

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Tuesday, 22<sup>nd</sup> October, 2019

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

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

#### PRAYER

#### STATEMENT

##### DELAY IN PAYMENT OF LIVESTOCK SUPPLIERS BY KMC

**Sen. Dullo:** Mr. Speaker, Sir, I rise pursuant to Standing Order 48(1), to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the delay by the Kenya Meat Commission (KMC) in paying farmers who supplied livestock to the corporation.

In the Statement, the Committee should:

- (1) Explain why the KMC is yet to pay farmers from across the country who have supplied livestock to the corporation, despite persistent demands;
- (2) State when the corporation will pay the famers and, specifically, the beneficiaries of Messrs. Pariken Ole Koipa and Isaac Lelei (both deceased) and Mr. Ibrahim Yusuf Ali, who is ailing from kidney failure and needs money for medication; and,
- (3) State what measures are in place to ensure that there is no delay in paying livestock suppliers in future.

I thank you.

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, KMC problems have been there for a long time and pastoralist communities have suffered a lot. They already do not get enough money for their livestock. When they travel all the way from all parts of the country, they suffer when bringing their animals to Kitengela and most of the time, they are not paid. Many people have suffered because of lack of payment.

I would urge the Committee concerned to make sure that it is not only the three or four people named by Sen. Dullo, but also many other people who have taken their animals there and have not been paid for the last 10 years. KMC should either be completely disbanded because it is not helping the pastoral community or we will demand that we even take the lambs so that we are able to pay the creditors. KMC should pull up its socks.

I thank you.

**The Speaker (Hon. Lusaka):** Order No. 8 is deferred.

**BILL**

*Second Reading*

THE CARE AND PROTECTION OF CHILD PARENTS  
BILL (SENATE BILLS NO.11 OF 2018)

*(Bill deferred)*

Next Order.

**MOTION**

ADOPTION OF CPAIC REPORT ON INQUIRY INTO FINANCIAL  
OPERATIONS OF VARIOUS COUNTIES FOR FY2014/2015

**The Speaker (Hon. Lusaka):** I do not see the Chairperson. Sen. Dullo, you can move the Motion.

**The Senate Majority Leader (Sen. Murkomen):** On a point of order, Mr. Speaker, Sir. The Chairperson of the Committee is yet to arrive. Considering the importance of these reports, with your permission can we move first or “stay”?

Last week, the word ‘stay’ was used in different ways. Can we delay that order so that we go to Order No.15 which was the Motion moved by Sen. Nyamunga because she has already arrived and we continue with it as the Chairperson of the Committee is coming?

From there, we can move, appreciating that the other Members are here, it can also give them time to prepare if the Chairperson will not be here.

**The Speaker (Hon. Lusaka):** Sen. Faki, what is your point of intervention?

**Sen. Faki:** Mr. Speaker, Sir, the Chairperson of the County Public Accounts and Investment Committee (CPAIC) is 10 minutes away from the Chamber. Could we defer that Order and then we revisit it in the next half an hour? I will be obliged.

**The Speaker (Hon. Lusaka):** For the convenience of the House, we will move to Order No. 15.

**MOTION**

ENGAGEMENT OF COMMUNITY HEALTH  
WORKERS BY COUNTY GOVERNMENTS

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 doctors for every 10,000 people;

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

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

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

*(Sen. Nyamunga on 17.10.2019)*

*(Resumption of debate interrupted on 17.10.2019)*

**Sen. Poghiso:** Thank you, Mr. Speaker, Sir. It is important that we support this Motion on engagement of community health workers by county governments. It is important, particularly for counties, for example, West Pokot County where I come from, to have people at the primary health level.

I am a beneficiary of primary health workers. I grew up in a village where there were no nurses, clinical officers or doctors. I went to school in Uganda and we benefited much from community health workers who were trained at the primary level.

My late father was a primary health worker trained as a dresser at the village level. He saved many lives, for example, people suffering from malaria, snake bites *et cetera*. It became necessary because the primary health workers at the village level live with the people. Therefore, we should give them the right policies, training and allow them to function. Right now, because of our own policies, we do not have the right people. They do not have to be highly educated, they just need to be practical so that they can deal with issues at the lower levels.

Mr. Speaker, Sir, we have been disappointed by our level 4 and 5 hospitals. Patients are referred to level 5 and referral hospitals, but they do not get the right

treatment. Sometimes, because of laziness, referrals have become common. For example, people are referred to a higher level of attention when they can be dealt with at a much lower level.

My concern with the current situation cannot be gainsaid. There are no drugs in many of our big hospitals at the moment. The doctors are busy doing their own businesses. There is absolutely no attention given to the people. I am saying this because of complaints that we have heard in many hospitals where there are no medicine.

There is a Government policy to close down health facilities, for example, dispensaries and health centres that are not properly constituted. Many of them, were opened up to serve people, but some of them do not have the right facilities and staff. So, they maintain the hospitals without staff because there is a shortage of nurses and clinical officers. Many dispensaries were opened up and built using National Government-Constituency Development Fund (NG-CDF) while others were built by county governments, but they cannot recruit enough workers.

A lot of problems in the areas that I am talking about are water borne diseases which can be dealt with by primary health workers at the level of a community health worker. They are basic. For example, if a community health worker knows the symptoms of malaria, he or she can treat it without referrals.

Mr. Speaker, Sir, it is important that we develop this policies, especially for little children and mothers who have to travel long distances to get treatment. That is why I am supporting Sen. Nyamunga. We would like to develop the right policies for training, certification and employment of community health workers to enhance the emergency health service delivery in the counties. We need to facilitate the said community health workers with the necessary basic equipment.

In late 1940s, the people of Pokot could not accept this modern medicine. It was necessary for them to get somebody who speaks the Pokot language and take him or her through training and send them to the villages for them to have faith that the medicine is good. For a long time, they resisted to take this medicine because they thought it was a white man's way of destroying them. So, they refused it until they decided to train a few people who went to villages. It was the beginning of acceptance of modern medicine in those areas.

As I said before, my late father, Mr. Poghisio, was one of the first people to be trained. That is, probably, how we managed to survive in those villages.

I inform my colleagues that in the neighbouring countries, for example, Tanzania and Uganda, community health workers form the biggest part of their health staff. They have connected well with the local people. So, it is possible to do it in Kenya. Let us have counties pay for it because health is devolved. It will help to deal with the majority of problems in the counties.

Mr. Speaker, Sir, I support this Motion and thank you for the opportunity.

