in the House.

Let us move to the next Statement.

Kindly proceed Sen. Kinyua, Chairperson Standing Committee on Devolution and Intergovernmental Affairs.

ACTIVITIES OF THE COMMITTEE ON DEVOLUTION
AND INTERGOVERNMENTAL RELATIONS

Sen. Kinyua: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order 51(1)(b) to make a Statement on the activities of the Standing Committee on Devolution and Intergovernmental Relations for the period commencing 12th February to 30th June 2019.

Mr. Deputy Speaker, Sir, during the period under review, the Committee held a total of 12 sittings, considered three Bills, four Statements and the Committee also had four engagements with stakeholders.

In respect of Bills, the following were considered-

(a) The Assumption of Office of the County Governor Bill, Senate Bills No 1 of 2018;

(b) The County Governments (Amendment) No.2 Bill, Senate Bills No. 7 of 2017; and,

(c) The County Governments (Amendment) Bill, Senate Bills No. 11 of 2017.

On the Assumption of Office of the County Governor Bill, 2018, on 12th February 2019, the Bill was referred back from the National Assembly with amendments. The Committee considered the amendments of the National Assembly to the Bill and agreed with all but one of the amendments. The Bill was subsequently passed by the Senate and was assented to on 13th May, 2019.

Mr. Deputy Speaker, Sir, with regard to the County Governments (Amendment) No. 2 Bill, 2017 which was sponsored by Sen. Mutula Kilonzo Jnr., on 15th May, 2019, the Committee considered the amendments of the National Assembly to the Bill. The amendments were subsequently rejected by the Senate and the Bill proceeded to mediation.

With regard to the County Governments (Amendment) Bill, 2017, which was sponsored by the Senate Majority Leader, the Committee reviewed the amendments of the National Assembly to the Bill and agreed with all the amendments to the Bill. However, the Senate rejected the amendments of the National Assembly and the Bill proceeded to mediation.

Mr. Deputy Speaker, Sir, regarding Statements, pursuant to Standing Order No.48(1), four Statements were referred to the Committee during the period under review. The Statements were sought by Sen. Johnson Sakaja, Sen. (Dr.) Agnes Zani and Sen. Mohamed Faki.

Sen. Sakaja sought a Statement regarding the proper constitution of the Nairobi City County Government. The Committee met with Governor Mike Mbuvi Sonko on 10th April, 2019 regarding the issue. The Committee resolved that in order to address the matter for posterity, it was necessary for the Senate to expedite the consideration and passage of the County Governments (Amendment) Bill, (Senate Bills No. 11 of 2017), sponsored by the Senate Majority Leader in order to address this lacuna.

Sen. (Dr.) Agnes Zani, sought two Statements from the Committee, one on the policy on the transfer of functions to counties and the other on the policy on the devolved system of Government. A meeting between the Committee and the Ministry is scheduled to be held in July to consider the issues raised in the Statements.

Noting that the Statements raised weighty issues on the implementation of the devolved system of Government, the Committee shall extend an invitation to all Senators to attend the meeting.

Sen. Mohamed Faki sought a statement regarding the acrimonious relationship between the Mombasa County Assembly and the Mombasa County Executive. The Committee considered the matter and met with the Governor of Mombasa County on 18th March, 2019 and the Speaker of Mombasa County Assembly on 21st March, 2019.

Sen. Fred Outa sought a Statement on the closure of bank accounts of the Kisumu Urban Projects. This Statement was committed to the Committee on 10th June, 2019. The Committee is currently considering the Statement.

Mr. Deputy Speaker, Sir, with regard to Petitions, the Committee has received two Petitions in the period under review. The Committee received a Petition by Mr. Moses Wanjala Lukoye, regarding corruption and violation of the Constitution and other laws by the County Government of Bungoma. The Petition was committed to the Committee on 13th June, 2019. The Committee is currently considering the Petition. I would like to state that we met the petitioner today.

The Committee reviewed a Petition by Sen. Samson Cherargei, on behalf of petitioners from West Pokot, regarding the absence of the Deputy Governor of West Pokot County. The Petition was committed to the Committee on 13th June, 2019. The Committee is currently considering the Petition.

Mr. Deputy Speaker, Sir, the Committee met with four stakeholders during the period under review. On 14th March, 2019, the Committee met with officials from the Ministry of Devolution and Arid and Semi-Arid Lands on the fate of the 52 orphans resulting from the Solai Dam Disaster. The Ministry informed the Committee that they were responsible for the immediate services following the disaster and that the matter had been referred to the Ministry of Labour and Social Protection and that the Children have been enrolled in schools.

Mr. Deputy Speaker, Sir, on 26th and 27th April 2019, the Committee jointly with the Committee on Justice, Legal Affairs and Human Rights, met with the Council of Governors (CoG) to discuss various issues on devolution and specifically the clawing back of devolved functions by the national Government. It was resolved that a retreat between the Senate Liaison Committee and CoG Liaison Committee be held at an appropriate time to further consider the matter.

The Committee also met with the Inter-Governmental Relations Technical Committee on 14th March, 2019 on issues to do with assets and liabilities of Counties. At the end of the meeting, it was resolved that the Inter-Governmental Relations Technical Committee would submit to the Committee reports on assets and liabilities specific to each county.

Mr. Deputy Speaker, Sir, the Committee intends to carry out the following key activities during the next quarter-

(a) The Committee has scheduled visits to the following counties- Laikipia, Nyandarua and Nakuru in July 2019, Mombasa, Kilifi and Kwale also in July 2019, and Machakos, Makeni and Kitui in August 2019.

(b) The Committee will be holding a workshop with the CoG and Ministry of Devolution and Arid and Semi-Arid Lands, on the challenges Counties are facing, and the claw-back of devolved functions.

(c) The Committee also intends to have a meeting with Ministry of Devolution and Arid and Semi-Arid Lands on Regional Economic Blocs.

Thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is your point of order, Sen. Wetangula?

Sen. Wetangula: On a point of order, Mr. Deputy Speaker, Sir. While I thank the Chairperson of the Committee on Devolution and Intergovernmental Relations for the Statement, it is a tradition in this House and as a matter of courtesy that when a Committee is engaged in dealing with a Petition from a particular county, the Committee invites the Senator that represents the county on the issue so that the area Senator can attend and participate in the proceedings. That is what is in our Committee on Finance and Budget and the Committee on National Security, Defence and Foreign Relations.

Mr. Deputy Speaker, Sir, I have been waiting to be invited by the Committee on Devolution and Intergovernmental Relations in the event they listen to the Petition from Bungoma County which raised some very serious weighty issues of governance, probity, financial management and many others. The Chairperson has just reported that they met the petitioner today, yet they did not have the courtesy of inviting the distinguished Senator for Bungoma County to join them in hearing a Petition concerning the management of the devolved resources and affairs in the county that I represent.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): What do you have to say, Sen. Kinyua?

Sen. Kinyua: Deputy Speaker, Sir, I take full responsibility. It was a mistake but I must have been overtaken by events because of what happened in Taita-Taveta. I am sorry and I promise it will not happen again in future.

The Deputy Speaker (Sen. (Prof.) Kindiki): What will you do about it?

Sen. Kinyua: Mr. Deputy Speaker, Sir, I commit to give all the documentation that the petitioner presented to the Committee so that we have a look at it with him.

The Deputy Speaker (Sen. (Prof.) Kindiki): You are still considering the Petition, is that right?

Sen. Kinyua: Yes.

The Deputy Speaker (Sen. (Prof.) Kindiki): You are directed to immediately get in touch with the Senator for Bungoma County and agree on how you would want him to participate in your hearings.

Hon. Senators, as a matter of good manners, protocol and practice, every time you hear a matter including petitions emanating from a particular county, committees are directed to engage with the Senator representing that county.

The same applies to what I directed yesterday, that when committees visit counties, it is untidy for a Senator of a particular county to hear that his own colleagues are in his county but they have no idea what they are doing. That is unacceptable and not good practice at all. This does not just apply to this House but it is the practice of

parliaments around the world. In fact, even if you attend a wedding in a colleague's county, it is just good manners to inform them that you have a social function in a certain corner, so that they do not hear from their own constituents that you were there and did some things.

Sen. Kinyua and all the other chairpersons, please comply.

Sen. Kinyua: I am most obliged, Mr. Deputy Speaker, Sir.

Sen. Ochillo-Ayacko: On a point of order, Mr. Deputy Speaker, Sir. Regarding the last point you have made regarding visiting a colleague's terrain or turf even for a wedding, I have had a personal experience. There are political formations in this country that I do not want to name because it may create acrimony in this House. You may find yourself with the party leadership in some parts of the world with a colleague who belongs to a different formation. I can see Sen. Malalah nodding in acquiescence. It is difficult to notify such colleagues because when they take the platform, they *rarua* you *vibaya sana*. The issue of "*Kieleweke*" and "*Tangatanga*" becomes a challenge.

The Deputy Speaker (Sen. (Prof.) Kindiki): It is actually an act of courtesy. As I said, the Senator does not need to attend because they could be engaged elsewhere or could have had prior things. Sometimes it is impossible to be present to host visitors all the time. However, it is not good manners to go to a colleague's jurisdiction and they are not aware. That is not healthy.

Sen. Malalah: On a point of order, Mr. Deputy Speaker, Sir. I would like to join my colleague, Sen. Ochillo-Ayacko, on the same because some of us have presidential ambitions and traverse the whole country. Therefore, it is cumbersome to contact every Senator for every county we visit.

For example---

The Deputy Speaker (Sen. (Prof.) Kindiki): Did you say it is impossible to contact every Senator?

Sen. Malalah: It is cumbersome. Many of us, like my colleague Sen. Wetangula, aspire to be president. He has been in Kakamega several times without contacting anyone. I think it is not---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order Sen. Malalah! Do not try to belittle this matter. The Chair was not cracking a joke. Let me repeat. We have our own traditions and protocols and we respect others. It is not just about Kenya but all over the world. Any time you visit your colleague's jurisdiction, it is good manners to inform them. We should not stretch it beyond that because it is good manners that they know.

Just imagine if there is a president of a foreign country on holiday in some corner of this country but the President of this country does know.

Sen. Wetangula: On a point of information, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): I will allow Sen. Wetangula to say something because he seems to be having information. Who are you informing?

Sen. Wetangula: I want to inform the House.

Mr. Deputy Speaker, Sir, as a matter of international protocol, under the Geneva Conventions, if, for example, the President of Kenya is on a trip to London from Nairobi, when he flies over South Sudan, he has to send a message to his counterpart that he is passing over his territory. When he flies over Egypt, he has to do the same. As a head of

state, one is obligated as a matter of international protocol, good behaviour and manners, to do that in every other country they overfly. If it can happen to heads of states, who are we as lesser mortals not to inform each other as Senators?

The Deputy Speaker (Sen. (Prof.) Kindiki): That is the former Minister of Foreign Affairs speaking. Thank you, Sen. Wetangula.

Let us not stretch this matter beyond that point.

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

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Pareno, is it a unique point of order?

Sen. Pareno: Yes, Mr. Deputy Speaker, Sir. Earlier on, you had rightly advised that when a matter is before a committee, they should inform the elected Senator. In some of the counties, there is more than one delegate. For example, Kajiado County has three. We will be discriminating against nominated Senators---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Pareno. Being a lawyer, I am sure you have read the Constitution. If a county has more than one Senator, the Constitution says there is the head of delegation, who is the elected Senator, and Members of the delegation who are nominated Senators. Once the head of delegation has been informed, it is upon them to do housekeeping. You cannot impose that to chairpersons of committees. The converse is that it is also not right for a committee or a chairperson to inform a Member of a delegation when the head of the delegation is not aware. It is a straightforward matter.

If you plan to visit Nyandarua County, for example, it does not matter whether there are 10 Senators from the county. The head of delegation is Sen. Mwangi. Once he is informed, it is up to him to do internal housekeeping. As a head of a delegation, it is also good manners to inform your colleagues because when it comes to voting and you are not available, you rely on them to stand in for you. Therefore, it is good practice that they know.

On that note, that matter lies there.

Sen. Poghio: On a point of order, Mr. Deputy Speaker, Sir. You have brought this matter to a close but I have something to say. The Secretariat of the committees should write to inform every Senator from the respective counties because chairpersons might forget. If they organise trips, obviously there are elaborate arrangements. Therefore, they should be invited.

For example, West Pokot County has been visited under very interesting circumstances. We have cases where committees that are supposed to deal with roads end up dealing with health matters when they visit a county. They should always inform the Chairpersons of the relevant Committee on what they intend to do.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. I am sure that every Committee knows their mandate and they should stick to their mandate. You can only collaborate with the other Committees if the House, through the Chair, requests Committees to work together on certain related matters. If you are visiting a different county, just inform your colleague. It is a straight forward matter. If the Senator is out of the country and unreachable, just send them a text message. In that case, there will be evidence that you sent a message.

Could we hear from the Chairperson of the Committee on Education, Communication and Information Technology? He is not present. Proceed, Sen. (Prof.) Ongeru.

ACTIVITIES OF THE COMMITTEE ON EDUCATION

Sen. (Prof.) Ongeru: Thank you, Mr. Deputy Speaker, Sir. I rise Pursuant to Standing Order No. 51(b) to make a Statement on the activities of the Standing Committee on Education for the period commencing 1st January to 30th June, 2019.

During the period under review, the Committee held a total of 18 sittings, considered one Petition, one Motion, 23 Statements and has undertaken county visits to two counties namely, Wajir and Uasin Gishu. The Committee also held two engagements with stakeholders. In the period under review, there were no Bills referred to the Committee.

Regarding Statements, pursuant to Standing Order No. 48(1), 23 Statements were referred to the Committee during the period under review. We have received 20 responses from the Cabinet Secretary (CS) to the statements sought. While considering the responses received, the Committee found some of the responses to be inconclusive while others elicited supplementary questions.

The Committee has, therefore, invited the CS to a meeting with the Committee on 4th July, 2019, that is today. The Committee shall extend an invitation to all Senators to the meeting. We actually had that meeting today morning. It was an elaborate meeting and it went on for almost three hours. We went through the issues that have been raised by the Senators.

One of the Statements requested of the Committee was on the alarming rate of teenage pregnancies in schools, which was requested by Sen. Khaniri. Pursuant to Standing Order No. 216 of the Senate Standing Orders, the Speaker allowed the Committee to jointly consider the Statement together with the Standing Committee on Labour and Social Welfare. The Committees engaged various stakeholders on 13th March, 2019 and will be tabling a report on their finding in the Senate. We went through that Statement during our meeting today and we will be incorporating part of the additional responses to the Plenary.

The Committee also considered a Statement requested by Sen. Wetangula on the digital literacy program. In so doing, it emerged that this program had been moved from the Ministry of Education to the Ministry of Information and Communication, which organised an awareness workshop for parliamentarians on the Digital Literacy Program from 9th to 10th May, 2019 in Eldoret.

The visit included a tour of the factory where the laptops are assembled and visits to some schools where the Digital Literacy Program had been rolled out. The Committee established that the program had not been implemented in most schools and that generally, the program had not been well executed. Further, few teachers had been trained on the subject and most of the gadgets were faulty and there were few officers available to repair them.

Mr. Speaker Sir, in the period under review, the Committee considered one Petition by Dr. Erick Kinyanjui concerning the review of the basic education curriculum framework by the Ministry of Education which was committed to the Committee on 27th March, 2019. The Committee held a meeting on 16th May, 2019 and resolved to invite the Petitioner, the CS and the Kenya Institute of Curriculum Development on 4th July 2019 to further consider the Petition. The Petitioner and the CS appeared today and we will be giving an additional report on this particular Petition.

With respect to county visits, as Hon. Senators will recall, following a Motion to assess the status of education in the northern Kenya region by Sen. (Dr.) Ali, who is also a Member of this Committee, the Senate resolved that our Committee should inquire the challenges facing the education sector. The Committee, therefore, undertook a County visit to Wajir County on 1st April, 2019. During the visit, the Committee visited various learning institutions such as Wajir School for the Deaf, Wajir High School, Furaha Day Secondary School, Hodhan Model ECDE Centre, Alfurqan Private School (Primary and Secondary) and Wajir Vocational Training Centre.