**Sen. Were:** Thank you, Mr. Speaker, Sir. I join my colleagues in supporting the Motion on engagement of community health workers by county governments that is ably sponsored by the distinguished Senator from Kisumu, Sen. Nyamunga.

It is important to state from the beginning that health is a devolved function. Therefore, it is incumbent upon county governments to up their game in provision of this

service. We know that a healthy nation is a wealthy nation. We have always been told that prevention is better than cure.

The way to prevent diseases in our country and, especially in counties, is to use the volunteer health workers. For many years, people have volunteered to help at the local level. For a long time we have had traditional births attendants who have always come in handy to help deliver mothers when they cannot access hospitals. These volunteer care givers have worked for a long time without recognition yet they play an important role in the society.

Mr. Speaker, Sir, with this Motion, we expect that the concerned authorities will take it up and provide training for those that are already in the system. This will also encourage others to come up and join these primary healthcare givers whom we call volunteers. At this moment, they have no certification and training. There is no policy to guide on how they should work. Without this policy, these workers are on several occasions, misused, underpaid and overworked. They are not provided with equipment because no one recognizes them in any legal way. However, with this Motion, we will have a policy in place and county governments will be mandated to recognize these groups.

Mr. Speaker, Sir, the importance of these primary healthcare givers at the local level cannot be understated. In my county of birth – that is Busia County – there is an organization called the Rural Education and Economic Enhancement Programme (REEP), which is run by a lady called Mary Makokha. This lady and her organization have taken the issue of primary healthcare givers and volunteers at the local level very effectively. For the last 20 years, she has ably used these people to help prevent diseases like HIV/AIDS, other viral infections and even cholera from spreading, and simple hygiene-related diseases. She uses these groups to help prevent those diseases.

Our community is much better because of these primary care givers who are all the way to the village level. It has been said so many times that without her organization and how she has put these workers in place in the village and even in homes, our villages would be wiped out by scourges like HIV/AIDS, simple hygiene illnesses like cholera and diarrhea. She has promoted immunization programmes in the region.

Mr. Speaker, Sir, these health care givers at the village level go around even reminding mothers when they should have their children go for regular antenatal and postnatal checkups. Every day, they remind mothers, especially those who are HIV/AIDS positive on when they should take their drugs. They advise them on what they should be doing when their immunity is low. So, these healthcare givers are very important. That example of REEP alone should encourage counties across the country to adopt this, put up a policy and develop a programme to engage healthcare givers in a more organized way.

With that recognition, we shall even have polytechnics, which are also a devolved function, taking up this as an area of study so that we have more of these healthcare givers. By so doing, we shall have a healthy nation. As I said earlier, a healthy nation is a wealthy nation.

I thank Sen. Nyamunga for this Motion, which is long overdue, six years into devolution. With those many remarks, I beg to support.

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir, for also giving me this opportunity to make my contribution to this very important Motion by Sen. Nyamunga.

Mr. Speaker, Sir, engagement of primary community health workers to support health issues in our communities is very important. As Sen. Poghio said, this had been started by health workers in some of the communities where we grew up during the colonial period. This was done by training some people on matters to do with maternal healthcare, preventive skills and so on. During our time, many of the mothers were assisted to deliver in the villages so easily and comfortably by these community health workers.

Mr. Speaker, Sir, the whole world has a shortfall of about 18 million healthcare givers. Most of the countries have currently engaged into these practices to bridge the gap of shortage of health workers. Therefore, these people will be very important if they are engaged and trained to capture the skills that they already have. Doing so, will ensure that they support the health sector in this country.

I remember that even in the village, there were some people who normally circumcise young boys in a traditional way. You could see that they are so skilled. If they are given a little training, they could be great surgeons. Therefore, the community health approach to health issues is very important.

Mr. Speaker, Sir, currently, many people are suffering from cancer in our country. It is very interesting to note that our people get to know of cancer when it is at stage four. When they seek medical attention, sometimes they are exploited by the private hospitals. These hospitals are not good enough to encourage them to go home and be taken care of in a palliative way. In such moments, the community health workers will be very important if they are given some little skills, especially where so many people in our villages are suffering from cancer. They will support them with palliative care and so many other things related to health issues.

Mr. Speaker, Sir, the community health workers approach to health issues in our country is very important. Every county government should support this so that our people do not continue suffering on issues that could easily be handled.

I congratulate Sen. Nyamunga for bringing this very important Motion to this House. I encourage her to continue and even make it a Bill, so that it be factored in as an Act that will support health services in our country.

I support.

**Sen. Faki:** Asante, Bw. Spika, kwa kunipa fursa hii ili kuchangia Hoja ya Sen. Nyamunga kuhusiana na wafanyikazi wanaohudumia jamii kwa mambo ya kiafya.

Bw. Spika, wengi wetu waliozaliwa katika miaka ya sitini walipitia mikononi mwa wakunga, ambao ndio waliokua wafanyakazi wa kwanza wa jamii waliokuwa wakisaidia katika masuala ya afya. Hadi sasa, wakunga hawa bado wako katika jamii ambazo ziko mbali na mahospitali. Wakunga hawa wanasaidia pakubwa kuzalisha bibi, dada na mama zetu, ili wapate watoto. Njia wanayotumia sio salama, lakini ndio njia pekee wanayoweza kusaidia ili kuhakikisha kwamba wameweza kupata watoto.

Bw. Spika, baada ya janga la UKIMWI kutuingilia, wafanyikazi wa afya wa kijamii waliongezeka. Wanafanya kazi hizi katika kila mji, wengine bila malipo, na wengine katika hali ambayo inatoa athari kubwa kwa maisha yao. Hii ni kwa sababu

hawana vifaa vya kujikinga na magonjwa ambayo wanayohudumia kwa Wakenya wengine.

Bw. Spika, Hoja hii imekuja wakati mwafaka kwa sababu tumeona kwamba katika kaunti nyingi, wafanyakazi wa afya wa jamii hawana malipo. Serikali za kaunti hazijakuwa na rasilimali za kutosha za kuhakisha kwamba wameajiri kazi wafanyakazi ambao watahudumia wananchi katika kila zahanati ama hospitali. Katika kaunti nyingi, wengi wa ngariba ambao wanapasha vijana tohara ni wafanyakazi wa afya wa jamii lakini hawashughulikiwi kwa njia yoyote na serikali hizo.