During the visit, the Committee held a meeting which brought together all key education stakeholders in the County and that was a lovely session. We engaged the public and the key stakeholders. Among the few key findings was that there was need to sensitize all stakeholders on the new Competence Based Curriculum. It was also established that there were inadequate teaching and learning materials in most learning institutions, shortage of infrastructural and sanitation facilities and shortage of teaching staff. The Committee is finalizing its report for tabling in the Senate.

In the period under review, our Committee experienced challenges occasioned by the transition in the Ministry of Education, Science and Technology from the former CS, Amb. Amina Mohammed to the current CS, Prof. George Magotha. The transition adversely affected the execution of our Committee's work, particularly with regard to Statements requested by the Committee. I am happy to report that we have now scheduled a meeting with the CS to address the outstanding business, which we did today.

In the new quarter, our Committee will be interrogating the following matters-

(1) The status of implementation of the 100 per cent transition policy from primary to secondary schools.

(2) The new Competence Based Curriculum.

(3) Assessment of the status of education at ECDE and Polytechnic level through county visits.

Thank You.

(Sen. (Prof.) Ongeru laid the document on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. We will hear from Sen. Ochillo-Ayacko. Please be very brief. There are many Statements to be read today.

Sen. Ochillo-Ayacko: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I support this Statement. The Committee on Education is doing a tremendous job and they deserve accolades.

In their next Session they should look at university courses. There are many parents who are spending a lot of money paying school fees for engineering courses that are not accredited. I have in mind the Technical University in Mombasa. There are many parents who have students in first, second and third year who do not know whether at the time their children graduate, they will be accredited. I want to encourage them to look at everything and this in particular.

I beg to support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you. I am sure the Committee has noted.

Sen. Mwaruma: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. The Senate Committee on Education is doing a very good job. However, up to now, there is a Statement which I have not received the response to. I requested it in February or March--.

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

Sen. Mwaruma: It is about the appointment of a Vice-Chancellor for Taita Taveta University.

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed, Sen. (Prof.) Ongeri.

Sen. (Prof.) Ongeri: Mr. Deputy Speaker, Sir, that Statement on the appointment of a Vice-Chancellor was on the schedule for discussion this morning. Unfortunately, the agenda was so long that we were not able to reach there in good time. We have already invited the Cabinet Secretary (CS) for Education Prof. Magoha to appear before us again within a short period of time. We will be giving him the time when he will appear again to prosecute that matter.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Mwaruma what is it again?

Sen. Mwaruma: Mr. Deputy Speaker, Sir, when the CS and his officers came here today, I had a chance of checking with the Clerk of the Senate if that Statement has had a response. The truth is that up to now, it is indicated that there is no response.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator. The Chairperson has told the House that they had wanted to have the matter dealt with but the agenda was too long and it will be dealt with in the next meeting. That is what the Chairman has said very clearly.

Senators, I think we will not take all the observations and comments because we have so many Statements today as this is the end of the quarter. The Statement Hour is almost two-thirds gone. Therefore, unless it is something burning, I will have to dispense with the Education, Communication and Information Technology Committee.

(Interruption of debate on Statement)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATIONS FROM VARIOUS SCHOOLS

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, allow me to recognise visitors who are students and teachers from three schools who are in the Public Gallery at the moment. These schools are-

1. Kiwanja Ndege Primary School, Laikipia County.
2. Mt. Kenya Academy, Nyeri County.
3. Nyakiambi Girls' School, Nakuru County.

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

Thank you.

(Applause)

Very quickly, for one minute let us have the Senator for Laikipia County.

Sen. Kinjua: Asante sana, Bw. Naibu Spika. Ningetaka kujumuika na wewe kuwakaribisha wanafunzi wote walio katika Seneti yetu. Shule ya Msingi ya Kiwanja Ndege imebobeza sana na tunatarajia kwamba itaenda mbali. Wamebobeza na kuendelea kufanya vizuri. Wazazi pamoja na wanafunzi ni watu waliojitolea mhanga. Kwa hivyo, sisi tunawategemea wale wanafunzi na ninajua watakuwa viongozi wa kesho.

Ninataka kuwaambia wanafunzi wa Shule ya Msingi ya Kiwanja Ndege kwamba mmekuja hapa, mkaona vile ambavyo viongozi hapa Seneti wanavyojadili kwa weledi wa hali ya juu.

Nawatakia kila la heri kwa masomo yenu. Muweke masomo mbele kwa sababu masomo ndio uti wa mgongo wa maendeleo katika nchi yetu.

Bwana Naibu Spika wetu ambaye yuko hapa, ni mtu aliyebobeza. Mkibobeza mtakuwa Spika na hata Rais. Sisi tunawatakia kila la heri na mkirudi nyumbani msalimie wenzenu na muwaambie yale mliona.

Asante.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. The Senator for Laikipia County is perhaps the only Senator outside the coast region who addresses this House in very fluent Kiswahili and English.

(Laughter)

Senator for Nyeri, would you want to say something? Pupils are here from Mt. Kenya Academy in Nyeri County. One minute.

Sen. (Eng.) Maina: Thank you, very much Mr. Deputy Speaker, Sir. I have noted and I am happy that even Kiwanja Ndege Primary School in Laikipia has come here and we have Mt. Kenya Academy in Nyeri. Keep up your good work.

Mt. Kenya Academy is one of the best schools in this Republic. It was started by a family of a Mr. Mwangi. It has excelled in this country and has enrolled many pupils. I

would like to note that the pupils of Mt. Kenya Academy come from other areas apart from Nyeri County. This school admits pupils from all over Kenya and all tribes in this country. It is a multi-ethnic school because in Nyeri, we believe in co-operating with others.

We are extremely proud of this school. I wish the students keep up that banner. We in Nyeri will do all that is necessary to assist these pupils to achieve their goal. One day they should be in this House articulating the issues of Nyeri and Kenya at large.

Sen. Kihika: Thank you, Mr. Deputy Speaker, Sir. I also rise to welcome the students from Nyakiambi Girls' Secondary School, Nakuru County as well as the ones from Laikipia and Nyeri. As you visit us here today, I hope you are inspired to dream that once you are done with school - I am sure you will work very hard to perform very well - you will then become anything that you would want to become; from the President of this Republic, a Senator, doctor, lawyer, engineer, teacher or any other career you would want to pursue.

Mr. Deputy Speaker, Sir, I think we heard the Report from the Senate Committee on Education presented by Sen. (Prof.) Ongeru and we are all concerned about the stability of our education system. We need to know what to expect and what is going on.

The students and teachers need to understand at what point the examinations will be carried out and what the curriculum is. By just hearing that the Senate Committee on Education is doing its part in making sure that we establish that, I am happy to be welcoming students and hopeful that we shall continue with an education system that is up to standard.

Thank you.

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

Let us have Statement (d) from the Chairperson, Senate Committee on Energy. Please Chairpersons, we need your co-operation. Keep it short because we have so many Statements on the Order Paper today.

(Resumption of debate on Statement)

STATEMENT

ACTIVITIES OF THE COMMITTEE ON ENERGY

Sen. (Eng.) Maina: Thank you, Mr. Deputy Speaker, Sir. I rise, pursuant to Standing Order No. 51(1) (b) to make a Statement on the activities of the Senate Committee on Energy for the period commencing January to 30th June, 2019.

During this period under review, our Committee had a total of 10 Sittings, considered six Statements, made several inquiries and undertook two county visits.

Regarding Statements pursuant to Standing Order No. 48(1), the following six Statements were requested for Committee during the period under review-

(a) Vandalism of electricity transformers serving schools and community projects in Kajiado County, which was requested by our Vice-Chairperson, Sen. Seneta.

(b) Constant power rationing and blackouts in Wajir County, which was requested by Sen (Dr.) Ali.

(c) Power purchase agreement between Lake Turkana Wind Power Company Ltd and the Government of Kenya, which was requested by Sen. Wetangula.

(d) The oil spillage that occurred in Kiboko area, Makueni County, which was requested by Sen. Mutula Kilonzo Jnr; and,

(e) The Status of the *Gas Yetu* Project – The Mwananchi Gas Project – a Government project initiated by the Ministry of Petroleum and Mining, requested by Sen. Nyamunga.

Mr. Deputy Speaker, Sir, all the Statements were within the purview of the Ministry of Energy and the Ministry of Petroleum and Mining. The Committee has held several meetings with the Cabinet Secretaries (CSs) of the two Ministries to interrogate all the six Statements.

All Senators were invited to attend these meetings since the matters raised in the six Statements affected many counties and impacted negatively on the local economy, productivity and achievement of the Big Four Agenda.

In respect of the Statement sought by Sen. Seneta on vandalism of electricity transformers in Kajiado County, I am glad to report that following the intervention of our Committee, all vandalized transformers in Kajiado County have been replaced and electricity supply restored.

On the Statement sought by Sen. (Dr.) Ali on frequent power outage in Wajir County, I am equally glad to report that after the intervention of our Committee, a one-megawatt generator has been transferred from Garissa to Wajir County. In addition, repair has been undertaken on a one-megawatt diesel generator, and electricity supply was restored. The Committee noted that an upgrade of the Wajir Power Sub-Station is underway and is scheduled to be completed in June, 2019.

With regard to the Statement sought by Sen. Wetangula on the power purchase agreement, the Committee is in the process of scrutinizing various agreements. Preliminary interrogation of the matter indicated that the Government may have lost some money due to payment of penalties as a result of delays in commissioning the transmission lines.

With regard to the Statement sought by Sen. Mutula Kilonzo Jnr., on oil spillage in Kiboko area, the Committee visited the site on 3rd June, 2019, to review the status of the spillage before interrogating the matter.

Currently, the Committee is interrogating the responses received from the Ministry of Petroleum and Mining, Ministry of Water and the Ministry of Environment and Forestry with their State agencies to agree on the way forward. I must add that this is a matter of very serious concern since it involves a new pipeline built recently at a cost of Kshs50 billion. The Committee is actively concerned with the state of affairs, and we are going further to ensure that things will be put in order.

With regard to the Statement sought by Sen. Nyamunga on the status of Gas Yetu – the Mwananchi Gas Project – the Committee set up a meeting on 3rd July, 2019, with the CS for the Ministry of Petroleum and Mining, to deliberate on the Statement. We had this meeting yesterday, and I am glad that Sen. Nyamunga had time to attend. We

interrogated the issues and agreed that the project must be actualised and put back on track.

In the next two weeks, we will be having the way forward from the Ministry on how they will ensure that this project is actualized, and reaches the ordinary *mwananchi*.

Mr. Deputy Speaker, Sir, in the course of exercise of its oversight mandate in the period under review, the Committee held consultative meetings with the CS and Principal Secretary (PS) for the Ministry of Mining and Petroleum; the Acting Managing Director of the Kenya Pipeline Company (KPC); and the Director-General of the Energy Regulatory Commission (ERC) on the emerging issues. The following findings were made-

(1) On the status of insurance covers at the KPC, the Committee established that the Company has insured its assets to the tune of Kshs.136 billion.

(2) Regarding the operations of the Mombasa-Nairobi Pipeline, the Committee established that the pipeline is in operation, and the first product arrived in Mombasa on 30th June, 2018. The pipeline has improved supply, with a flow rate of one million litres per hour, and was reported to be making profit.

The Committee noted that the pipeline has an increased operational efficiency, reduced power costs, lower maintenance costs and reduced demurrage costs by 56 per cent at the Port. The Committee, however, noted that the main challenge with the pipeline is that it has been installed without a leak detector.

We are following up on this issue to ensure that a leak detection system is put in place so that an incident like the one which happened in Kiboko does not occur again. On this matter, we are extremely concerned, as a Committee, because we still remember the incident of Sinai, and we would wish that these leak detection systems are installed on all pipelines to ensure no such incidents occur again.

(3) On the status of the Kisumu Oil Jetty, the Committee noted that the project is complete and awaiting commissioning in June, 2019. The Committee, however, established that the operation of the facility will depend on the completion of similar facilities in Uganda and Rwanda.

Mr. Deputy Speaker, Sir, this will ease the transportation from Kisumu City to Uganda rather than trucking by road.

(4) With regard to the status of Ethics and Anti-Corruption Commission (EACC) investigations at the KPC, the Committee was informed that 18 employees of KPC were charged in court in December, 2018, in relation to procurement of hydrant valves. The matter is still in court.

(5) On allegations on vanishing jet fuel, the Committee established that contrary to the allegations of vanishing jet fuel, no fuel had vanished and the matter was concluded.

(6) With regard to oil spillage and pilferage, the Committee established that Line One is 40 years old, and has outlived its useful life of 25 years. The high soil salinity in the eastern region has impaired the integrity of the aging line. Claims on the spillage and pilferage were made to the insurance company with little success. The Committee noted that a forensic audit is ongoing on the matter and required the KPC to hire the services of a loss adjuster.

Mr. Deputy Speaker, Sir, this is the issue of pilferage of fuel. Stealing of actual fuel has been a constant concern to our Committee, and we keep following up on this issue. You will remember that there was some theft in Kisumu and recently at Mlolongo, and nobody knows if any other theft is occurring. I must tell this House that this is an inside job, because it needs specialized expertise. Nobody can go to get petroleum from a pipeline, unless he is a technical man who knows what to do.

(7) Regarding the installation of leak detectors, the Committee noted that there has been a prolonged procurement process of the leak detection unit, and that a court case had been lodged in 2016.

Austerity measures in the Financial Year 2018/2019 delayed the procurement further. The Committee established that tender documents have been prepared for procurement in the Financial Year 2019/2020.

Under operations of Kenya Petroleum Refineries Limited (KPRL), the Committee noted that the Government of Kenya had acquired a 100 per cent shares in the refinery. The Cabinet directed that the Kenya Pipeline Company (KPC) take over the management of the KPRL. The Committee observed that KPRL has been storing the crude oil from the Turkana Wells at their Changanwe facility.

The cause of the rising cost of petroleum fuels in Kenya has been another staking point for us. This is because the cost of fuel affects everything. *Wananchi* are crying because of the high cost of living. My Committee is concerned by how the cost of fuel can be brought down. Therefore, the Committee noted that Kenya currently sources a 100 per cent of the petroleum products from the international market which plays a fundamental role in the determination of the final prices of the refined product and that the trend of the local prices reflects with great accuracy the trend in the international market.

Since 2016, the Committee receives a quarterly reconciliation report between the Energy Regulation Authority (ERA), KPC and the oil marketers that guide the Authority to verify the losses before payment.

Mr. Deputy Speaker, Sir, during the period under review, no Bills or Petitions were referred to our Committee.

In executing its mandate, the Committee noted a number of challenges that generally affect the energy sector and the operation of the Committee. Some of the challenges and proposed recommendations are-

(i) The numerous court cases on procurement of goods and services such as the leak detection unit *et cetera*. For example, the Lake Turkana Wind Power (LTWP) implementation project which has also been has also been logged with some court cases.

On this, the Committee urges the courts to expedite pending court cases and those found culpable be held personally responsible.

(ii) The Committee was also faced with the challenge of non-submission and late submission of documents by the Ministries.

(iii) Another challenge which the Hon. Senators are aware of that our Committee encountered was the mis-application and mis-interpretation of the *sub judice* rule by the Cabinet Secretaries (CSs) to try and evade answering questions. However, we keep on pushing and we are overcoming this.

Mr. Deputy Speaker, Sir, as I conclude, in the half year, the Committee proposes to focus and pay special attention to the two Statements sought by Sen. Mutula Kilonzo Jnr., and Sen. Nyamunga that are yet to be finalized, the LTWP in Marsabit County, oil sites in Turkana County and geothermal wells in Nakuru County.

Mr. Speaker, Sir, as I had mentioned, my Committee is particularly concerned on how fuel prices can be contained or brought down. This is because it has a serious effect in the economic development of this country.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. (Eng.) Maina.

We still have quite a few other Statements. Chairpersons, it is your report. You must have internalized it. So, be brief. In any case, you are tabling the report. So, give us the highlights.

Sen. (Prof.) Onger: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it Sen. (Prof.) Onger?