Bw. Spika, tumeona kwamba ziko baadhi ya kaunti ambazo zimeweza kuwajali wafanyakazi kama hawa. Wanawakatia kadi za NHIF ili wakiwa na matatizo ya kiafya, wanaweza kwenda kuhudumiwa katika hospitali za Serikali bila ya malipo yoyote. Jambo hilo halitoshi kwa sababau pia wanahitaji kula, kuvaa, na watoto wao wanahitaji kwenda shule. Iwapo hawatalipwa kiinua mgongo kwa kufanya kazi hii, basi itakuwa ni kazi bure kwa sababu watawunjika mioyo. Baada ya muda fulani, hakutakua na watu waliojitolea kama hao.

Bw. Spika, tulipokuwa na mkurupoko wa ugonjwa wa chikungunya kule Mombasa, wafanyakazi wa kiafya wa jamii walitumika pakubwa. Walihakikisha kwamba maeneo wanamoishi binadamu yamepigwa dawa, kumekuwa salama na ugonjwa huo ukaondoka Mombasa kabisa.

Bw. Spika, naunga mkono Hoja ya Sen. Nyamunga, na naomba kwamba asiachie hapo. Hata kama ni sheria kupitishwa ili tuhakikishe kwamba wafanyakazi wa afya wa jamii wanapata ruzuku kila mwezi, itakua ni jambo kubwa sana la kuwasaidia wanaojitolea kwa kazi zao kwa sasa.

Asante, Bw. Spika, kwa kunipa fursa hii. Naunga mkono.

**Sen. (Dr.) Mbiti:** Mr. Speaker, Sir, I wish to support this important Motion brought by Sen. Nyamunga on the engagement of community health workers by county governments. This is a very important state forward as far as achieving Universal Health Coverage (UHC). We cannot work towards UHC while ignoring primary healthcare. Charity begins right at the bottom. It is my view that this is the way to go. This is because many counties in this country are building grand hospitals and referral hospitals, but they are missing the point.

We would rather work towards ensuring that we prevent these conditions before they become critical. This is a very important Motion and I wish to congratulate the counties that have already started engaging the community health workers. They are actually going towards the right directions.

Unfortunately, we need to now put up proper framework of engagement of these people. This is because some of the counties are underpaying this important cadre of people. We need to put some serious structures to ensure that this important group of people are remunerated and trained properly.

Mr. Speaker, Sir, I wish to confirm that my Committee will support this Motion going forward.

**Sen. Wetangula:** Thank you, Mr. Speaker Sir, this Motion comes at a very timely period when the country is facing serious challenges in health. If you may recall, and I was discussing this with some colleagues, including the distinguished Senator for West Pokot, in those days there were people called *Bora Afya*, who were everywhere in the

villages. They were doing everything that doctors of today can do, including teaching people how to prevent diseases.

Mr. Speaker, Sir, I remember when we were young, they used to cane parents for leaving pools of water in their compounds and, therefore, breeding mosquitoes to spread Malaria. Things used to work well. They used to teach families how to kill rodents. You remember the famous joke that if you are a white person, you are referred to as a rodent officer. If an African, you are called a rat catcher. Those people were always there doing all important work.

What Sen. Nyamunga is asking to be done is something so critical for primary healthcare and preventative approach for dealing with diseases in our counties. Today, and colleagues from counties can tell you, as we are preoccupied with diseases that are killing rich people, the ordinary man is dying from basic preventable ailments. The ordinary woman is dying because they cannot move for two kilometres to a health clinic for delivery.

Children born in the villages die in their hundreds simply because there are no people to look after them, yet if you look around the country, almost every county has a Medical Training College (MTC), teaching and training nurses, clinical officers and dressers, and so on. The only problem is that there is nobody undertaking the use and utilization of these skills.

It is important that our counties as they struggle with delivering healthcare, they should not be preoccupied with brick and mortar. You go to a county and are told: "My flagship project; I am building a seven storeyed hospital." A hospital is not a building; it is a service, personnel, availability of advice and medicine that can help people.

I remember saying on this Floor that during Gaddafi's reign, Libya had attained one of the highest standards of health in Africa. There were no bricks and mortar; people were being treated in tents. A tent is set up in a Bedouin Village and everybody goes there and gets the treatment they want. Even if you go to marginalized counties, you do not have to go to Loiyangalani and build a five storeyed building to be a hospital; you need to have personnel and medicine to treat people. I want to urge that the outcome of this Motion be forwarded to counties to make sure that *wananchi* get value for money.

Mr. Speaker, Sir, two years ago, I went to attend the funeral in Runyenjes of an old man who died at the age of 118. The history that the family gave us is that at 118, this man had never entered a hospital. He had only been attended a few times by a *Bora Afya*, the people who would advise you on what to do, eat and so on. He lived for 118 years.

Today, our children are being treated at a cost of Kshs50,000 in a month, and they do not even live long. It is because people are fixated with cost and making money instead of treating people. In fact, when you look at the approach to UHC in this country - and I have said this to the Jubilee Government that does not listen - if they cared to know what Kenyans require---

If you go to the village, what is ravaging *mwananchi* is malaria, diarrhoea, dysentery and malnutrition. All these are diseases easily preventable. If people are advised, for example, to boil water before they drink, we will prevent a lot of diseases. Sometimes that water from shallow wells is contaminated because there is a pit latrine there. So, the seepage of human waste into water will cause diarrhoea, dysentery and other diseases. If you go to my brother, Sen. Orendo's area, you will see people being



given treated nets and not told how to use them. So, the nets are now the fishing gear, instead of being used for the purpose it was intended.

During our time, we did not have treated nets, but the *Bora Afya* officers told us how to avoid mosquitoes. We were told that in the evening, we were to get dry cow dung and burn it on the cooking stove. That was enough to drive out mosquitoes from your house and you would sleep soundly. Today, we are told that someone has won a multibillion tender to supply nets. You are given a net, but since you sleep on the floor, the mosquito can still bite you through the net and so on.

Knowledge and application of it is what is important and is required for purposes of preventative approach to diseases. We also have basic things like our eating habits, which is still part of our serious problems with health. You go to villages, and because of lack of advice, somebody goes to sell five eggs to buy bread. There is no way you can compare eggs with bread. However, they will go and sell five eggs that have got high nutritional value to buy bread because bread is very foreign. This is the kind of advice that we need and counties will do a lot better if:

(1) They assess their manpower needs. You will find that there are people who retired as nurses and health providers, but they are still running private clinics in the local marketplace at the age of 70 or 80 years and they are treating more people than even the public health facilities.

(2) The people who assist the population in the villages, for example, midwives, most of them are quite comfortable earning Kshs3,000 or Kshs4,000 a month and they will take care of expectant mothers in the whole village.

Any lady who is about to deliver does not have to struggle on her own because these midwives will go and help. We need these midwives to be properly harnessed and be appreciated with some token payment. They do not have to earn a big salary with PAYE and so on because we know that income tax only starts at a certain bracket. If you are paying people Kshs3,000 or Kshs4,000 as an appreciation to use their skills in the villages to prevent mortality at birth among women, it will help a great deal.

Equally important, those young people who are graduating from MTCs, we need a marshal plan in counties where even when they are waiting for formal employment, they can still be taken on as interns earning little stipends to help them move from point 'A' to 'B' so that they can help the population. There are so many innovative ways of preventing diseases, but what is lacking is the will to do it. I hope that at the passage of this Motion and its communication to the counties - it is something that they already know or ought to know - things will change for the better.

I want to congratulate Sen. Nyamunga for bringing the Motion. I want to encourage that this is another milestone in moving towards affordable and cost-effective healthcare. Unlike what we are seeing where people just sit, connive and start ripping the country apart in the name of many things that we all know.

Thank you, Mr. Speaker, Sir.

**The Senate Minority Leader** (Sen. Orenge): Thank you, Mr. Speaker, Sir, for giving me a chance to contribute to this Motion.

Of all the devolved functions to counties, health is the most important one and well-funded, although it can never be enough. The Constitution, the way it is set out, is that only on issues of policy would the national Government to some extent be involved.

However, this is a function whereby the devolved units, being the counties, should demonstrate that they are up to the task.

Mr. Speaker, Sir, if you go out there and look at mission hospitals, which are operated without tax-payers money, some of them having operated for so many years, they are doing service and rendering medical care to a scale that one can appreciate, particularly because they are not funded by the public finance.

Some of these hospitals such as Maseno Mission Hospital, Chogoria Hospital and Kikuyu Hospital which has got an Eye Unit; have been organized in such a way that they have been able to offer healthcare to people at the local level. They have been able to reach those heights through training medical personnel from lower cadres. A hospital like the Kikuyu Mission Hospital - which I am very familiar with having studied at Alliance High School in Kikuyu - were training experts at the time when I was a student in that area.

Mr. Speaker, Sir, county governments are not doing a good job in terms of training personnel. There is so much dependence on what they found on the ground when the system of government of devolution was brought in after the year 2010 after the promulgation of the new Constitution. Therefore, this Motion is a call to action. I commend Sen. Nyamunga for bringing in this Motion because it is one of those Motions that do not speak to events of the future; it speaks of things that must be done and must be done now.

If you go to many county hospitals, there is very little innovation. They just run the hospitals the way they were being run as district hospitals. There is no major difference in the manner in which they run health centres and dispensaries and any other health delivery units at the local level.

I know that we can have all that is required, including medicine and medical equipment. However, without well trained people even for primary health care, effective medical services and care cannot be given at the local level in the counties and in the wards. Therefore, this call to action must be impressed upon the governors, the county governments and, more particularly the Council of Governors (CoG).

I hope that when we pass this Motion as I know we will pass it, these deliberations and resolution of the House should be sent to the CoG to appreciate our concerns as the protector of counties. This is because most of the time, the Senate is only useful to the county governments when we are fighting for more resources to go into the counties. However, when we are demanding for services to be provided, demanding accountability or insisting that certain things be done along the lines, for example, that Sen. Nyamunga has recommended in this Motion, very little action is normally taken. This is something that after we resolve and the matter taken to the CoG, we would wish to have some feedback on how they intend to deal with the very good ideas that are being postulated and suggested in this Motion.

Training sometimes is not something that is expensive. The CoG can sit down and find out how they can organize a way of setting up facilities, particularly targeting personnel who would be required by county health facilities. A lot of the facilities that are being created even at the local level you will find that some of them are being run by the national Government. An example is the MTCs which are now coming up in almost every constituency. Those are being funded by the National Government. How do you

train people who can help in advocacy of how to conduct oneself or how to attain primary health care? This is the kind of training whereby one county on its own or two to three counties coming together can easily achieve this goal as recommended by Sen. Nyamunga.

Mr. Speaker, Sir, district hospitals had similar challenges, but at least at that time, the Government was not accountable to the people. At Independence, our leaders used to talk about the three major challenges that faced the Government then. The nation was to fight the three challenges which were poverty, ignorance and disease.

Reading through this Motion, some of the to-do lists can be elicited from the ideas as stated by Sen. Nyamunga in the Motion. It is often a matter of concern when you are in the village and somebody is taken ill. For example, in Siaya County, ordinarily, many times when somebody falls ill in the village, they avoid the facilities run by the county government. They would rather go to private facilities run by private entities, including mission hospitals. Many times I have sent people to such institutions. People also trust funeral homes that are run by private individuals rather than public institutions, including those run by county governments.

This call to action is of immediate concern and need. I truly believe that county governments can achieve this particular goal without any additional funds. There is a lot of money being raised locally. Over the years, because of the emphasis of the money that is being raised at the national level and allocated to counties, I think the radars have not been pointed at the revenue that is raised locally. County assemblies should be the point of call for auditing and oversighting funds locally raised by county governments.

Unfortunately, Mr. Speaker, Sir, if you look at the potential for each county by considering the monies that were being raised before devolution came and what is being raised locally, the only explanation is that there is a lot of wastage or fraud in collection and expenditure of locally raised resources. Those are the types of resources that can be channeled to achieve the goals that have been set out in this Motion.

We have seen the problem with the UHC programme when it comes to the leasing of equipment. You can have the best equipment in the world, but if you do not have the people to use them in the manner they are supposed to, they are all good for nothing. Unless you have people who are properly trained, you cannot carry out primary healthcare effectively.

I hope that as we approach the end of the second half of this Parliament since devolution, the country will be shown something that has come up from the counties. All signs are that new ideas coming up are being funded by funds from the National Treasury.

The Senator for Bungoma County opined here that there is a lot of brick and mortar kind of institutions and projects, but sometimes services are more important. They may not be seen ordinarily in terms of buildings or roads, but without those services and the staff to provide them, the achievements that we have pronounced ourselves to be mobilizing energies towards, including the Vision 2030, will all be a long story, but no action.

Without taking too long, I support this Motion and commend Sen. Nyamunga for bringing it.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I rise to support this Motion on community health workers because it is important. In fact, had I seen it in advance, I would have suggested to Sen. Nyamunga that we include a paragraph to say that all county governments must give some recognition to all the county community health workers. This is because part of the problem in the community health workers framework is that they are never recognised.