Sen. (Prof.) Onger: Thank you, Mr. Deputy Speaker, Sir. I had the privilege of being the Director of KPRL in Mombasa when they had the shareholders (a) and (b). The raging controversy at that time was the inefficiency of the petroleum company at that stage to process through-put that was coming through occasioning tremendous loss through the transmission lines between Mombasa and the oil refineries tank in Nairobi.

One, now that the Committee went to the refinery, have they improved the inefficiency of that refinery? One of the worries is the question of the cost of refining the crude product. Two, have they put sensors in the transmission line so that they are able to detect any leakage along the line so that we are spared the kind of headache that we saw in Makueni where there was so much spillage of the crude oil and the petroleum products to the soil without any benefit accruing to the people of Kenya?

The Deputy Speaker (Sen. (Prof.) Kindiki): Chairperson, you do not have to respond. Take note of those concerns.

(Sen. (Eng.) Maina stood up in his place)

Order, Sen. (Eng.) Maina, you have heard what Sen. (Prof.) Onger has said. If he wants to bring a Statement, he can do so. However, normally, what you are engaged in is not like a question and answer exercise. You report, and then a Senator can give a comment or an observation. It is not to seek a Statement.

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, I just---

The Deputy Speaker (Sen. (Prof.) Kindiki): What do you want to do?

Sen. (Eng.) Maina: I want to give him accurate information.

The Deputy Speaker (Sen. (Prof.) Kindiki): This is not the time. He just made some comments and raised some issues. You can engage him over tea. If he really feels that it is something that requires a request for a Statement, he knows what to do. It is so ordered.

Sen. (Eng.) Maina: The refinery is not working.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Prof.) Onger, now you know that the refinery is not working.

Sen. (Eng.) Hargura: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Eng.) Hargura, do you want to make a comment?

Sen. (Eng.) Hargura: Yes, Mr. Deputy Speaker, Sir. I commend the Chairperson of the Committee on Energy in the way they handled the issue of the LTWP. This is where the CS was trying to completely avoid answering questions.

Sen. Wetangula and I have looked at whatever answers that they gave. I commend the Chairperson for saying that there might have been some loss and that needs to be investigated further.

The Deputy Speaker (Sen. (Prof.) Kindiki): Chairperson Committee on Finance and Budget, please give the highlights. We are running short of time.

ACTIVITIES OF THE COMMITTEE ON FINANCE AND BUDGET

Sen. (Eng.) Mahamud: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.51 (1) (b) to make a Statement on the activities of the Standing Committee on Finance and Budget for the period commencing 1st January to 30th June, 2019.

During the period under review, the Committee held a total of 33 sittings, considered three Bills, two Petitions and four Statements. The Committee also held three engagements with stakeholders and held three public hearings.

In respect of Bills, the Committee considered the following two Bills and tabled reports in the Senate-

(a)The County Wards (Equitable Development) Bill (Senate Bills No. 34 of 2018);
and

(b)The Division of Revenue Bill (National Assembly Bills No. 11 of 2019).

The Division of Revenue Bill was passed by this House with amendments. However, it was rejected, there was mediation and now there is total failure. I gave a comprehensive report on this matter yesterday.

The Committee also considered The Public Finance Management (Amendment) Bill (Senate Bills No. 3 of 2019), conducted public hearing and is considering its report for tabling in the Senate.

Mr. Deputy Speaker, Sir, additionally, pursuant to standing order 126 of the Standing Orders of the Senate, the Committee considered at pre-publication stage, a legislative proposal on amendments to the Public Finance Management Act by Sen. (Dr.) Agnes Zani as well as a legislative proposal on the Prompt Payment Bill by Sen. Farhiya Ali.

Mr. Deputy Speaker Sir, regarding Statements, pursuant to Standing Order No.48(1), four Statements were referred to the Committee during the period under review. The Statements were sought by Sen. Fatuma Dullo concerning pending bills owed by Isiolo County, Sen. Ochillo-Ayacko concerning loss of financial and procurement records of Migori County Government Executive, Sen. George Khaniri

regarding additional charges levied on the residents of Nairobi City County seeking rate clearance certificates from the Nairobi City County Government and Sen. Abshiro Halake regarding the issue of zero-rating of duty and VAT on locally manufactured menstrual hygiene products. The Committee is considering the matters raised and will table a report once the matter is concluded.

With regard to Petitions, the Committee considered two Petitions. The first Petition was by Sen. Mwaura, on behalf of the petitioners, on Issuance of Kenya Currency Usable by Blind and Visually Impaired Persons. The Committee considered the Petition and recommended that the Central Bank fast-tracks the release of the new generation currency which is usable by the blind and visually impaired persons. I am happy to report that since then, the new currency has been launched and released into circulation

Mr. Deputy Speaker, Sir, the second Petition was by Sen. Enoch Wambua on behalf of a group of contractors from Kitui County. The petition was on non-payment of suppliers by the Kitui County Executive for services rendered. The Committee is considering the Petition and has met with the Petitioners, Kitui County Government Executive and Ethics and Anti-Corruption Commission (EACC). The matter is under consideration and a report will be tabled once it is concluded.

Mr. Deputy Speaker, Sir, in the period under review, the Committee considered the report of the Office of the Controller of Budget on the Review of County Governments Budget Implementation for Financial Year 2017/2018. The Committee tabled its report which was adopted by the Senate. The Committee also considered the addendum to the County Governments Cash Disbursement Schedule for Financial Year 2018/2019 and tabled its report which was adopted by the Senate. This was in respect to provisional grounds which came later after the budget.

The Committee considered the 2019 Budget Policy Statement and the Medium-Term Debt Management Strategy and tabled its report. This report was considered and approved by the Senate.

In one of the resolutions, the Senate directed the national Treasury to submit to the Senate the national policy to support enhancement of the County Governments' Own Source Revenue.

Mr. Deputy Speaker, Sir, I wish to confirm that the national Treasury has submitted the policy to the Senate. My Committee is considering the policy and has also initiated the necessary engagements with relevant stakeholders.

The Committee has planned to undertake the following key activities in the next half year period-

(a) Consideration of the County Allocation of Revenue Bill (Senate Bills No. 8 of 2019).

(b) Consideration of the criteria/basis for allocating among the counties the share of national revenue allocated to the county level of government.

(c) Consideration of various proposals submitted by different stakeholders on provisions of the Public Finance Management Act, 2012 that require to be revised through necessary amendments.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Dr.) Zani, you have one minute to give your observation.

Sen. (Dr.) Zani: Mr. Deputy Speaker, Sir, I would like to commend the Committee on Finance and Budget for the work that they do. You can see the systematic way in which they have been conducting their affairs. They considered a lot of business that goes into that particular Committee and specifically the way they have dealt with the Division of Revenue Bill (DoB) and the Division of Revenue Act (DoRA).

The policy that they have mentioned for own-sourced revenue is going to be critical because it is a hot issue that is coming up across the counties. Bringing together all the stakeholders and talk to them so that they come up with a proper scheme on how to manage own source revenue, especially at the county.

A report that was recently shared revealed that in some counties we have up to 11 systems of monitoring own-sourced revenue within the county. There is clearly a problem. We will end up with a scheme where we have overall one methodology and format followed by the other. I commend the Committee on Finance of Budget for the report.

The Deputy Speaker (Sen. (Prof.) Kindiki): Chairperson of the Committee on Health, kindly proceed to give your Statement.

ACTIVITIES OF THE COMMITTEE ON HEALTH

Sen. Were: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.51 (1) (b) to make a Statement on the activities of the Standing Committee on Health for the period commencing 1st January to 30th June, 2019.

Mr. Deputy Speaker, Sir, during the period under review, the Committee held a total of 16 sittings, considered three Bills, one Petition, two Statements and undertook county visits to three counties.

The Committee also held seven engagements with stakeholders and three public hearings to receive submissions from the public on three Bills.

In respect of Bills, the following were considered. The Committee held public hearings on-

(a) The Mental Health (Amendment) Bill, Senate Bills No.32 of 2018.

(b) The Kenya Medical Supplies Authority (Amendment) Bill, Senate Bills No. 38 of 2018.

(c) The Cancer prevention and Control (Amendment) Bill, Senate Bills No.9 of 2019.

Regarding the Health (Amendment) Bill, 2018 and the Kenya Medical Supplies Authority (Amendment) Bill, 2018, the committee considered the submissions made by the public and tabled Reports on each of the two Bills in the Senate on Thursday, 20th June, 2019.

With regard to the Cancer Prevention and Control (Amendment) Bill, 2019, the Committee received submissions from the public and shall be tabling its Report.

Mr. Deputy Speaker, Sir, regarding Statements, the Committee concluded its consideration of a Statement which had been sought by Sen. Samson Cherargei regarding

the expiry of drugs at the stores of the Kenya Medical Supplies Authority (KEMSA). The Committee received a response on the Statement sought by Sen. Charles Kibiru on the situation of health services in Kerugoya County Referral Hospital which it is considering before giving a response to the Senator.

With regard to Petitions, the Committee considered a Petition on the agreement between the County Government of Isiolo and Living Goods Limited for the provision of community health services in Isiolo County and tabled its report on the Petition on 27th March, 2019.

Mr. Deputy Speaker, Sir, in respect of county visits, the Committee undertook County visits to Kitui, Machakos and Kajiado counties. During the visits, the Committee inspected health facilities at the Kitui County Referral Hospital, Mwingi Sub-County General Hospital, Machakos Level 5 Hospital, Kangundo District Hospital and Kajiado Level 5 Hospital. A report on the visits will be tabled in the Senate.

Mr. Deputy Speaker, Sir, the Committee intends to carry out the following activities during the next quarter-

(i) Hold meetings to address the operations of KEMSA including its supply chains and the outstanding payments owed to KEMSA by various County Governments;

(ii) Hold meetings with the Ministry of Health to deliberate and chart a way forward regarding the budgetary allocation that is retained in the Ministry Headquarters yet health is a devolved function.

(iii) Hold meetings with the Council of Governors, the Ministry of Labour and necessary stakeholders with a view to addressing the welfare of health workers in the Counties.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is your point of order, Sen. (Dr.) Ali?

Sen. (Dr.) Ali: Thank you, Mr. Deputy Speaker, Sir. I also would like to add that the Committee visited West Pokot and Laikipia counties recently.

The Deputy Speaker (Sen. (Prof.) Kindiki): I hope you informed all the Senators. Sen. Mutula Kilonzo Jnr., you have one minute.

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, I was a little concerned that the Vice-Chairperson was seated there when the report was being read, but most substantively, on Kirinyaga, I am extremely concerned because what I have heard from the Committee about the situation raised by Sen. Kibiru, is not satisfactory.

Kirinyaga residents are suffering, hospitals are closed and doctors have been fired. This is a similar case with Laikipia. I am actually a little surprised that the Vice-Chairperson says that they visited Laikipia and the correct position is that 61 doctors, were fired by the Governor.

Mr. Deputy Speaker, Sir, I expected that we would have a more substantive statement on what exactly is ailing this industry and particularly, the functions of health. I raised this concern with Sen. (Prof.) Ongeru yesterday. It appears that if the Committee on Health does not put its foot down, Kenyans will start believing that the function of health should go back to the national Government.

I would have loved to hear a summary on the Report of the Health Laws (Amendment) Bills that were signed by the President. The Committee on Health should have raised a concern in their report because it happened during the quarter. It is something they should have raised substantively. Even if we were handling it at a different level, it should still have come as matter that should have concerned them about the Health Bill.

The Deputy Speaker (Sen. (Prof.) Kindiki): This is not the first time issues are being raised on the Committee on Health. Sen. (Dr.) Ali, you may now proceed.

Sen. (Dr) Ali: Thank you, Mr. Deputy Speaker, Sir. This morning, I did not attend the meeting of the Committee. The Committee agreed that Sen. Were will present this report today. It is not in bad faith that she did that.

The other issue is the two counties; Kirinyaga and Laikipia, which we visited both had labour issues. The labour issue does not only concern us. We went there because of medical issues but it should involve the Committee on Labour and Social Welfare, because these are issues of Collective Bargaining Agreements (CBAs) which we cannot solve alone.

We are trying our best and I hope the other committees will be ready and prepared to work with us on these issues.

The Deputy Speaker (Sen. (Prof.) Kindiki): Briefly, Sen. Ndwiga.

Sen. Ndwiga: Thank you, Mr. Deputy Speaker, Sir. I would have expected the Committee on Health to also tell us what is happening because we are seeing doctors being sacked every day. In cases like Kirinyaga County, where we have had a long running strike of doctors, that has very negative consequences on the neighboring counties like Embu. All the people from Kirinyaga have flocked to Embu for medical attention. The resources that we get are still the same. Most of them are being held because of the dollar business.

Mr. Deputy Speaker, Sir, we have a problem, we hope the Committee on Health will address those issues.

The Deputy Speaker (Sen. (Prof.) Kindiki): Committee on Health, you need to pull up your socks. Sen. Cherargei, approach the Chairperson. The Chairperson of the Committee on Agriculture, Livestock and Fisheries, please, present the highlights of your report.

ACTIVITIES OF THE COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

Sen. Ndwiga: Mr. Deputy Speaker, Sir, we have one of the shortest reports because we had an opportunity to give a report in April.

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.51(1)(b) to issue a Statement on the activities of the Standing Committee on Agriculture, Livestock and Fisheries for the period commencing 13th May to 30th June 2019.

Mr. Deputy Speaker, Sir, during the period under review, our Committee held a total of five sittings, considered two Bills, one Petition and seven Statements. The Committee also held one public hearing forum and one workshop.

In respect of Bills, the following are the Bills that were considered-

- (a) The Irrigation Bill (National Assembly Bills No. 46 of 2017).
- (b) The Control of Stray Dogs Bill (Senate Bills No. 4 of 2019).

With regard to the Irrigation Bill, 2017, the Committee considered the Bill and proposed a number of amendments which were considered and passed by the Senate. Hon. Senators will, however, recall that the Senate amendments to the Bill were rejected by the National Assembly, and the Bill was subsequently referred to mediation, pursuant to Article 113 of the Constitution.

The Mediation Committee, in which I served as Vice-Chairperson, came up with an agreed version of the Bill which is pending consideration before the National Assembly and the Senate.

On the Control of Stray Dogs Bill (Senate Bills No.4 of 2019), our Committee held a public hearing forum, and is currently considering the submissions received from the public. We shall be tabling the report once consideration of the submissions is complete.

Mr. Deputy Speaker, Sir, pursuant to Standing Order No.48(1), Statements were referred to the Committee during the period under review. The Committee held a meeting with the Cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries and Irrigation and his team on 29th May, 2019 with regard to three Statements which were sought by Sen. Moses Wetangula, Sen. (Prof.) Imana Ekal and Sen. Samson Cherargei.

The Committee held a similar meeting with the Cabinet Secretary in respect of two Statements that were sought by Sen. Mary Seneta, MP, on 4th June, 2019.

The other two Statements were sought by Sen. (Dr.) Alice Milgo and Sen. (Prof.) Margaret Kamar. The Committee met the Cabinet Secretary yesterday on 3rd July, 2019 and dealt with those statements.

Mr. Deputy Speaker, Sir, with regard to Petitions, the Committee is in receipt of one Petition concerning the challenges facing small-scale tea farmers in the Kenya which was committed to the Committee on 18th June, 2018.

Mr. Deputy Speaker, Sir, my Committee held a follow-up meeting with stakeholders of the Galana Kulalu Irrigation Scheme Project on 21st May, 2019 to chart a way forward for the completion of the project. This meeting was attended by the Ministry of Agriculture, Livestock, Fisheries and Irrigation, the National Irrigation Board, the Green Arava Company Limited and the office of the Attorney-General.

The Committee has requested for a special audit of the project since its inception. This matter is still actively before our Committee and we shall be tabling a full report in the Senate once we have concluded consideration of the matter.

Mr. Deputy Speaker, Sir, the Committee held a workshop with the Ministry of Agriculture, Livestock and Fisheries, on the proposed amendments to the Crops Act, 2013 on 21st June, 2019.

Following a county visit to the South Nyanza Sugar Company Limited on 1st March, 2019, the Committee held a follow up meeting with the Company's Board and Management on 6th June, 2019. At this meeting, it emerged that a major challenge facing the company is cane poaching and delays in annual plant maintenance valued at Kshs400 million due to lack of funds.

Mr. Deputy Speaker, Sir, going forward, the Committee intends to carry out the following key activities during the next quarter-

(a) Publication of a Bill to amend The Crops Act, 2013 so as to unbundle the regulations and management of major crops that fall within the ambit of the Agriculture and Food Authority (FAO) and establish stand-alone agencies for their regulations.

(b) Hold a meeting with the Ministry of Agriculture, Livestock and Fisheries and the Privatization Commission to establish the roadmap towards the privatization of the Kenya Meat Commission and sugar companies and transitional arrangements for the same.

(c) We intend to hold a follow-up meeting with the South Nyanza Sugar Company Limited to come up with a roadmap for the company to ensure that it remains viable.

Sen. (Dr.) Milgo: Mr. Deputy Speaker, Sir, as I rise to support the Statement, I also want to congratulate the Chairperson of the Committee on Agriculture, Livestock and Fisheries. He is a wonderful Chairperson having served as the Minister for Cooperative Development and Marketing in the past.

Yesterday I attended a meeting where they had summoned the Cabinet Secretary (CS) for Agriculture and Irrigation. During the meeting, I discovered many things which have been engineered by the Committee and are ongoing. At this particular moment, this country is yearning to be food secure. I encourage them to continue with the spirit.

The Deputy Speaker (Sen. (Prof.) Kindiki): He is so congratulated. Let us now have Sen. Cherargei to seek a statement.

(Sen. Mutula Kilonzo Jnr. spoke off record)

Order, Sen. Mutula Kilonzo Jnr.! You are speaking like somebody in the marketplace. It is not about what you want or wanted to do.

Proceed, Sen. Cherargei.

DISPLAY OF FORCE WITH IMPUNITY
BY THE STATE AND ITS ORGANS

Sen. Cherargei: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.47(1) to seek for a statement. For months, weeks and days, this country has been treated to unending display of force with impunity by the State and its organs, from arbitrary arrests to withdrawal of security of leaders and open humiliation of leaders perceived to be against the establishment. This country is evidently treading on a path not intended by the drafters of the Constitution of Kenya.

This House has a duty to stand and speak out when the National Police Service (NPS), which is a creation of the Constitution, deviates from its objects and functions which are enumerated in Article 244 of the Constitution, which is the supreme law of the land. We took an oath to defend the Constitution. We are particularly under obligation to speak out when basic human rights enshrined under the Constitution are blatantly violated.

The security details of some of our colleagues in this House like Sen. Kihika of Nakuru County were withdrawn. It also happened to some Members of the National Assembly and governors where in some cases it was indefinitely and in others temporarily. To date, the country has never been given satisfactory justification for the monkey games.

The right to protection by the State for all citizens, including their leaders, is firmly anchored in our Constitution. The state should, therefore, be asked to be responsible whenever it acts as though security is a favour extended to only those who play ball. A level of certainty and prediction in our security must be observed because that is professionalism required from the police under Article 244 of the Constitution.

With impunity currently reigning, none of us is sure when and how our security details shall be withdrawn. I am not sure I will find my security officers when I step out of Senate Chamber after reading this Statement. However, as a Senator and the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, I will not shy away from the duties required of me by my Committee, colleagues, the people of Nandi County and Kenyans at large.

Mr. Deputy Speaker, Sir, nine years after the promulgation of the new Constitution, the country's police service is now a secret weapon being used to suppress the freedom of activists, citizens and politicians perceived to be anti-establishment. We have seen bloggers like Robert Alai, Dennis Itumbi and others being arrested.

The police officers in this country conduct arrests due to amorphous charges at the instructions of their seniors and not on the strength of the evidence collected. The show of unpreparedness and sheer malice is manifested by the amount of time taken to conclude investigations. The number of days taken to carry out investigations is extremely ridiculous. That is against Article 49 of the Constitution which details the rights of the accused person.

Mr. Deputy Speaker, Sir, I am not ashamed to say that the Directorate of Criminal Investigations (DCI) inefficiently deals with the matters. We know what has happened on a number of occasions, including today.

I propose that this House, in the next 14 days, issue summons to the CS for Interior and Coordination of National Government, the Inspector-General of Police, Mr. Hillary Mutyambai, and the Director of Public Prosecutions (DPP), Mr. Noordin Haji to:-

(1) Explain the Government policy on the attachment of security details to its leaders and its recent action in that regard.

(2) Explain to the House the reasons for the State's unpreparedness when prosecuting matters that warrant police officers to seek for unreasonable long time to detain otherwise innocent citizens in this country.

I thank you, Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, I would like to say the following. The Chair has a difficult yet an important job of making sure we balance all our issues and interests within the time limits we have. As I have said, it is a difficult job, but also important because that is what makes the House to run. I say so, because I can see a number of Senators want to speak to the Statement. I can see more than five

requests by Senators who want to speak, but we do not have time. We are way past the Statements Hour.

I have noted that the Statement raises sensitive and important issues. I have also noted that Sen. Cherargei did not request the Chair to refer that matter to any Committee. However, I direct as follows. It will not be possible because of time limits to allow any further comments on what Sen. Cherargei has stated before the House. However, in order to entertain Senators who may be interested to pursue this matter further, I will exercise the powers under Standing Order No.47(3) which states as follows:-

“The Speaker may, where appropriate, refer a Statement made under Paragraph (1) to the relevant Committee for consideration.”

I direct the responsible Committee to take it up and report back within two weeks. During the consideration of this matter, I direct the Committee to engage with Sen. Cherargei who has sought the Statement and any other Senator who has some input and the report must be thorough. That requires engaging the highest level within the administration of the National Security, which includes the CS and the Head of Police who is the Inspector-General of Police.

It is so ordered.

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Deputy Speaker, Sir. As you have aptly put it, this Statement raises serious concerns and you have directed that certain people be summoned or brought to the Senate.

Yesterday, the Leader of Majority in the National Assembly made a certain statement which suggested that there are certain CSs who should not step in the Senate. If they do so, they will be subject to impeachment.

The Deputy Speaker (Sen. (Prof.) Kindiki): This House is not aware of those comments. The position is very clear and we should not waste time on it. On the contrary, any CS who refuses to honour the summons of this House will face dire constitutional consequences.

For the avoidance of doubt, we will not entertain academic and theoretical debates on who should appear where. The National Security function is not devolved. For example, Sen. Cherargei is talking about the security of governors and Senators. Let us not enter into an academic debate. I dare say that any Cabinet Secretary who wants to test the strength of the Constitution of Kenya, let them defy. We shall deal with them firmly, thoroughly and with finality.

Sen. Mutula Kilonzo Jnr, do not worry. What the Constitution has empowered us to do, we will do it very well.

Sen. Mutula Kilonzo Jnr: Thank you, Mr. Deputy Speaker, Sir. I am happy that you have issued a directive without me asking for it.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you very much. Very well, let us leave it there, hon. Senators.

(Sen. Cheruiyot stood up in his place)

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Cheruiyot?

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, I know that you have given guidance. However, for us to understand it better, listening to the matter that is being raised by our colleague, Sen. Cherargei, there are overlapping issues. You did not specify which Committee will listen to the issues. There is an element of security and trampling on human rights. Security is a human right. The people that he is talking about who are being hauled into courts and the State asking that they be kept or incarcerated for 14 days, that is violation of human rights.

In my opinion, and I seek your guidance, the more weightier issues in the Statement that Sen. Cherargei is raising, have to do with trampling of human rights. Will it be in order that you direct the relevant Committee that looks into issues of human rights in this House to keenly look into this issue?

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. Cheruiyot. It is true that there are human rights issues involved, but the core of this issue is about misuse of State power in provision of national security services. This is not a light matter.

I, therefore, direct the Committee on National Security, Defence and Foreign Relations to be the one to deal with this matter. It can have the input of the Committee on Justice, Legal Affairs and Human Rights. However, the matter resides squarely within the Committee on National Security, Defence and Foreign Relations.

(Sen. Ochillo-Ayacko stood up in his place)

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Ochillo-Ayacko?

Sen. Ochillo-Ayacko: Mr. Deputy Speaker, Sir, I am happy that you have pronounced yourself on the matter of the threatened disregard of invitations to come to the Senate. I want to just give this information. Today there was a meeting of the Committee on Security, Defence and Foreign Relations, but I noticed that the Cabinet Secretary concerned did not show up.

I have also noticed that in the Committee on Agriculture, Livestock and Fisheries and other Committees where I attend, there has been similar absence. My point is that the deliberate and willful absence of these invited officials is something that is recurring. It is reaching a level that it can be regarded as defiance or impunity.

I want to request your good office, as the Chair of Chairpersons, to invite our various Chairpersons. You should have dialogue and report on this matter with them, so that you become alive to the recurrence and prevalence of the kind of behaviour. This is because you are the repository of the authority of this House.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. Sen. Ochillo-Ayacko, this does not require a meeting of the Liaison Committee. It is a straightforward matter because it is a constitutional and legal issue. The Senate is not a Non-Governmental Organization (NGO), but a State organ. We are not involved in some charity or philanthropic activities around town. Therefore, I do not want to repeat what I have said.

I dare any State Officer who is courageous enough to defy this House on the advice of some stranger or fellow out there. Try what this House can do, and we will deal with them. If any Committee has any challenges in terms of securing compliance, the

Office of the Speaker will support as it should be. All the Committees of this House to discharge their legal obligations.

Sen. Mutula Kilonzo Jnr., again? Is it on a different issue?

LACK OF SUPPORT TO FAMILIES OF VICTIMS OF
THE ETHIOPIAN AIR CRASH

Sen. Mutula Kilonzo Jnr: Thank you, Mr. Deputy Speaker, Sir, for allowing me the opportunity. I raised this matter with you when I approached you about the directions you gave on the Ethiopian Airline issue. From the discussions that we have had, it is apparent that the matter needs to go to court and a declaration made; that those people are dead, a manifest is produced, so that death certificates can be issued. I am not certain whether you ought to give directions to that level.

Although you directed it to the Committee on National Security, Defence and Foreign Relations, I personally believe that it is a matter that should have been dealt with by the Committee on Justice, Legal Affairs and Human Rights Committee led by Sen. Cherargei. The only thing that has not been done is the declaration that those 33 Kenyans are dead, which happens in air crashes. This would, therefore, lead to faster production of death certificates.

Maybe that can help in either you giving further directions or directing the Committee, so that they do not take too long on a matter where Kenyans have suffered. They have no bodies, nobody to bury, and now they are being harassed. They do not know what to do about their loved ones. It is a very unfortunate incident. You being a teacher of Law, I believe that directive would help.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. Mutula Kilonzo Jnr. It is true that we had a discussion on this matter. There are a number of legal issues that have been brought to my attention after the directive I gave on Tuesday.

I have taken note of that point of order and will give a ruling on how to proceed on the Ethiopian Airlines Crash issue on Tuesday, next week.

Before we go to the next Order, let us have the Statement on the business for next week by the Senate Majority Leader. I am sure that should not take more than two minutes.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 9TH JULY, 2019

Sen. Kihika: Thank you, Mr. Deputy Speaker, Sir. This is a Statement by the Senate Majority Leader on the Business of the Senate for the week commencing 9th July, 2019, pursuant to Standing Order 52(1).

Hon. Senators, pursuant to Standing Order 52(1), I hereby present to the Senate, the business of the House for the week commencing Tuesday, 9th July 2019.

On Tuesday, 9th July, 2019, the Senate Business Committee (SBC) will meet to schedule the business of the Senate for the week. Subject to further directions by the Committee, the Senate will consider Bills due for Second Reading and Committee of the

Whole on Tuesday, 9th July, 2019. The Senate will also continue with the consideration of business that will not be concluded in today's Order Paper.

On Wednesday, 10th July and Thursday, 11th July, 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 29 Bills pending consideration by the Senate. Fifteen Bills are pending at Second Reading stage, while 14 Bills are pending at the Committee of the Whole stage. Additionally, there are a number of Motions lined up for debate.

In order to expedite their passage and ensure effective use of the time available to debate and conclude on them, the SBC resolved to prioritize Second Reading and Committee of the Whole stages on Bills on Tuesdays and Wednesdays and to undertake Divisions on Wednesdays. Motions have been prioritized for Thursdays.

As a result, I urge all respective Movers of Bills to be present during the Second Reading and Committees of the Whole stages and for Senators to be available when Divisions are scheduled for us to expeditiously transact the business.

I also take this opportunity to urge the Party Whips to ensure that the House has the requisite number to undertake Divisions.

Hon. Senators, you will note that the Senate has received a number of Petitions and Statements which were referred to Select Committees. I urge respective Committees to expeditiously conclude with pending Petitions and Statements before them.

Standing Order No. 51(1)(b) provides for quarterly reports to the House by Select Committees relating to their activities, including consideration of Bills, Statements and Petitions and inquiries undertaken. Before we proceeded on the short recess, the Senate Business Committee approved a schedule of reporting by Select Committees and the specific Committees to present reports are highlighted in the Appendix to the Order Paper for each sitting day. In this regard, I appeal to Chairpersons to prepare accordingly in order to utilize that mechanism optimally.

Mr. Deputy Speaker, Sir, I thank you and hereby lay the Statement on the Table of the Senate.

(Sen. Kihika laid the document on the Table)

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

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KABARE GIRLS
HIGH SCHOOL, KIRINYAGA COUNTY

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, we have visitors in the Public Gallery and we want to appreciate them. I would like to acknowledge the presence in the Public Gallery of visiting students and teachers of Kabare Girls High School, Kirinyaga County.

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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.

I thank you.

That brings us to the end of that particular Order which was long because we had many Statements. I am glad that we have covered a lot of ground. The Statements took long because of the quarterly reports that are substantive. Hon. Senators, you have done well this afternoon.

I now apply Standing Order No.40(2) and request that we call out Order No.6. When we exhaust that, we will go to Order No.8 then proceed as per the Order Paper.

Next Order.

NOTICES OF MOTIONS

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Ndwiga, do you have a Notice of Motion? The Mediation Report?

Sen. Ndwiga: Mr. Deputy Speaker, Sir, before I give the notice of the Motion, allow me to welcome the students from Kabare Girls High School. They are my neighbours at home. It is one of the schools in this Republic that has been doing well. It is a national school. On behalf of Sen. Kibiru of Kirinyaga County, I welcome them to the Senate.

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON THE IRRIGATION BILL, 2017

Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion-

THAT, the Senate adopts the Report of the Mediation Committee on the Irrigation Bill (National Assembly Bills No.46 of 2017) laid on the Table of the Senate on Wednesday, 3rd July, 2019, and pursuant to Article 113 of the Constitution and Standing Order 161(3) of the Senate Standing Orders, approves the mediated version of the Bill.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order. It is a notice of Motion. The next Notice of Motion is from Sen. Nyamunga.

ENGAGEMENT OF COMMUNITY HEALTH WORKERS BY COUNTY GOVERNMENTS

Sen. Nyamunga: Thank you, Mr. Deputy Speaker, Sir. I beg to give notice of the following Motion-

THAT, AWARE THAT county health facilities, and the promotion of primary health care are devolved functions, and each county government is striving to offer the best healthcare to the people of Kenya;

COGNIZANT THAT, the provision of healthcare services is continuously riddled with numerous challenges ranging from

understaffing of personnel to inadequate facilities and equipment resulting in congestion in hospitals further restricting effective service delivery;

NOTING THAT every Kenyan has a right to affordable and accessible healthcare, and the President has launched a pilot universal health care program called “Afya Care” that will see many Kenyans access improved healthcare;

CONCERNED THAT, the diverse nature of counties and wanting infrastructural development is compromising the quality and accessibility of health centres especially during emergency situations, resulting in the loss of many lives occasioned by the failure by patients to reach health facilities in time;

FURTHER CONCERNED THAT, in each county there are numerous unemployed community health workers who are adept at working with communities in emergency situations, and have the requisite experience to support the medical practitioners in our country where, according to the World Health Organization 2014 report, there are two (2) doctors for every ten thousand (10,000) people;

NOW THEREFORE, the Senate resolves that the Council of Governors in partnership with the Ministry of Health –

(i) Develop a policy for the training, certification and employment of community health workers to enhance the emergency health service delivery in the Counties, and

(ii) Facilitate the said community health workers with the necessary basic equipment for use during emergency cases.