There are 3,200 community health workers in Kisumu County alone. It is possible that in every other county, including small ones, there are more than 3,000 health workers. I have the statistics for Kisumu County and they have roughly about 800 nurses. We have Kisumu, Machakos, Nyeri and Isiolo counties where piloting of the UHC is being done. They have suffered the problem of too many people looking for assistance from nurses or visiting hospitals there.

Hon. Senators have said that in truncating healthcare, not everybody who is unwell goes to hospital or not everybody who feels unwell should go to hospital. Community health workers across the counties, particularly the primary healthcare givers who Sen. Faki called *wakunga* help mothers deliver babies in the villages.

I watched a video on marginalisation policy in Baringo County. In that county, there is a hospital under a huge tree where *wakunga*, as put by Sen. Faki, help mothers deliver babies. They do not have tools and---

**Sen. Faki:** On a point of information, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Mutula Kilonzo Jnr., do you want to be informed?

**Sen. Mutula Kilonzo Jnr.:** Yes, Mr. Speaker, Sir.

**Sen. Faki:** Bw. Spika, neno “mkunga” ni *midwife* kwa Kiingereza. Kwa hivyo si neno langu mimi bali ni neno la Kiswahili. Ijapokua mimi ni Mswahili, hilo ni neno linalotumika kuanzia, Sofala, Msumbiji, Kisimayu na hata Jamhuri ya Kidemokrasia ya Kongo.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I quoted Sen. Faki so that I do not suffer the problem of using a Kiswahili term in my speech. That is why I quoted *mkunga* as said by Sen. Faki. I was just being a little clever about the word, but *mkunga* is a midwife.

Midwives are ladies like the ones we saw in the marginalisation policy in far-flung counties like Baringo and Samburu who help women to find out the health statuses of their babies using interesting technology. The technology can show whether a baby is facing up or down or if they are at the breech. There are people who can do this without an ultrasound.

**Sen. (Dr.) Ali:** On a point of order, Mr. Speaker, Sir. Sen. Mutula Kilonzo Jnr. has talked of babies facing up or down and a breech. Could he tell us what facing up or down is?

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

**The Speaker** (Hon. Lusaka): There is another point of order from Sen. Shiyonga.

**Sen. Shiyonga:** Mr. Speaker, Sir, I had the same sentiment as that of Sen. (Dr.) Ali. He should not talk of a baby facing up or down, but the position of a baby in the mother’s womb. You face a direction, but when a baby is in the womb, you talk of the baby’s position.

*(Laughter)*

**Sen. Mutula Kilonzo Jr.:** In this case, the position is up or the head is facing down.

The community health workers and midwives who have the skill of determining a baby who is in distress or a baby who has not gone to the breech as they famously call it.

I think the 3,200 community health workers in Kisumu should be registered. Secondly, their location should be known so that in part of the recognition, we want to know which area, location, sub-location, ward or village does not have a community health worker.

Thirdly, Mr. Speaker, Sir, these people are working voluntarily. You should tell us what you used to do with these people when you were a governor. I know in Bungoma, there must be community health workers. Those people work voluntarily without pay and out of their own volition.

Mr. Speaker, Sir, at some point, when you are not in the Chair, I would like to know whether you were paying them, you used to meet with them, or whether you used to call them to know whether they were treating people or whether there were diseases out there. Even without collecting statistics, governors are spending money sending people into villages to collect statistics yet even the community health workers can tell you; in this village, four women have given birth, three had stills births *et cetera*.

Mr. Speaker, Sir, even in the recognition and pay, I think we can do terms of service for these community health workers. I learnt - Sen. Nyamunga has corrected me - that Kisumu County was paying them Kshs10,000. Maybe it was allowed because I heard it somewhere in a forum.

*(Sen. Nyamunga spoke off record)*

Mr. Speaker, Sir, it is actually Kshs2,500. Imagine the money that governors are spending for listening allowances and public participation, some of which they do not do. They are spending Kshs1.9 to Kshs2.5 million on teas and breakfast. Imagine if this money was directed to community health workers. We take these community health workers so casually. The majority of whom - I am glad Sen. Halake has walked in and Sen. Seneta is listening - are women.

*(Applause)*

Mr. Speaker, Sir, they are women who have taken up this role to voluntarily help people get good services. Sen. (Dr.) Ali would agree with me on this since he is a doctor, that health is not just about treating diseases; It is about telling somebody who is diabetic to eat x, y or z. In the case of Kericho, where they are practicing traditional medicine, they use things that might help people who are suffering from various communicable diseases or otherwise.

Mr. Speaker, Sir, I said one time I will have a conversation with you. Many people are beginning to think that counties are failing in this avenue of healthcare. This is one avenue that is ignored and under-funded. The worst corruption in the country is on healthcare.

This morning, we learnt during the medical leasing interrogation that we are buying torches for a Kshs1 million, stands at Kshs1.8 million and linen trolleys for Kshs2 million. It is a pity that we cannot afford to give Kshs2,500 or Kshs3,000 to community health workers who are working tirelessly to ensure that people are getting treatment and medical care.

Mr. Speaker, Sir, other than this Motion, Sen. Nyamunga must proceed to have an amendment. I am aware - I have seen the Vice Chairperson here - that there are amendments to the Health Act. Can we in assistance of this very important Motion include - since we do not want this to be a discussion of governors - that once this governor leaves, the next governor ignores what the previous governor did. Can we have this as legislation?

Sen. (Dr.) Ali, the amendments that are in your Committee should include the proposals that have been ably presented by Sen. Nyamunga. She should be given the honour and privilege of moving those amendments. This is a way of ensuring that we devolve the services of health by offering services and stop building structures. I am told that Kakamega has a hospital whose value is Kshs1.2 billion, which has no equipment. Many other counties are building beautiful infrastructure which does not make any sense.

Sen. Wetangula was right by saying that even if you had a tent and people had equipment and trained officers, they will still get the sort of healthcare that we, as a country, are aspiring to have. I agree with the recommendations; not only facilitate, but also pay them: not only do policy, recognize them, register them and give them certificates so that a community health worker from Kisumu can go and work in Makueni. Once you recognize and give them a certificate, this person will then be creating employment.

Mr. Speaker, Sir, Kisumu alone has 3,200 health workers. If you do the mathematics and do a minimum of Kshs1,500 community health workers in the 47 counties, we are talking about creating jobs, but not that one of giving somebody that I know the Chair of National Employment Authority. I am talking about real people, real jobs.