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

MOTION

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON THE IRRIGATION BILL, 2017

Sen. Ndwiga: Thank you, Mr. Deputy Speaker, Sir. First, I wish to thank the Senators, who are Members of the Mediation Committee.

The Deputy Speaker (Sen. (Prof.) Kindiki): Move the Motion first.

Sen. Ndwiga: Mr. Deputy Speaker, Sir, I beg to move the following Motion-

THAT, the Senate adopts the Report of the Mediation Committee on the Irrigation Bill (National Assembly Bills No. 46 of 2017) laid on the Table of the Senate on Wednesday, 3rd July, 2019, and pursuant to Article 113 of the Constitution and Standing Order 161(3) of the Senate Standing Orders, approves the mediated version of the Bill.

The Irrigation Bill (National Assembly Bills No. 46 of 2017) intends to provide for development, management and regulation of irrigation to support sustainable food security and social economic development in Kenya for connected purposes. The Bill

also seeks to repeal the Irrigation Act Cap 347 of the laws of Kenya which commenced on 24th June, 1966.

Mr. Deputy Speaker, Sir, the Irrigation Bill, 2017 was read a First Time in the National Assembly and committed to the Departmental Committee on Agriculture and Livestock on Wednesday, 14th February, 2017, pursuant to Standing Order No.127. The Bill was later passed by the National Assembly on Tuesday, 15th May, 2018 and subsequently forwarded to the Senate for consideration pursuant to provisions of Article 110 (4) of the Constitution and Standing Order No. 142.

The Bill was passed by the Senate on Wednesday, 20th February, 2019, with amendments. Pursuant to Standing Order No.158 of the Senate Standing Orders through a message from the Senate, the Bill was sent back to the National Assembly for concurrence on Tuesday, 5th March, 2019. The National Assembly considered the amendments forwarded by the Senate and rejected some of the amendments on 14th March, 2019.

Mr. Deputy Speaker, Sir, pursuant to Article 113 of the Constitution, Standing Order No.146 of the National Assembly Standing Orders and Standing Order No.161 of the Senate Standing Orders, the Bill was referred to a Mediation Committee with the sole objective of negotiating an agreed version of the Bill that will be presented to both Houses for approval.

Mr. Deputy Speaker, Sir, the Mediation Committee had its first meeting on 19th June, 2019 and adopted the Report on 26th June, 2019. I want to thank the Members of the Mediation Committee from the Senate and the membership from the National Assembly led by Hon. Duale the Leader of Majority Party for their dedication and commitment in performing the task of developing a version of the Bill that could be approved by both Houses.

Mr. Deputy Speaker, Sir, at this juncture, I sincerely wish to thank the Members of the Committee from the Senate for their dedication. With the Chair's permission, I particularly wish to mention Sen. Ochillo-Ayacko and Sen. (Rev.) Waqo who diligently sat through the Mediation Committee to make sure that the version of the Bill passed by the Senate is the one that passed through. They also made sure that as the Bill was being mediated, the interests of counties were taken into consideration.

Mr. Deputy Speaker, Sir, with regards to Clause 9, the Mediation Committee settled for nine persons to sit in the National Irrigation Authority. The Committee retained the two persons nominated by the Council of Governors as was the wish of the Senate.

We even had a breakfast *kamukunji* to consider some of these Clauses. That was the wish of the Senate, so, we managed to get that in the Bill. Further, the Committee proposed that one other person be nominated by the registered associations representing the largest number of entities in the private sector in Kenya, whilst the last member to be nominated by the umbrella body representing irrigation farmers in Kenya.

Further, the Committee adopted the Senate's amendments to Clause 9(2)(b) which provides that the Board members shall be reflective of an appropriate professional, disciplinary and stakeholder mix. In addition, the Committee agreed with the Senate and deleted Clause 9(4) which had provided for elections of a vice-chairperson. With regards

to Clause 14(1), the Committee agreed with the Senate's amendments providing that each county government may establish County Irrigation Development units for the better carrying out of its functions with respect to irrigation pursuant to Part (2) of the Fourth Schedule of the Constitution in line with the Constitution.

Mr. Deputy Speaker, Sir, the Committee adopted the Senate amendments to Clause 16(6) requiring the design of the national and or public irrigation schemes taking into account the impact an irrigation scheme is likely to have on the environment.

As for Clause 17, we convinced the National Assembly that consultation with the Council of Governors (COG) was necessary when prescribing administrative and regulatory framework. In this spirit of give and take, they convinced us that the Water Act already provided for the manner in which effluence was regulated and, therefore, the Committee resolved to delete the proposal by the Senate. The Committee also agreed that it was important to provide for both cost-sharing agreements and non-cost sharing agreements under Clause 20.

Mr. Deputy Speaker, Sir, with regard to Clause 25, the Committee observed that disputes may arise between one scheme and another as well as within the scheme. It was, therefore, agreed that the word "intra-scheme" proposed by the Senate be deleted.

In regard to Clause 34, the Committee agreed to amend sub-section (1) to provide that the regulations made under this section shall be approved by both Houses of Parliament.

Further, the Committee also provided that the Cabinet Secretary shall publish the regulations required under this Act in the Gazette within 90 days of the enactment of this Act. The Committee also agreed with the Senate's amendment to the schedule.

Mr. Deputy Speaker, Sir, on Wednesday, 3rd July 2019, at its 2.30 p.m. Sitting, the National Assembly adopted the Mediation Committee Report and agreed to the mediated version of the Bill.

Finally, I urge members to approve the mediated version so that we take it to the President for assent.

With those remarks, I beg to move and ask Sen. (Rev.) Waqo, who was a Member of the Mediation Committee, to second the Motion.

The Deputy Speaker (Sen. (Prof.) Kindiki): Well done, Sen. Ndwiga.

Sen. (Rev.) Waqo: Thank you, Mr. Deputy Speaker, Sir, I second.

(Question proposed)

Sen. (Dr.) Zani: Thank you, Mr. Deputy Speaker, Sir. I stand to support the adoption of the Report of the Mediation Committee. First, let me start by commending the team that was appointed for the mediation. From the outset and looking at how things went on in that Committee – starting with the selection of the various Chairpersons and Vice Chairpersons, the representation of the Houses and also the time it took to mediate – there was a lot of order. By the third sitting, you had been able to arbitrate among yourselves and decide the way forward.

Mr. Deputy Speaker, Sir, this seems to be the way most Bills are going to go, putting into consideration Article 110(3) and its provisions, and how difficult it has been

for us to make this determination. However, even with that, given that now we are in a bicameral system, where each of the Houses has specific interests, you will notice that we are getting more and more of this. This is especially so when we are now devolving most of the things that were at the national level and infusing the very important devolution component, which is very critical, and which is contextualised specifically in the Senate.

In that light and having heard the Mover of this Motion when he was speaking, it is a clear indication that it was possible during the mediation, for them as the Mediation Committee, and infusing their views to the National Assembly to bring to light some of the key issues that are at the counties.

Mr. Deputy Speaker, Sir, you will realise that even when we are talking about both the Division of Revenue Bill (DORB) and the Division of Revenue Act (DORA), we have the same situation. A good example is where we feel, at the level of the National Assembly, where the argument is whether they should send more money to the counties since it will be misappropriated.

Another view specifically held by Senate is that, that money needs to go to the countries and it should be well managed, because it will serve the people of the counties, who are the same people that the Members of the National Assembly serve. Therefore, this idea, that we are able to infuse into arguments and the Mediation Committee from the Senate perspective, is very important.

Secondly, the way this Report has been laid is so clear and systematic. We are, therefore, very clear about the process that took place and the specific clauses that were indicated in terms of being adjusted and addressed. These include the Schedule, but specifically right from Clause 2, 3 and 6, which were the contentious clauses for mediation. We also have Clauses 8, 9, 14, 16, 20, 17, 25, 34 and the Schedule itself.

One of the key outputs of this mediation process, putting into consideration the *mwongozo* or guidelines that have been put in place by Committee; because I think the initial Committee that had been suggested was very large. However, the provision that a Committee should not be larger than nine Members, but be composed of between seven and nine Members, is a good one.

Mr. Deputy Speaker, Sir, the issue of irrigation within the county context is key. Therefore, it was important, for example, to ensure that this Bill does not die. As we know, according to the Standing Orders and the Constitution, if the Members of the Mediation Committee are not able to come up with a version of the Bill that is acceptable to both the Senate and the National Assembly, then that Bill is lost. I am, therefore, happy that they were able to arbitrate and come up with a version of the Bill that is acceptable to both Houses.

Mr. Deputy Speaker, Sir, as I said earlier on, the Report is very clear, clause by clause. Of course, getting into the clear indication of which clause and what is said might not be helpful for me as I contribute, from my perspective, because this has been clearly outlined in the Report.

Finally, Mr. Deputy Speaker, Sir, I congratulate this team because we now have a mediated version that will become an Act.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you for your contribution, Sen. (Dr.) Zani.

Finally, you may proceed, Sen. Wario.

Sen. Wario: Asante Sana, Bw. Naibu Spika. Jana ulinionya na leo mimi ni mwadilifu kabisa.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well, Sen. Wario. Proceed.

Sen. Wario: Asante, Bw. Naibu Spika. Ningependa kuchangia Mswada huu na kuunga mkono Kamati ya Uwiano ambayo ilikaa pamoja katika Bunge zote mbili, na kuandika ripoti nzuri kabisa ambayo tunaweza kusema, kwa wakati huu, tuiunge mkono ili Mswada huu uweze kuwa sheria.

Bw. Naibu Spika, Bunge zote mbili zimekaa chini ya uenyekiti wa Kiongozi wa Walio Wengi katika Bunge la Taifa, Mhe. Adan Duale, na kutupatia Mswada huu. Hasa walisitiza kwamba sehemu ya mazingira iangaliwe vizuri katika kutengeneza shirika la Unyunyizaji Maji, yaani *Irrigation Board*. Pia walinakili vizuri katika kugharamikia pande zote, yaani *cost sharing* katika kimombo.

Ripoti hii ilirejeshwa katika Bunge zote mbili na ikajadiliwa na watu ambao wamesema sasa ni nzuri. Tuliposomewa Ripoti hiyo hapa mbele, tuliiona ikiwa nzuri kabisa. Nikiwa Mwanachama wa Kamati ya Ukulima, Ufugaji na Uvuvi, ambayo Mwenyekti wangu ni jirani hapa nyuma yangu, tuliweza kuikalia vizuri. Nilishiriki katika mazungumzo ya kuleta uwiano na tutaiunga mkono.

Bw. Naibu Spika, naunga mkono.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well, Sen. Wario. Ripoti inakaa mzuri, inakaa vizuri ama ni nzuri?

Sen. Wario: Bw. Naibu Spika, ripoti hii, kwa hakika, ni nzuri kabisa.

The Deputy Speaker (Sen. (Prof.) Kindiki): *Aha!* Very well.

Proceed, Sen. (Prof.) Ongeru.

Sen. (Prof.) Ongeru: Thank you, Mr. Deputy Speaker, Sir. First of all, I congratulate the two Committees for using Article 113 of our Constitution, which is the provision for mediation. If you look closely at that Article and the one immediately below it – on the Money Bills – you will realize that we have had a headache in trying to agree on the Division of Revenue to our counties.

The drafters of our Constitution had in mind that there would come a time in such a bicameral situation where people may not agree on the order, the Bill and the precedence that the Bill should take in order to become law. However, we now have a very clear indication that where there is willingness on both sides to resolve the dispute, that willingness results in a mediated version of the Bill.

Mr. Deputy Speaker, Sir, I remember when we were in Nairobi Serena Hotel when this country was in the thralls of fire in 2007-2008, it took both sides five days to sit down and agree on the way we should go forward. As I speak today, it is a very painful event to know that our counties are still reeling from the effects of a non-

mediated DORB which came before this House. I am happy that, indeed, mediation is finding its way.

In international law and obligations, and in all the United Nations (UN) organisations where resolutions are passed or put before the Floor of the General Assembly of any gathering or organisation, when there is a sticky point coming out where nations may not agree, but it is always referred to Mediation. Mediation has, therefore, become a tool of resolving issues that are hindering the progress of any subject. In this matter, it is the Irrigation Bill, which was successfully mediated on by my very good colleague and friend, Sen. Ndwiga from Embu County.

Mr. Deputy Speaker, Sir, the moral we are learning here is that if the two Houses are able to agree on a piece of legislation, it makes it important because we are serving the same people. We are serving the same people. Counties are divided into wards; wards have legislators who are the Members of the County Assemblies (MCA). The Senate looks at the interest of the counties and also the type of legislation that will help them to carry out their responsibilities. Any legislation will always inevitably be accompanied with resources required to implement that Bill.

I want through this successful story to appeal to the other House to come back together quickly and resolve the issue of the Division of Revenue Bill 2019 which got stuck in the last mediation process. Today, as we stand, the resource flow to the county governments is not coming forth. I commend this process. It is the way to go because it is not always that we are going to agree on some issues. I am sure we can find a common ground on how to proceed and make this nation prosper.

I congratulate the two teams that mediated successfully on this matter.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. (Prof.) Onger. Those are very clear remarks.

Proceed Sen. (Eng.) Mahamud.

Sen. (Eng.) Mahamud: Thank you very much, Mr. Deputy Speaker, Sir. I am happy that the two Houses of Parliament have agreed on a version of a Bill that can be passed into law now.

The Constitution of Kenya 2010 contemplated a situation where the two Houses can have different opinions regarding particular Bills. This is provided under Article 112 that if there is disagreement in terms of the passage of a Bill, then this matter will be referred to the Mediation Committee.

Article 113 of the Constitution provides how the Mediation Committee should proceed. It is then foreseen that the Committee will either agree or disagree to come with a Bill that can be passed by the both Houses. This is the law and there is nothing strange about the Houses disagreeing with the Bill at the initial stage. There must be, therefore, some sense of people agreeing to move forward. If the both Houses agree that the Bill is important to this country, such as the current Bill, then the people must come and reason together so that a good law is made for this country.

I am happy that the Committee on Mediation on this particular Bill has agreed on a version. I urge this House to pass this mediated version so that this Bill can come into a law. All, we have been depending on rain and irrigation which is not actually commensurate with the needs of this country. In terms of food production, we are

supposed to be a food secure country and agricultural country. We are all aware that we have a serious problem in food supply in this country.

I congratulate the Mediation Committee on this particular Bill for having agreed on a version to be passed by both Houses as contemplated in our Constitution. I gave a report yesterday because the originating House of that Bill is the National Assembly. There are no two way about it; that Bill must be reintroduced.

There is nothing which stops this House to publish that Bill because it is a Bill which concerns counties, but we do not want to go that way. We will expect that in the near future, the Division Revenue Bill 2019 will be republished taking into account all the issues that were raised, in terms of the need of the counties and those of the national Government, so that revenue that is raised nationally can be shared equitably as contemplated in Article 218 of the Constitution.

Mr. Speaker, Sir, I beg to support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. (Eng) Mahamud.

(Interruption of Debate on Motion)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MARY LEAKEY
GIRLS SCHOOL, KIAMBU COUNTY

Hon. Senators, I would like to communicate that we have visitors, students and teachers from Mary Leakey Girls School, Kiambu County.

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

I thank you.

(Resumption of Debate on Motion)

We need to conclude this. I see two other requests. Let us have Sen. Pareno.

Sen. Pareno: Thank you, Mr. Deputy Speaker, Sir. I take his opportunity, first of all, to welcome the students from Mary Leakey Girls School, Kiambu County to the Senate. I am sure they have a lot to learn about our Senate procedures and counties. We are proud that they feel that the Senate is the place from which they can learn. They are welcome.

I want to thank Sen. Ndwiga. He has some sort of favour when it comes to mediation. This is the second mediation he has done within the last two or three weeks. Just before we went for the short recess, he was here as Chair of another Mediation Committee on Warehousing Receipt Bill. Definitely, we have a chief mediator in the House, having successfully done two mediations which we have been able to get good reports on. I thank Sen. Ndwiga for that commitment and the Members of that Committee who came up with this harmonized version.

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We do not need to belabour the pain. This is the way to go. The Constitution had provided for mediation in case of disagreements; not really disagreements, but normally, we say we disagree to agree. It is provided for that where you do not agree on certain Bills, then you go for mediation. This is the way to go, not the way we saw the other day when the National Assembly was trying to demean the procedures of this House and our standing before their own Standing Order and our standing before the public.

If they should learn, then they have the best way to learn knowing that mediation is provided for where we disagree. At the end of the day, we disagree and, later on, come on mediation where you give and take. At the end of the day, we have a good product for our citizens. Therefore, we encourage this. We should sort out most of our problems instead of trying to demean each other, talk bad of each other, when there is a provision for us to settle some of these disputes.

I thank Sen. Ndwiga and the Committee for the good work.

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

Sen. Farhiya: Thank you, Mr. Speaker, Sir, for allowing me to contribute on the mediation issue. Before I proceed, I would like to join you in welcoming the students from Mary Leakey Girls School, Kiambu County. In this country, we are very much ahead on a lot of aspects, but in terms of gender parity whether it is appointment to jobs, political leadership, Kenya is still lagging behind. We are counting on the future generation and these girls being among them, to come and bridge that gap of disparity.

I also hope that in my life time there will be a woman president in this country who will run the affairs of the country better than what the men have done.

(Laughter)

(An hon. Senator spoke off record)

I am just setting the bar higher for them.

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed, Sen. Farhiya. I hope you are not inciting along gender lines.

(Laughter)

Sen. Farhiya: Mr. Deputy Speaker, Sir, it is just a matter of time. It will happen and we will exceed the expectation of Kenyans when we become the President of this country. I can assure you on that.

The Deputy Speaker (Sen. (Prof.) Kindiki): Good luck.

Sen. Farhiya: Thank you, Mr. Deputy Speaker, Sir. I wish to commend Sen. Ndwiga for doing good mediation. That is the spirit that the bicameral process should continue with.

The other problem is that in terms of the discussion that we had yesterday, I find the trend that our sister House is setting very dangerous. If you pass a law and expect other people to follow, then you should be the first one to follow that law. This Constitution was passed by Kenyans. The procedure in terms of when Bills are passed by

either House, or when they are rejected and where there is an agreement is clearly laid out. Therefore, for another House to demean this House, is a sign that somebody is not in sync with the spirit of this Constitution that Kenyans voted for overwhelmingly.

One of the issues that I wanted to talk about yesterday, but ran out time is that the National Assembly should be intelligent enough to know that even the very House that they sit and enjoy powers with, sits in a great county called Nairobi City County.

Thank you, Mr. Deputy Speaker, Sir, for allowing me to contribute.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. Farhiya and good luck to you and your likes in your endeavour.

Very well. Senate Minority Leader.

The Senate Minority Leader (Sen. Orengo): Thank you, Mr. Deputy Speaker, Sir. I also join my colleagues in congratulating the Chairperson of the Mediation Committee for a job well done. I also commend the membership of that Committee from the Senate. Sen. Pareno here was being modest with herself. You went there as a team and came up with a very good Report.

One of the things that I have seen in this Report that very important is that in areas that deal with devolution and the role of county governments, and their participation on national issues, including projects like irrigation, in so far as they are covered under this legislation, the team we sent there made compromises, which they must. If you go before a mediation Committee, we do not expect you to come with everything.

Mr. Deputy Speaker, Sir, in matters that concern counties, and even where the participation of the Council of Governors (CoG) and governors was important, they came out very clearly. When the Bill came to the Senate, amendments were made to the original Bill from the National Assembly with the role of counties in mind, and generally under the principle of devolution.

I thank this Committee that they compromised on many other things, but when it came to the role of counties and participation of the CoG in institutions – shall I put that in outfits which they find themselves in this particular Bill – they did not compromise. Governors should thank this Senate and the distinguished Senators who participated in this process. We are protecting, not only the CoG, but the counties generally.

Sometimes governors become critical of the Senate when they feel like the Senate is not doing things to their liking. If they look at the work we do in terms of taking care of the interests of counties, they will find in the area of legislation or even what we have just dealt with – allocation of revenue and all that – that the Senate always stands with counties and governors. This is for as long as they are doing what they are supposed to do under the law.

I thank this Committee because they kept their eye on the ball and the resultant effect was not to rubbish the work that we had done. You protected the work. We achieved nearly 90 per cent of what we had done as the Senate.

Mr. Deputy Speaker, Sir, let me make a little comment about the matter that we discussed yesterday. It would appear that, that debate is still ongoing – the role of the Senate. I am sure that even if we were to go to the people of Kenya today for them to make a choice between the Senate and the National Assembly, I can tell you that they

will express solid confidence in the Senate. The dream that one can scrap the Senate anyhow cannot and will not happen. Particularly, if we still believe in democratic governance and that devolution forms an important pillar in our constitutional architecture. To that extent, I believe that the people of Kenya have confidence in the Senate.

Let me also come out clearly and say that I understood hon. Duale yesterday to be saying that certain Cabinet Secretaries (CSs) cannot be summoned to come to the Senate, or should not appear before the Senate. I know that our Committees normally invite CSs and do not summon them. They are only summoned when they fail to appear. However, I advise those CSs that if they do not come, the consequences are there under the Constitution. Between me and hon. Duale, who knows the law better? Even when it comes to giving legal advice, who can advise better between me and him?

Mr. Deputy Speaker, Sir, we have nothing against CS Dr. Matiang'i, CS Juma and CS Rotich. However, if they follow the advice of hon. Duale, then the legal consequences are not just spelt out in any ordinary law, but in the Constitution of Kenya. Let them ignore that advice with the contempt it deserves.

Mr. Deputy Speaker, Sir, thank you for the opportunity to contribute to this Motion.

Sen. Cheruiyot: Thank you, Mr. Deputy Speaker, Sir. I also want to give my support with regards to this Report of the Mediation Committee that considered the changes that were made to the Irrigation Bill. This is really important because it goes to the very foundation of what is now considered to be a topical issue in Kenya, and that is the importance that this House continues to play.

If Parliament was to work properly as per the design of our Constitution, if there was to be goodwill that ensured that the Senate enjoys its proper place, then this is how the business of lawmaking in a bicameral Parliament should be done. It should be a place where people get to sit down and listen to voices of reason. It does not come from a perspective where we believe that for any particular reason there is a House that is superior to the other. It should only be out of the sibling understanding that it is not always that our point of view to certain issues in life has to hold. Therefore, the establishment of a Mediation Committee provides that opportunity to listen and see the wisdom of the other House through the positions that they are holding in the process of lawmaking.

I hope that this kind attitude can be adopted in solving many of the challenges that we continue to face not only in Parliament, but also in the country, where people can learn to be tolerant of the views of those that they do not agree with and understand that so long as we are all human beings, you cannot expect that for every particular issue that is before us we will hold and share the same views.

I want to congratulate the Members that sat in this Committee, for the very accommodative attitude that they adopted in the consideration of the issues that were placed before them and now we have somewhat a point of agreement. I wish the same could be said of the Division of Revenue Bill that is before us. It is not that Senators do not understand the challenges that the country is facing. It is not that we do not recognize that for the last three to five years, the Government has not been able to meet the revenue

targets in terms of revenue collections. However, it is just out of a basic foundational principle in the establishment of this House that we cannot call ourselves the Senate and participate in an exercise that reduces the amount of money that goes into counties.

Mr. Deputy Speaker, Sir, if we were to accept a cut in shareable revenue from Ksh314 billion last year to kshs310 billion as the Division of Revenue that was placed before this House from the National Assembly, then we can as well take over the knife from those who dream of killing devolution in this country. However, we, as a House, have taken a very strong position on this and said that this is a matter that we consider to be apolitical. It has got absolutely nothing to do with either the majority or the minority side, but it boils down to those who believe in devolution against those who do not believe in it.

Many of the challenges that this Country is currently facing, I want to believe if people were as accommodative and tolerant to the views of others as the Members who sat in this Mediation Committee are, we would not even be having the kind of altercation we are having politically in this country.

Mr. Deputy Speaker Sir, earlier on, we had a discussion here and we were debating about Cabinet Secretaries who, for some reason, want to believe that they cannot be summoned to Parliament. I am grateful because the Chair gave a very firm and resounding ruling that if anybody thinks that this is child's play, being invited to appear before a Committee in Parliament, then let them fail to attend and know there will be consequences.

I look forward to that time because one of the things that Parliament must always do is that any particular time we feel there is no respect to the rule of law and order, we are duty bound as a House to ensure that we go in with all the energy, skills, knowledge that we have to ensure that we restore order. I support the initiative that we have taken as a House even to consider legal action against certain Bills that have been assented into law by the Executive without following the proper procedure.

Take for example the Health Law Amendment that was assented to. This is one of the major contentions that this House has against the National Assembly. In that particular Bill, it will be shocking for Kenyans to know that now the Ministry of Health is proposing that the Pharmacy and Poisons Board the legally mandated institution that permits and gives licenses to marketers and sellers of drugs into this country to carry out their operations will now do the work that is supposed to be done by National Quality Control Laboratory. They are being merged into one.

You can imagine a situation where you are a marketer, you are granted the license then the same institution is the one that gives you the Certificate of Approval to confirm that the drug that you are selling to Kenyans is fit for human consumption. What a risk that we are exposing the citizens of this country to. We have promised Kenyans that next week as Senate we are going to the Supreme Court for arbitration. We cannot afford even an extra day because some of these laws if allowed to pass are endangering the lives of Kenyans.

We are a country that worships money on many occasions. There are people who will be paid to look the other way and allow Kenyans to consume drugs that are not fit for human consumption. It would not be the first time. If we were taking sugar that was laced

with mercury, imagine what would happen to this country if drugs that were either expired or not considered fit for human consumption found their way into this country.

Mr. Deputy Speaker, Sir, these are not very simple issues. It is not about ego. It is not that we, as Senate, feel that it is a must for us to be considered. We cannot abrogate our responsibilities. We will be failing the oath of office that we took when we were sworn in this House to uphold and defend the Constitution if we allow laws to be made without following proper procedure.

Mr. Deputy Speaker, Sir, finally, just speaking in general, in terms of respect for the rule of law and order, there are things that I have watched happening in this country that continue to disturb me. I know there is a matter that will come before us in the next 14 days as the Chair had directed earlier, regarding the NPS. When the police behave like thugs then what options are citizens left with? There is an emerging trend nowadays whereby when police are carrying out their responsibilities, they behave like criminals.

We saw last week when they came here to arrest a Member of Parliament. First of all, they show up in a vehicle that has no number plate, or has foreign number plates of other countries like South Sudan. The way they are dressed is also questionable. Now contrast that with what happened to the personal assistant of one of the Senators in this House. This happened in Eldoret, in broad day light at 1.00 p.m. Strange characters showed up in front of a shop; picked a gentleman; there was a scuffle and people got concerned. These people said they are police officers, but because Kenyans are used to police officers behaving that way they allowed them to take this particular victim, only for the gentleman to be found strangled and murdered two days later.

At what point will Kenyans be able to distinguish the genuine police officers from murderers like these ones if we allow that kind of behaviour to go on? I look forward to the Inspector General of Police coming before a Committee of this House and explaining, for example, if the police feel that there is a crime I have committed, why they cannot just send me a message that says "show up at the Directorate of Criminal Investigations offices". I will be able to drive myself there and answer to whatever issues, or matter they feel I have fallen afoul to.

If there is any reason they must come for me, how difficult is it and how does it impede their work if they come dressed in police uniform and prominently displaying their identification badges, so that we eliminate this kind of habit? Therefore, it is something that we need to seriously consider.

I congratulate our colleagues who sat in this Mediation Committee and urge that this is the spirit we should use when making laws in this country. With this kind of attitude, we shall achieve a lot as Parliament.

The Deputy Speaker (Sen. (Prof.) Kindiki): Mover, kindly reply. I hope that you will be brief because we have a number of other issues we need to dispose of this afternoon before the rise of the House.

Sen. Ndwiga: Thank you, Mr. Deputy Speaker, Sir. In fact, I will be brief. I thank the House for the support that they have given my Committee and the Mediation Committee. I also thank the Members for the kind words that they have said.

Mr. Deputy Speaker, Sir, I beg to move and request that pursuant to Standing Order No. 61(3), that you defer the putting of the question to tomorrow.

The Deputy Speaker (Sen. (Prof.) Kindiki): It is so ordered.

(Putting of the question on the Motion deferred)

COMMUNICATION FROM THE CHAIR

REORGANIZATION OF BUSINESS ON THE ORDER PAPER

Hon. Senators, we shall proceed as follows, I apply Standing Order No. 40(2) and direct that following items in the Order Paper be deferred for various reasons, Order Nos.10, 11 and 13.

Accordingly, we shall proceed as follows, subject to the time limits of this sitting. We shall go to Order No.9 which is resumption of debate. From there, we will go to Order No. 12 and then Order No.14, if time permits.

MOTIONS

RENAMING OF MURANG'A UNIVERSITY OF TECHNOLOGY TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY

THAT, AWARE THAT, Murang'a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

FURTHER AWARE that the University is located in Murang'a County, the home County of the late politician Kenneth Njindo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades;

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a member of parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD –Asili under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government in remembrance of Matiba's contribution to our Nation, to rename Murang'a University of Technology to Kenneth Matiba University of Technology.

(Motion deferred)

CREATION OF SUPPORT SERVICES FOR THE DISCIPLINED
FORCES AND THEIR FAMILIES

THAT, APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for posttraumatic stress counseling either for active or returning soldiers and their families;

NOW THEREFORE the Senate calls upon the Ministry of Interior and Co-ordination of National Government, in partnership with the Ministry of Defence, to establish counseling and support centers in all premises housing disciplined forces, and provide mandatory counseling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

(Motion deferred)

DEVELOPMENT OF ICT AND TELECONFERENCING
POLICY CONNECTING COUNTY HEALTH FACILITIES
TO NATIONAL REFERRAL HOSPITALS

WHEREAS Article 43 of the Constitution of Kenya provides for economic and social rights enjoyed by every person including the right to the highest attainable standard of health and the right to health care services;

AWARE that the Fourth Schedule to the Constitution of Kenya lists health as one of the functions to be performed by county governments, with the national Government providing health policy framework;

NOTING that Parliament enacted the Health Act, No. 21 of 2017, to establish a unified health system, to coordinate the inter-relationship between the national government and county government health systems, to provide for regulation of health care service and health care service providers, health products and health technologies;

COGNIZANT that the role of both county and national levels of government to ensure a healthy nation is complimentary;

FURTHER AWARE that most health facilities under the county governments are not well equipped with modern technological facilities and requisite personnel, leading to loss of lives especially from preventable and curable diseases;

RECOGNIZING that the government, through the National Broadband Policy has developed more advanced communications and efficient ICT systems with good fibre connection network covering a majority of the counties;

FURTHER COGNIZANT that the lack of structured engagement through technology between the county and national referral hospitals is impacting on quality of health service provision in the county and referral health facilities;

the Senate resolves that the national government-

1. fully and urgently implements the Health Act, No.21 of 2017;
2. further collaborates with county governments to initiate and develop an ICT and teleconferencing policy framework; and
3. facilitates connecting all county health facilities to each other and to the national referral hospitals with a view to ensure seamless and efficient medical consultation between and among medical personnel and health facilities.