Thank you and I support.

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, I wish to support the Motion and congratulate Sen. Nyamunga. We do not have to discuss a lot about this issue. There is a saying that prevention is better than cure. You just give the right people to do the right jobs and do the right things at the proper places. If they are well assisted in their livelihood a bit and have the zeal to do that job, everything will change in this country.

Unfortunately, Kenya is not like that. Nobody cares about the small people; nobody really bothers what happens there. You have to go and buy big machines which we do not know how to use. We want to go and build big buildings which will not be occupied for several years until bats fill up the place and become homestead for donkeys, instead of what it was supposed to be used for.

Mr. Speaker, Sir, if we are able to use our community health workers and prepare them accordingly, as Sen. Nyamunga said, train them just slightly, we will have wonders in this country, but that is not our priority. We do not look at what is going to help the poor people of this country.

Mr. Speaker, Sir, if you go to some areas, you will see some few community health workers running up and down. When I was in the medical profession and perfecting, you could see the subordinate staff that have stayed there since the 60s. When I joined in the late 90s, some of them were better than even the doctors who were trained. They could do everything up to the level of being a caesarian section. This is because they have enough experience and were given the opportunities, but now even doctors cannot do those things. Moi University was trying to train community doctors at the beginning until it failed and now they had to go back to the real things.

This country does not only require people who will sit somewhere and prescribe. You will need people who should go to the ground. The earlier days, we used to have public health officers and public health technicians who were in every location and sub locations. Nowadays those services do not exist.

When you talk about health, you do not only talk of human health; there is also animal health and whatever else you eat. All these things are intertwined, and people have to help one another.

We used to have livestock inspectors and extension officers who would go to the farms. All these people would come together and see whether the water is good enough. They would inspect the grasses and pools where malaria can breed, and find ways of dealing with all those things. It is not the so-called multi-sectoral approach now, which is now harassing people here with security issues. We had multi-sectoral groups coming from agriculture, health and education, who were helping people in the rural areas, and things were effective.

The issue which Sen. Wetangula was talking about – the cow dung and these things – are done everywhere. Sometimes we used the barks of trees to go and smoke the houses, and you could see the mosquitoes and other insects disappearing. This is because in some homesteads, like the Maasai type of homesteads, human beings and animals live together, and these things were very helpful during those days. However nowadays, do we even have those opportunities? No; and the people really suffer. In the earlier days, the people were healthier. However now, because of the issue of livelihood changes and what we eat, we do not control our things. We grow things on polluted rivers, even using sewage water. How do you then expect the people to be healthy?

If the community health workers were functional and they were trained properly, all those things would not have happened. Now we know the way the rich people in West say; that, “you can get all the money you want, but when you become sick, what will money do for you?” You can buy everything with money, but money cannot buy you wealth. You will die!

Mr. Speaker, Sir, I urge the counties – and not only the counties, but also the Ministry of Health, which has a lot of money – to assist the counties in training the community health workers. In most of the counties, they earn something like Kshs2,000. Others have support from some agencies, Non-Governmental Organisations (NGOs), and whatever. However, the way the Government of Kenya throws money centre, left and right on issues which are not useful to this country. If they used that money properly to train and pay community health workers, this country will be a healthy nation. If we become healthy, then everything of ours will change for the better.

I beg to support.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I support this Motion and congratulate Sen. Nyamunga for thinking through it.

From the beginning, Kenya is undergoing great transformation in as far as the health sector is concerned. Even though we have the Universal Healthcare Policy and the programme that is being rolled out in about four counties now as pilot projects; even though we spent billions of money to ensure that we put equipment for diagnosing in our hospitals, I still think we are not getting it right. We are not getting it right because we are focussing on the treatment and not on the prevention.

Mr. Speaker, Sir, community health workers – otherwise called lay health workers or village health workers in other countries – are very important people. This is because they live within the community. They are focused on dealing with problems that prevent diseases. When I grew up, I knew three people from my community that I thought were doctors. In fact, it took long for me to appreciate that they did not have any medical training from any institution.

For example, there is an old man called Benjamin, who is like my father, and who is the father of my friend. There was another one called William, who was just next door; and there was a lady called Zipporah. These gentlemen and lady are still called Dr. William, Dr. Benjamin and Dr. Zipporah in our village; not to hide the fact that they did not step into any health institution, not even for a certificate. I am sure that other people can also say the same about their own communities.

Mr. Speaker, Sir, these people just started working with missionaries in mission health centres. They learned through these missionaries the things that must be told to women when they come to give birth, and what they need to do with their children to prevent certain diseases. They learnt how to dress wounds, how to prevent tetanus and proliferation of certain diseases. They did a fantastic job, yet most of them were not being paid anything; they were just doing it for the satisfaction of it because they were helping their community.

I appreciate the fact that Sen. Nyamunga has pointed out that it must start with a policy, but we must remember Schedule Four of the Constitution delineates policy as a function of the national Government. Even if the national Government will be supported by the CoG, county governments, the Senate and all other institutions, the Ministry of Health must take the lead. In the transformation that we are focusing on, even with the President's Big Four Agenda, health being the priority, we must move from treatment to prevention. That is what we are told, and history is telling us that because of prevention, countries like Cuba are doing so well in healthcare.

Mr. Speaker, Sir, in the 1990s, the Government of Brazil tried focusing on community health workers, and the results were tremendous. This is because they used to have deaths of 50 people for every 1,000 people. However, because of that policy, it moved from 50 to 29. They improved health access by 36 per cent in a period of less than five years. This is something that we must try. In fact, history and literature shows that community health workers are extremely important for urban areas like Nairobi, with this huge population; Kisumu, Mombasa, Nakuru and Eldoret. These are the cities that must start by focusing on community health workers.

Community health workers are able to help our people by telling them this is the kind of water to drink. I remember that the same health workers I was telling you about



were focusing on asking every person who comes to hospital if they drink water directly from the river, or if they boil it. It became a consistent reminder that people must know that taking clean water and boiling water is the greatest step of preventing dysentery, diarrhoea and so on. You do not have to wait until you have diarrhoea and then you go to hospital for treatment.

These are the same people who told the citizens of this country of how to deal with mosquitoes. They did this by sensitizing them about their environment, by making sure that they cut grass around their homes and ensure that there was no stagnant water within their compound. Those simple things can prevent a lot when it comes to treatment instead of spending money in the treatment of malaria.

I was watching a documentary on Citizen Television last night about our soldiers in Sierra Leone. They were fighting in the forest, but inside that forest, they had a surgeon with them. They were being treated by a doctor. They did not need a hospital to treat their soldiers for bullet wounds; they just needed a qualified health officer and the equipment to use.

Mr. Speaker, Sir, we should not focus so much about the structures and the huge buildings being we call 'flagship projects' for the counties. If you go to Elgeyo-Marakwet County, the Iten Referral Hospital, which was doing so well a few years ago, is now on its knees. This is because their focus has not been getting the right health workers and medicines to those hospitals. There are complaints across the country that the health facilities in our country are deteriorating so fast because we are focusing on the hardware and the buildings.

Mr. Speaker, Sir, I want to tell you why buildings are more attractive to many people. It is because if we were to buy medicine, treat people and hire the right health workers to serve people, there is no 10 per cent or 50 per cent cut. However, as long as we are building structures and huge buildings, there are kickbacks. They become avenues for corruption and for people to make money. What we must focus on is the software that is able to address the problems that the people face.

Mr. Speaker, Sir, the second thing is that in this country, there has been focus that we must put more money on development and not recurrent expenditure. I have said it in this House, and want to repeat, that we must remove the money that goes to training, pre-primary education in the counties, where a lot of focus is put on the teachers, facilities, equipment, books and also the health sector. We must hire the right health workers and buy medicine. We must remove them from the categorization of recurrent expenditure. This is because the tag of recurrent expenditure includes benchmarking trips, workshops and seminars, which can be forfeited.

There is a target where we said that every county must spend 30 per cent on development expenditure. I think we must move forward to now define what development expenditure is and remove expenditure that is related to the health sector from recurrent expenditure to be part of development expenditure. This is so that we do not punish counties by telling them: "Why are you using a lot of money in hiring community health workers? You are spending too much on recurrent expenditure."

There is no too much to be spent on medicine, doctors and health workers. We better sit and define maybe development to be structures, roads or whatever. We can then move and determine essential services, for example, agricultural extension officers,

which will improve production in agriculture; teachers in pre-primary education, doctors, nurses and community health workers. This will ensure that when counties spend, they get a positive scorecard for investing in community health workers, instead of ostracizing those counties that are spending money on community health workers. The competition now for every county and governor is that everybody is asking them to show a big building.

This is the same thing we have with the primary education. Everybody is focusing on whether we can build big classes and beautiful structures. Nobody wants to focus on how many teachers are there and the kind of education our children are getting. That is the same for the health sector. Let us change the definition of recurrent expenditure for health workers, so that we can hire as many health workers as possible, because a healthy nation is a wealthy nation. If we can reduce expenditure that is used in hospitals, then we will do away with reinsurance and so forth.

Lastly, the advantage of having community health workers is that these are people who are living in their homes with their people, and appreciated by their own people. We just need to give them the necessary recognition, maybe a small pay and they will not ask you for house, vehicle and transport allowances. They will just ask for a small appreciation and recognition by the county government, and they will continue impacting society by contributing immensely on matters health at the village level.

Mr. Speaker, Sir, I beg to support.

**Sen. Shiyonga:** Thank you, Mr. Speaker, Sir. I stand to support the Motion by Sen. Nyamunga on the engagement of community health workers by county governments. This Motion is very important and of benefit to us, especially being in a country that is looking forward to strengthening health systems.

The able Senator has highlighted two points in the Motion, which is, developing a policy for training, certification and employment of community health workers to enhance emergency health services delivery in the counties. This is very important. It does not mean that we do not have these people; we do. It is only that when devolution came into place, the transition and the equipping of these personnel was neglected. We need to look at how best the transition of the policies that were at the national level can be strengthened to help these community health personnel that we still have in our communities.

Mr. Speaker, Sir, my colleagues have talked about public health, which is very important to this Motion. Most of the diseases such as Cholera are managed at the grassroots level. Right now, we are in the rainy season and we are likely to have a Cholera outbreak across the country. We shall also have snake bites in this season and other diseases that need to be controlled. The community health workers will be key especially in controlling and mobilising what is necessary for the treatment at the lower level, other than referring our sick people to health facilities at the other levels for treatment.

Secondly, these people act as link persons between the community and the healthcare personnel. They are, therefore, very important. These are the people who give the real statistics on the ground to the health facilities and know what our communities are suffering from. They interact more with people and know what they are suffering

from. They are easy to be communicated to, especially those who know where and how to find certain conditions in our communities.

We have people who have a lot of trust in them. When we allow these people to be trained, certified and employed, then we are facilitating our people to realise the importance of how best one can be treated. We shall then be controlling a lot of diseases that would affect people who cannot reach our health facilities in time.

For us to mobilise our people to reach the facilities and facilitate them to realise the health services they need to access, we need to embrace the community health workers, so that our nation can be healthy.

Mr. Speaker, Sir, lastly, most if not all of the people in this country have been attended to once or twice in their lives by these community health workers. Therefore, we need to implement this Motion, so that we can facilitate them with the necessary equipment. This is so that they can reach others who are unable to be treated in facilities that are well equipped.

Mr. Speaker, Sir, I congratulate Sen. Nyamunga who has come up with this Motion.

I beg to support.

**Sen. Pareno:** Thank you, Mr. Speaker, Sir, for allowing to me to support this Motion by Sen. Nyamunga.

This is a very important Motion to me, considering that community health workers do such a great job that impacts on almost everything that has to do with livelihood.

Sometime this year, around the month of May, I had an encounter with community health volunteers. They were going round every other home in the village checking out whether the homes had toilets and sanitation facilities. When they heard that I was home, they popped in and I had a chance to talk to them. They said they are going around and that they had a programme that is supported by a certain donor, whom I do not remember the name. They said that that programme was to ensure that each and every home had a toilet, a sink to wash hands or a “leaking tin” as it is commonly referred to in schools, which is used to wash hands after visiting the toilet.

Mr. Speaker, Sir, they me told that they were going to give a certificate after the programme. Sen. Nyamunga probably needs to see what we can do about that because I think it was a very good example. They said that the certificate was meant to show that that village is defecation-free and clean. This exercise is meant to inform people that once you approach the village, please stop and ensure that should you have a call of nature, there is a toilet in a nearby home. I thought this was a very encouraging exercise. In fact, the other day, they invited me to attend to my village’s certification that it is a village that is certified to have most of these facilities. They are training our people in the rural areas to know that once you visit a toilet, you are supposed to have water nearby for you to wash your hands.