(Motion deferred)

WAIVER OF INTEREST ON HELB LOANS FOR GRADUATES

THAT, AWARE THAT the Higher Education Loans Board (HELB) has, for over the last two decades, become the leading financier of higher education in Kenya whose mandate is to source funds and lend them as affordable loans, bursaries and scholarship to students pursuing higher education in recognized institutions;

COGNIZANT THAT, the Ministry of Education announced that the government has lost Kshs. 7.2b through people defaulting payment on loans issued by HELB translating to 74,692 graduates who have defaulted the loans payment;

NOTING THAT, measures were taken to enhance the HELB loan recovery process which included a six month waiver of accumulated interest and penalties, and working with law enforcement officers to make sure the defaulters who are employed payback the loans;

CONCERNED THAT, there are graduates from institutions of higher learning who have not been gainfully employed for many years after graduation, and are therefore burdened with loans that have accumulated interest and penalties that they have no means to repay;

FURTHER CONCERNED THAT, when beneficiaries fail to remit their monthly installments for more than three months, HELB reports them to the Credit Reference Bureaus (CRB) preventing them from accessing loan facilities with any financial institution in Kenya, accessing employment opportunities in the government and major private and publicly listed companies and the loan guarantors are pursued and forced to service the HELB loan;

NOW THEREFORE, the Senate recommends that the Ministry of Education and HELB –

1. institutes a six (6) month full waiver of all the interest and penalties accrued, including the lifting of Credit Reference Bureau blacklisting, for defaulters who are willing to repay their loans in entirety, within the six (6) month period; and
2. embarks on a forty-five (45) day sensitization exercise preceding the waiver, no later than ninety (90) days after the passage of this motion.

(Sen. (Dr.) Ali on 3.7.2019)

(Resumption of debate interrupted on 3.7.2019)

The Deputy Speaker (Sen. (Prof.) Kindiki): I see no requests. When this matter last came for debate, Sen. Wetangula had 10 minutes, but he is not here.

I now ask the Mover to reply.

Sen. (Dr.) Ali: Thank you, Mr. Deputy Speaker, Sir, I wish to thank Members who contributed to this Motion. Members have a lot of issues. The Higher Education

Loans Board (HELB) was meant to help poor families. However, nowadays, it does not benefit everybody. I wish to look at the prayers of the Motion and possibly come up with an amendment to try and change the Higher Education Loans Board Act.

I beg to reply.

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, we will take a vote. However, this is not a matter that concerns counties.

(Question put and agreed to)

IMPROVING ALLOCATION OF RESEARCH FUNDS TO
INSTITUTIONS OF HIGHER LEARNING

Sen. Kasanga: Mr. Deputy Speaker, Sir, I beg to move the following Motion-

THAT, AWARE THAT early childhood education and village polytechnics are a function of the county governments while secondary schools, Universities, Tertiary institutions and other institutions of research are a function of the National Government under the Fourth Schedule of the Constitution;

FURTHER AWARE THAT, institutions of higher learning have two basic functions, teaching and conducting research;

CONCERNED THAT, such institutions largely concentrate on “teaching” rather than “research”, as a method of enhancing and imparting the practical application of skills, attitude and knowledge by learners;

NOTING THAT, funds allocated towards community and development oriented academic research are neither sustainable nor adequate;

ACKNOWLEDGING THAT, various national policies on research and innovation are available, but fragmentation in the sector has short-changed the vision of a progressive national research agenda, thereby emboldening low science culture among the population, low global competitiveness ranking, inadequate funding, and poor linkages between academic research and commercial industry;

NOW THEREFORE, the Senate urgently calls upon the Ministry of Education, Science and Technology:

(i) To provide a comprehensive report from all institutions of higher learning on the status and performance of Research & Innovation Programs in the Country;

(ii) Re-assess Sector Policies, and Develop new work-plans towards:

a. Improving allocation of funds for Academic as well as Sustainable Community Based Research to public institutions of higher learning.

b. Providing subsidies, and frameworks for partnerships between public & private institutions of higher learning to enable collaboration and better organization in research and innovations for community/county development Projects.

Mr. Deputy Speaker, Sir, we have a population of probably 20 per cent youth in this country. This Motion is actually looking at the opportunities that we are giving to our youth today. In a conversation I had with the youth yesterday, we were talking about suicides and wondering why many of them are affected by it. This is also translating into their mental illness and wellness. A lot of them are grappling with what to do when they cannot get a formal job. There is no question about the fact that the informal sector is the larger employer of our youth today. Therefore, what is the Government doing to enhance this formal sector? When we look at science and technology, we are busy advancing Science, Technology, Engineering and Mathematics (STEM) education, but how much are we putting into research? That is the question I am posing here today. We can speak about it, but where is the action when it comes to the Government? How much money is being put into research?

Mr. Deputy Speaker, Sir, when I was preparing this Motion, looking at how other countries have approached research, it is a question of how much is allocated from their Gross Domestic Product (GDP). That is how much they value research and development.

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

[The Temporary Speaker Sen. Pareno in the Chair]

Once again, Madam Temporary Speaker, when we look at the job market, the things that actually provide employment for the youth are innovation and entrepreneurship. Where do these things come from? They come from research and development. Our youth today have gone beyond white collar jobs and are looking for other ways and means of sustenance. The Government today has an obligation of providing avenues that can help them use the technology that they know to advance entrepreneurship, business ideas and any other ideas they have.

Madam Temporary Speaker, there is no doubt that Kenyans are very innovative. We have seen a lot of social media inventions that are happening in the counties and this is what we are talking about. The Cabinet Secretary (CS) Ministry of Information, Communication and Technology (ICT) when giving a speech at the 42nd Graduation at Kenyatta University in 2017, rightfully said that the labour market is now technology and innovation-driven. I actually got the excerpt of that speech. To survive in the competitive environment with limited resources and opportunities, there is need for the Government to step in to advance this agenda.

In his speech, the CS talked about realigning and repositioning ourselves to take advantage of new opportunities offered by technology. However, what is the Government doing to help our young people to access these opportunities? As per the CS, the Government envisions establishment of at least four innovation hubs in 290 constituencies. When we think of that, we imagine a case where somebody young has left

school, there are no jobs and I can tell you that it is tough. There is a lot of downsizing happening in the private sector now, and it is always the younger people who are the low hanging fruit. Therefore, somebody has their degree, but they cannot get their job of choice. Worse still, we debated here in this House sometime back about the mass failure that happened to law students. There is then, of course, the question of the capacity of our tertiary institutions to prepare our young people for the job market that is now globally competitive, which has been raised here too.

Today, when the committees on Education and Information, Communication and Technology were laying their reports for the quarter, they were asked if they can look into the institutions of higher learning. They were asked whether they can expand that scope of checking what is going on there, because a lot of questions are now arising to even the quality of education of our tertiary institutions and the readiness of our students and young people for the job market today.

Therefore, imagine a situation where a young person has their degree, but they cannot get a job, because we know that, that is the true situation. We saw it on social media, that when Eka Hotel advertised some positions recently, there was a flood of young people looking for jobs. That is how desperate they have now become. These young people need to be empowered so as to do their own startups, become entrepreneurs and innovators. It is they who will employ the others when they become entrepreneurs, and there is no question about it.

We have seen the global market of technology looking at Kenya and Africa, as whole, as potential business hubs when it comes to technology. When the former American President, Barak Obama, came here, he came with a delegation of over 200 American investors, who were all looking at entrepreneurship and innovation opportunities. Some young Kenyans benefited from these opportunities. However, the question still remains; how has the Government plugged into these ideas so that these opportunities are then accorded to our young people?

Madam temporary Speaker, we actually have a Science, Technology and Innovation Act of 2013. I was shocked when I found this out, because I did not know it was there. Section 29 of this Act designates functions of the agency to develop and manage the Kenya National Innovations System; which include setting standards, creating linkages in the private and public sectors, scouting and nurturing ideas and establishing a database of innovations and others. Therefore, whereas we know that the Government has made certain strides towards helping the young people get jobs, this Motion is specifically looking at science and technology. We are looking at the opportunities for innovation.

Madam Temporary Speaker, Section 32(2) of that Act enacts that two per cent of Kenya's GDP is to be provided by the National Treasury every financial year to establish a National Research Fund (NRF). This, again, is a good provision. Section 40 recommends that the National Museums of Kenya (NMK) establishes a Museum of Science and Technology. This Act is of 2013, and we are now in 2019. Where are these facilities where young people can go and get inspiration or ideas on innovations when it comes to science and technology?

We had a policy framework in 2012, and a sectoral plan 2013/2017 for science, technology and innovation, whose performance and public awareness plans are marginal. I am sure many of us are not even aware that we have these things. We then have to task the Government, because this is a national Government issue, but it is an issue that is affecting our young people.

We can see the levels of desperation among the young people, and we have a duty, as leaders, to provide these platforms for them to be able to tap their innovative blood, because they are very innovative. There is no question that they are very technologically savvy and able. I think Kenya ranks as one of the highest in the globe when it comes to our use of technology. There is no doubt that M-PESA is a global innovation that is celebrated, and which has come from one of our own here. There are very many others.

When you interact with the young people and you hear the ideas they float about, and you know that all they need is just a platform to advance those ideas, give them a bit of capital to start up and then they become entrepreneurs. If we do that, then we shall begin to say that we are actually creating jobs in this country.

Whereas we appreciate the Big Four Agenda of the Government, we still question where jobs for the young people are. Where is this Big Four Agenda? Where does it place the young people? We get these questions all the time. Every time we are out there, speaking to the young people, the first question is: "Can you explain to us how the jobs have been created? However, the truth remains that global trends do not lie; that innovation and entrepreneurship are the way of the future. They are the way that we shall provide more jobs.

We live in an era of technology; the Government needs to step up and actualize that two per cent of the GDP. When you actually compare what other countries in the world are doing in terms of research and development – countries like South Korea, Israel, Japan, and Switzerland – they have almost five per cent of their GDP geared towards research and development.

The world is fast-moving.

This Motion is self-explanatory. It is time we called upon our Government to build capacity of our institutions of higher learning by doing what the Act prescribes. That way, we will have done something for the youth who are extremely desperate.

Madam Temporary Speaker, I beg to move this Motion and I call upon Sen. (Dr.) Musuruve to second. I thank you.

Sen. (Dr.) Musuruve: Madam Temporary Speaker, I was waiting for your permission before I stand up. I commend Sen. Kasanga for coming up with this Motion. In fact, it is timely because it has come at a time when we are changing from the existing curriculum to a new one. This Motion is handy because a lot of research has to be done. We all know that research is important.

I support this Motion because when it comes to innovations, the needs of the society and what we need as a country, it is research that can give us an eye-opener, make us know our needs and how to fulfill them. I also support this Motion because universities have two core mandates which are teaching and research. When students graduate with first degrees or even diplomas, they are given powers to read and do as it

pertains. That has to do with giving back to the communities, the society and the country in terms of research and knowledge.

There is need for adequate money to be allocated to our universities for purposes of funding research. I say this from an empirical point of view because I was a lecturer in a university and I know that the core mandate of universities is to teach. What is happening in the universities should not be happening. At the moment, our universities do not have enough lecturers to teach. Before you do research, you have to go through some teaching. When I talk of teaching, it has to do with impacting knowledge. Knowledge is power but it can only be power when it is shared. Our universities need to be funded so that lecturers are employed because we do not have adequate lecturers in our universities.

I would like to mention a case in point and the Chair should hear this. Recently, I read in the newspapers that the Commission for Higher Education (CHE) interrogated the management of Jomo Kenyatta University of Agriculture and Technology (JKUAT) and some names were mentioned. There are claims that they invigilated many students. If I can remember, Prof. Mberia's and Prof. Namusonge's names were there.

The CHE should allocate enough money to universities so that they employ adequate lectures to conduct research because they are not adequate. I was a lecturer at JKUAT in the Department of Media and Technology. At that time, lecturers who were PhD holders in the Department were very few. They are overwhelmed with the number of students carrying out research and need to be supervised because of inadequate personnel. Therefore, before the CHE puts information in the newspapers, it should find out how many qualified lecturers are in the universities.

Madam Temporary Speaker, apart from teaching, universities are mandated to carry out research. Research is something continuous and not static. It is meant to solve a problem in a community or an organisation. It is through research that we can know exactly what is happening and the gaps, so that they can be filled.

When universities are funded adequately, it is possible to have enough personnel to help mentor students and impart the knowledge they have so that we have enough researchers. It is at the university level that one gets the beauty of teaching because they can read anything without being stopped. The more people read, the more they can research about anything in any place in the world.

Therefore, it is important for the Government to ensure that money is allocated to universities and other higher levels of learning like colleges to ensure that we solve the problems that we have as a country. By the time people do their Masters or PhDs, they are old enough to be forced to read. They have an intrinsic desire to read and make a contribution to the society, fill a gap or give back to the communities. Such people should be funded.

I remember I attended a workshop on special needs. During a certain presentation, somebody quoted G. M. Inimah who had done a research on special needs. I told the person that I was the G. M. Inimah. They were quoting from a research that I did in 2003 about special needs education.

I took my research work to the Kenya Institute of Curriculum Development (KICD) when Prof. Ndurumo was the Director of Special Needs Education. I gave them

my research work purposely because it had pedagogical implication. That work was not even opened. As I speak, the issue concerning special needs has persistently come up but it has never been addressed since 2003.

As a scholar, apart from being a leader, I am passionate because I know that people in Government offices and the KICD have no time to read. That was evidenced when they quoted the work that I did in 2003 but they cannot listen to me as a scholar. I know they cannot implement what I recommended.

Madam Temporary Speaker, there is need for this country to take higher education seriously and fund the institutions to carry out research. Any problem that is not researched objectively cannot be solved objectively.

Most of the research done in this country is biased. A research should be done with an objective in mind. Most people who do research always have biased opinions even before going to the field. At the end of the day, they just report on what is in their mind and that should not be the case.

The research that is done at the higher levels of learning is rigorous. One cannot doctor information because the panel asks the students how they got information and anyone who has doctored information will be embarrassed because they will be unable to explain how they got their data. There is need for universities to be funded and we need to invest in research.

In one of our meetings today, we were talking about teenage pregnancies and we ended up getting desk information which had not been researched. Someone said that teenage pregnancies are as a result of decadence in values but that information has not been researched. There is need for proper research. It is true that we need to talk about mental illness, drug abuse and all the ills in the society, but we must also do a rigorous, objective and empirical research. That will make the information brought on the Floor of the Senate credible and one that can stand the test of time.

There is need for collaboration between the county governments, universities and colleges in research. We should also have collaboration between the national Government and universities or we can have a tripartite collaboration where the county government joins hands with the national Government and the academia with the view of solving a problem for the sake of the children of this nation.

Thank you. I second the Motion.

(Question proposed)

Sen. (Dr.) Milgo: Thank you, Madam Temporary Speaker. I rise to support the Motion on Enhancement in Allocation of Research Funds towards Higher Learning.

The institutions of higher learning in our country are mandated to conduct teaching, learning and research. Research funding is necessary because it enables the institutions of higher learning to produce fully baked graduates into the job market. A country is as strong as its intellectual capital. Research in our universities is weak because of lack of funding. We have many problems in our society, but they cannot be solved without proper research. We have climate change issues and diseases such as cancer that has more or less become a norm. It is like having a normal cold. We need

empirical data to address such kinds of issues. To enhance some of the Big Four Agendas such as agriculture and manufacturing, we require research findings.

The world over, universities are normally ranked based on the types of research or the amount of research that is going on in those universities. It is unfortunate that our universities are normally ranked very low save for the University of Nairobi that appears among the top 100. The poor ranking is as a result of poor funding.

Madam Temporary Speaker, successful economies all over the world exploit the knowledge and innovation gained as a result of research conducted in their various institutions. Normally, the graduates use the knowledge they have gained from the universities to add to the development agenda of those particular countries. You will realise that with the superpowers, funding for research is very high.

Our country's funding to higher institutions of learning is very low; it stands at 0.8 per cent of our Gross Domestic Product (GDP) compared to Israel that uses 4.3 per cent. The United States of America (USA) spends three per cent on research and Sweden spends three per cent. Our research funding is low yet we are a third world country. We are supposed to use more of our GDP on research so as to position ourselves to better levels.

We want our country to be a middle-income country come 2030, but we cannot achieve that without doing rigorous research in our various institutions. Research will help us gain knowledge on innovations, software and it will also enable us to design new processes. Rivatex East Africa Limited in Uasin Gishu County had collapsed, but it recently got a new lease of life because of the new processes that were implanted. In fact, it is now producing laptops that are being supplied to schools. We got fascinated when we visited Rivatex East Africa Limited. In future, if more funding is added to that institution, it will be the best in East and Central Africa.

In addition to that, we also realise that innovation that comes from research is what has lifted those organisations that are doing very well right now. We realise that Safaricom Kenya Limited that started in our country recently is one of the leading private organisations in East and Central Africa. It is very unfortunate that we lost its Chief Executive Officer (CEO). I pass my condolences to his family. There are very many innovative products that are in Safaricom right now. It is a major employer in our country. It is assisting students from needy families to school. We also have banks such as Equity doing very well because of the innovation that is going on there.

Madam Temporary Speaker, we need our university graduates to come out with a lot of knowledge from research so that development in our country can move to the next level.

We have just come out from the Millennium Development Goals (MDGs) and we expect to meet the sustainable development goals. They cannot be achievable without input of new knowledge so that we are able to achieve whatever is prescribed in those goals.

Sometimes in the year 2017, our universities were even required to reduce their staff so that they could release some amount of money for research. However, rather than asking them to reduce staff, our Government had better enhance employment of staff. When we reduce staff, we may even miss personnel to conduct research.

Our institutions of higher learning require funding to increase the volume of research, produce high quality graduates and also ensure that they compete globally and that we carry our country to become a middle-income earner. Otherwise, Vision 2030 will simply remain a blueprint without any achievement.

Madam Temporary Speaker, it is also unfortunate that our universities are relying majorly on funding from the Government to conduct research. While we are asking the Government to increase funding, we challenge our universities to come up with other innovative ways of funding and planning for better research so that come the future, they shall be able compete.

Our country has gone into a great level of governing this great nation by having devolution that has produced various counties. However, there are very many problems and unexploited resources in those counties. If there was any research going on in our institutions of higher learning, we would expect that these would be a cure to these counties in terms of extracting certain mineral resources and advising them to use different forms of knowledge.

Madam Temporary Speaker, it is high time that research in our institutions of learning is relooked at afresh and more funding added so that the research that comes out will be able to cure the problems affecting our country.

This Motion has come at the right time. I hope the concerned people are listening and that something will be done so that funding can be increased to our universities to enable them produce quality graduates.

I support.

The Temporary Speaker (Sen. Pareno): Proceed, Sen. Were.

Sen. Were: Thank you, Madam Temporary Speaker, for the opportunity to contribute to this Motion by Sen. Kasanga.

Sometimes back, organisations used to have a research and development department. Somehow along the way, we have lost that culture. Organisation have now done away with research and development and replaced those departments with business development managers or directors. What our forefathers had in mind was very crucial when we had this research and development as part and parcel of an organisational culture and behaviour.

We live in a changing and dynamic world. There are gaps being created every so often. Those gaps must be filled by something that is as a result of research. Our scholars here have spoken quite passionately about the value of research. Those gaps can only be filled by research.

Madam Temporary Speaker, recently we had a public hearing on the Cancer Control and Prevention Bill. There was a presentation from researchers at the University of Nairobi who told us that we are going about cancer prevention, control, diagnosis and treatment the wrong way. What is lacking is research in this area. For all the information and drugs that we receive, we are relying on foreign research which does not put into consideration the genomics of Africans as we are. We, therefore, need to develop a culture of research so that we develop drugs and interventions that are based on our own experiences and mark-ups.

I request that our institutions or higher learning should through the Government insist on their second part of mandate which is research other than just teaching and learning. There must be research and filling the gaps necessary for development. We cannot develop and say we want to be a middle income economy by Vision 2030 if we are not investing in research.

Madam Temporary Speaker, with those very many remarks, I support.

The Temporary Speaker (Sen. Pareno): Let us have Sen. Farhiya.

Sen. Farhiya: Thank you, Madam Temporary Speaker, for allowing me to contribute to this Motion. I thank Sen. Kasanga for bringing the Motion at the right time. We all spoke about how important research is.

We are at a level in this country where even when the students have their own initiative and discover something there is nothing to push them forward. Let me give a few examples. There is a reagent used to test the level of insulin for people with diabetes. There is a Kenyan who discovered that in the United States of America (USA). I know this because his wife was my former boss. Today, that drug is patented by a company in the US.

A few years ago, we saw a school boy who developed a lighting system that flickers when an elephant or any other wildlife comes near it. In the process, it scares away the wildlife animal.

The other day, I saw on television a young man who was a school dropout who was using his mobile phone and solar power to create a system that was able to lock and open doors remotely. There are two school girls in Kilifi County who developed something that when used is able to detect landmines and such. All these people have done all this work without help from the Government. Where is the help from the Government to ensure that there is mass production on what they have done, so that this country develops?

Madam Temporary Speaker, in the news today, there was a discovery of HIV/AIDS medicine. One of the developers is a Kenyan, while the others are other nationalities. Another company will patent that and it will be the end of the story. In this country, we have many people with intellectual capacity. Can you imagine coming up with all those without any support and even somebody to take forward the efforts of their invention? They have discovered that the Government is not even producing those things in large scale.

Discovery is about unearthing something that is of social deficiency. For example, society needs certain solutions in life. Once somebody discovers how to solve those problems, that is an innovation. When you solve a social problem, the money follows naturally. However, when those social problems are solved by people who are poor and do not have enough capacity to produce, first of all, even our business people are not picking those ideas. They can even pick them, patent them and give some share of royalty to the discovered. However, nothing of that sort happens.

For me, besides even setting big amounts of money for research and development, even when those discoveries happen, we need a follow up in terms of financing set aside. I ask Sen. Kasanga to include that as part of the resolutions of the House; for the

Government to finance those discoveries so that they can be produced *en masse* to solve a problem.

We need to industrialise, and it is part of our President's Big Four Agenda. Unless it is still being done under the table and there is nothing in the news, all those discoveries I have mentioned can lead us to industrialisation. Human beings need motivation to innovate. As long as that motivation does not exist, those other ones--- It is like when you go to the village and ask people why they do not work hard in school. They ask you why they should work hard when those who worked hard and scored 'As' completed university but do not have jobs.

The other thing is that we even fail in schools in terms of teachers. I do not want to belittle teachers because it was not for a teacher, I would not be standing here, in a House of this stature, to put my arguments forward. However, even those who are picking careers sometimes need some level of guidance. When I started doing my accounting, the market needed 400 accountants, but there were only 100 who could come to the market. Right now, in terms of people who sit in the offices, the market is flooded. There are people who would have generated enough money to put people in offices, but no attention is being paid in that field. How can these people be employed? You need those people to generate business---

(An hon. Senator gestured at Sen. Farhiya)

Someone is using sign language, and that is why I am a bit disrupted.

The Temporary Speaker (Sen. Pareno): You have the Floor and should not be disrupted.

Sen. Farhiya: Thank you, Madam. Temporary Speaker, Sir, for protecting me.

The Commission on Revenue Allocation(CRA)submitted to the House the other day. They said that part of the reason they do not have water as part of the criteria is because they do not have any data regarding--- They have data on who has access to clean water, but they do not have any data to show the distance between a person and access to clean water. What people are forgetting in that process is the economic value of fetching water from such far distance. If that water was near this person, how much more productive would they be doing other things?

I agree with Sen. Kasanga that we need a lot of money set aside for research, development and innovation. However, at the same time, we need funds to actualise the work of those who have innovated.

Thank you, Madam Temporary Speaker for allowing me to contribute.

The Temporary Speaker (Sen. Pareno): I now understand that maybe the sign language was meant to tell you that they also need to contribute.

I now call upon Sen. Wambua.

Sen. Wambua: Thank you, Madam Temporary Speaker, for this opportunity. However, it should go on record that it is not me who issued the sign language.

I stand in support of this Motion by Sen. Kasanga. The essence of this Motion is to put more money in research and especially in our universities. In the best interest of time, I will limit my comments to only three issues.

First, one of the things that happened following devolution is that we devolved governance and structures of governance. We also devolved funds, where we said funds should follow functions that have been devolved. Our universities were not left behind; they also devolved. What happened is that, today, almost every county plays host to a college or some university. It is a good thing. The only big question that we should be asking ourselves is: What is the impact of devolving university education to counties, if those counties continue to grapple with simple capacity issues?

Madam Temporary Speaker, yesterday, a matter was brought to the Floor of this House on the management of waste in counties. It was agreed by all Senators who contributed to that matter that very few counties, if any, are doing proper waste management. The question to ask then, in line with this Motion by Sen. Kasanga is: Is it beyond universities and colleges situated in these counties to collaborate with these counties and do proper research on how to turn waste into better use, for counties to create jobs and products that will be useful in those counties? The answer to that question is: It is possible for universities to collaborate with counties and do more than just proper waste management. However, that is only possible if we have more funds and structures dedicated to research in those universities.

The second thing is in reference to a comment made by Sen. (Dr.) Milgo on Rivatex East Africa Limited and what they are doing. I happen to have visited Rivatex East Africa Limited alongside colleagues from the Committee on Information and Technology. We were impressed by what is happening at Rivatex, for this purpose, not just on the part of the clothing or textile industry, but on the assembly of tablets for schools.

Madam Temporary Speaker, we need to scratch below the surface. What is happening at Rivatex which is a joint venture with Moi University is that they are simply assembling tablets. All the parts that constitute the tablets come packed in boxes. What the university is doing is to put the parts together and the end product is the tablets that go to schools.

That is a good thing. However, we can do better. This is because what we are doing by assembling parts developed by other people and other institutions is providing a ready market for other universities. Therefore, I would rather that we get to a point where we start to produce those parts ourselves, put them together and have final products.

I am encouraged to hear that in Rwanda - although I have not confirmed this - they are now manufacturing their own smart phones from scratch in collaboration with universities where people do proper research. They produce the component parts of the whole, put it together and have good products. This matter of assembling parts from other universities and institutions is a good one but it is not sustainable.

We are reminded of the Nyayo Car project where we were putting together engines and parts. However, with the advent of the Rift Valley Railways (RVR) and eventual entry of the Standard Gauge Railway (SGR), nobody talks about the Nyayo Car anymore. The Thika Plant where we were assembling motor vehicles is almost a ghost. Therefore, we need to go beyond just assembling parts into producing the parts.

Madam Temporary Speaker, finally, going back to the market research of August, 2018, last year, a CPS Research International gave a report that was almost shocking. It

stated that more than 35 per cent of universities in this country do not have research laboratories and incubation centres. Almost all the universities in this country rely almost entirely on funding from the national Government to carry out research.

Madam Temporary Speaker, I wish we could get to a point where universities establish collaborations with partners across the globe. They should look for funding outside the national Government and invest in research, so that we can begin to make our own products and policy making processes based on research in real time.

Madam Temporary Speaker, with those many remarks, I support.

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker. I wish to support this Motion and congratulate Sen. Kasanga for bringing it. I do not want to go into the virtues of research and development because Sen. Wambua has eloquently done that in his presentation.

The whole field of innovation is so critical. Most of the countries are coming up with these innovations and taking it through to the next level so that the innovation can bring out something that is functional.

Madam Temporary Speaker, if you remember, M-PESA was an invention that came from a young man. It has now become something critical. So, it is something that has to be encouraged.

Sometimes, you find specific education on enabling possibilities of colleges and universities, to ensure that this sort of research takes place. In the field of imparting knowledge, theory and research is key. The amount, level and quality of teaching is enhanced by research. Unfortunately, because research is expensive, you find that most of the lecturers and teachers tend to focus only on the teaching. So, they come up with things, for example, yellow notes, where somebody has the notes that they taught with for the last 20 years yet there are new things coming up.

Madam Temporary Speaker, there are doctors who do not have the recent techniques of handling any problem because they are not researching. If a person does not research, they do not get to where they are meant to be. In fact, technology has improved so that we can research easily, for example, on phones or any other equipment.

What happens in the long run is that various national policies on research and innovation are available. However, there is fragmentation in the sector. Therefore, you find that the whole research agenda, adequate funding and competitiveness that is not meant to be is interfered with.

Therefore, this Motion addresses this by coming up with a comprehensive report from all institutions of higher learning on the status of performance of research and innovation in the country. This is key so that we know where they are and how they can build up to the next level. Also, improving allocation of funds for academic as well as sustainable community based research is also important.

I know that there are certain initiatives at university level to ensure that funds are made available. However, the systematic ways that this should be done is not there. Therefore, sometimes you find that these funds are ad hoc and a stop gap. They conduct little research here and there.

If you think of places like the Kenya Medical Research Institute (KEMRI), for example, they need to have enough money for research so that they can know how to

handle diseases like Sickle Cell Anemia and HIV/AIDs that have been there for a long time. This needs to be addressed.

Providing subsidies and frameworks for partnerships between public and private institutions is important because it addresses the shortfall of research and innovation. I know that funding follows innovations. Where funders are interested in a particular innovation, they present the necessary funds that are required.

Madam Temporary Speaker, I support this Motion. The possibilities of bringing a Bill and amending a particular existing legislation will be key, so that this becomes something that is entrenched in legislation and can be followed through in institutions.

The Temporary Speaker (Sen. Pareno): I see no further requests. I, therefore, call upon the Mover to reply.

Sen. Kasanga: Thank you, Madam Temporary Speaker, for this opportunity. I beg to reply and appreciate the contributions of Senators to this important Motion. I know that without a doubt that we must push, as a Senate, to get this Motion realised. Innovation and entrepreneurship is the way of the future. As you have heard from Sen. Wambua, other countries have adopted it and made it mainstream. We are now feeling a bit left behind because Kenyans are extremely innovative and creative. Therefore, we need to protect, embrace and celebrate them. I know that Sen. Farhiya would have mentioned the patenting process so that we can celebrate our inventions and help Kenyans to innovate further so that we can begin to look towards being an industrialized country.

Madam Temporary Speaker, I am grateful for the interventions that have been made. I look forward to a positive vote to this Motion.

The Temporary Speaker (Sen. Pareno): I rule that this is not a matter that affects counties. Therefore, I proceed to put the question.

(Question put and agreed to)

The Temporary Speaker (Sen. Pareno): Let us move on to the next Order.

STAFF RATIONALIZATION IN COUNTIES

Sen. (Dr.) Zani: Madam Temporary Speaker, I beg to move the following Motion-

THAT, AWARE THAT the Senate represents the counties, and serves to protect the interests of the Counties and their governments;

FURTHER AWARE THAT, the launch of the Capacity Assessment and Rationalization of the Public Service (CARPS) Programme was launched by the Inter-Governmental Steering Committee (IGSC) on 14th July, 2014, with the objective of transforming the Public Service for efficient and effective service delivery at both levels of Government;

NOTING THAT, the implementation timelines for the CARPS programme of two years specifically with regard to the capacity

assessment, workload analysis and staff redeployment and transfers, are of paramount importance in the counties as the terms of all second term County Governors come to a close in 2022;

CONCERNED THAT, county governments are still engaged in uncontrolled hiring of staff in total violation of applicable laws, exposing a glaring imbalance between money spent on recurrent expenditure, versus budgets for development projects which are the essence of devolution;

CONCERNED FURTHER THAT, contrary to Section 15(2)(b) of the Public Finance Management (PFM) Act, in counties such as Nairobi, Machakos, Garissa, Kisumu, Wajir, Baringo, Narok, Nakuru and Nyamira, staff salaries consumed in excess of 75 per cent of total expenditure, over and above the set limit of 35 per cent as provided in Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015 during the FY 2018/2019;

DEEPLY CONCERNED THAT, although Section 65 of the County Governments Act requires that more than 30 per cent of the vacancies at entry level be given to members of ethnic groups that are not dominant in their precincts, the 2016 Ethnic and Diversity audit launched by the National Cohesion and Integration Commission revealed that 68 per cent of counties have hired more than 70 per cent of their staff from one ethnic group;

NOW THEREFORE in exercise of its oversight function, the Senate resolves that the Public Service Commission (PSC), Intergovernmental Relations Technical Committee (IGTRC) and the Council of Governors provide a comprehensive report on-

(1) the progress and implementation status of the Capacity Assessment and Rationalization of the Public Service (CARPS) Programme indicating the County Governments that are compliant; and

(2) the number of employees in each County Government showing the amount spent as wage bill vis-à-vis recurrent expenditure budgeted for FY 2018/2019.

and submit these reports to the Senate within 60 days of this resolution.

Madam Temporary Speaker, as you are aware, this is an issue we have been dealing with in the Senate. The Constitution stipulates rationalisation---

The Temporary Speaker (Sen. Pareno): Order, Sen. (Dr.) Zani. You will have a balance of 17 minutes when debate on this Motion resumes.

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, 9th July, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.