Mr. Speaker, Sir, I wish that in this process, we would end up having health workers help us with the issue of teenage pregnancies because they are able to offer some training. We would also have community health workers who are able to talk to our people on how to access clean water and ensure that their water is clean; health workers who might even include the *nyumba kumi* initiative heads.

What are we doing with this *nyumba kumi* other than security because this initiative is already in place? Can they be included in this exercise so that they are trained and are able to give more services than they are already giving and be recognized?

Mr. Speaker, Sir, on the issue of crime, it is known that if you have a healthy nation then you end up having a better nation in terms of educational standards, crime rates will go down. Also, the ability to work and life expectancy will improve with these kinds of interventions.

If you have health workers right at the villages with our people, the intervention will be very fast. Some of us come from very vast lands like Kajiado County where the nearest clinic is almost 100 kilometres away. If these health workers are engaged, given support and recognised, the interventions to our people in terms of health, sanitation, environment and crime will be addressed because the services will be nearer to our people.

On emergency services, all the time we talk about poverty and hunger. In the middle of the year, we were talking about hunger; now we are talking about floods. These people are so handy in terms of interventions when it comes to disasters. How I wish that in this programme we would train and recognized some of these people that are already offering services to the community and equip them with the necessary skills to be able to operate during these disasters.

Mr. Speaker, Sir, I want to talk about two people that I have had an encounter with. One is a lady in my village called Mama Sankei but her real name is Keio Ng'ele. This lady is a full time, free service midwife. She goes round the village and is able to determine whether the unborn child is in a breach position. She is able to turn that child to the right position before the mother can give birth. I once asked her what people do to appreciate her. She said that the Government only gives her gloves. The only intervention she was proud of is that she is able to do her midwifery work - which is a free service to the community - with the help of gloves from the Government.

How I wish that this lady is recognized and given more than those gloves. She should be given training, appreciation and something she can be proud of. For example, she can be given a certificate or some pay to enable her to attend to these people. She is always all over. Every other day, we hear that she has been called to a certain home to attend to a lady who has had difficulties with child birth. She intervenes, but when she is not able to handle it, she advises that the expectant mother be taken to the nearest hospital. However, she has been able to handle most of the cases and detect what the problem is with regard to the unborn child.

The other recognition goes to an old man known as ole Kujita - I am sure that Sen. Mary Seneta knows him. Ole Kujita is somebody whom we talk of in the entire Kajiado County. If you get a fracture, ole Kujita will fix it. The only thing you will do is to go to the hospital to be given some antibiotics and painkillers. How I wish that some of these gentlemen can be recognized back in the villages.

I heard of a case where somebody who was involved in an accident was taken to hospital and told that his leg was supposed to be amputated. That leg was never amputated because that person opted to be treated by Ole Kujita who was able to fix it. We saw this happen with our own eyes. Somebody might think that this is fiction, but I

wish that we could be able to engage more, empower and see that they are helping the community. We should appreciate them and give them some pay for what they are doing.

I really support this and thank Sen. Nyamunga for coming up with this Motion. Let us recognize our community health workers, give them training and some pay. We should also protect them by giving them the necessary equipment that they need to do their work as they serve this country.

Thank you, Mr. Speaker, Sir.

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

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. From the onset, I want to support this Motion by Sen. Nyamunga who is my very good neighbor and say this is a very important issue that we must look at, as counties. One of the devolved functions of the county governments is health.

Some of us who were raised in the village did not have the privilege of being born in hospitals. Some of us were assisted into this world by midwives which I later came to understand - as some of my colleagues have said - did not have even basic training on issues to do with introduction to medical practice or any other form of practice.

When I was growing up, if you had a cough or a running stomach, you would go to see a village doctor, you would be given some herbs to boil and take; after taking those herbs for one or two days, you would be well.

This Motion by Sen. Nyamunga is one of the best that we have debated in this House. If we actualize the proposals of this Motion, universal health care will not be hard to attain. I know that you are former Governor but I agree with my colleagues that the governors of this generation imagine that building big buildings is dealing with the challenges in the health sector. The Senate Majority Leader has stated clearly that most governors are busy building infrastructure. For instance, if you visit Kapsabet, the headquarters of Nandi County, the governor is busy putting up infrastructure yet some of the infrastructure have not been equipped. Our governor is building a mortuary which leaves us wondering whether people are supposed to die first. I wonder where the notion that putting up so many buildings makes a hospital.

The Chairperson of the County Public Accounts and Investments Committee (CPAIC) is here. The Committee on Finance and Budget is also represented here by Sen. Mutula Kilonzo Jnr. I would like to propose to them that we need to separate the issues of human resource, training, capacity building of health workers and infrastructure. From the engagements we have had with the county governments, I have noticed that they give huge allocations of money to the health sector which goes into building infrastructure. The county governments do not factor in issues of human resources training. The county governments are allowed to allocate money into infrastructure. However, they must also allocate money for purposes of training community health workers or any health practitioners.

Mr. Speaker, Sir, Universal Health Care (UHC) is one of the Big Four Agendas of President Uhuru Kenyatta. Courtesy of the *ad hoc* Committee investigating the issues on the infamous medical equipment supplies, the Cabinet Secretary in charge of Health said that they have enough man power that they have trained. The problem is that the counties are not hiring the necessary staff to ensure that they work in our hospitals. I am happy that the Chairperson of the *ad hoc* Committee has ordered the Cabinet Secretary of

Health, Madam Sicily Kariuki, to provide the letters that they have written to the Council of Governors (CoG) stating that there are so many trained health practitioners in this country, but the county governments are refusing to hire. I hope by the time the report by the *ad hoc* Committee investigating the issues on medical equipment supplies is brought to this House, those are some of the critical issues that will be addressed.

Mr. Speaker, Sir, Kisumu, Nyeri, Isiolo and Machakos counties that have been running the UHC pilot programme will need to give this House a status report. I am sure that if the proposal by Sen. Nyamunga is adopted it can serve us better than the UHC. Some of us are very keen on the delivery of the President's Big Four Agenda. We want the legacy of the President to be built on provision of universal healthcare. I hope that the President will meet Sen. Nyamunga to discuss this Motion so as to ensure that the universal health care that is envisioned in the Big Four Agenda is realized.

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

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

Mr. Deputy Speaker, Sir, the child mortality rate as well as the deaths related to child birth can be avoided if this Motion is adopted. I hope that the Reproductive Health Care Bill will be passed so that we have a law to protect women on issue of reproductive healthcare. In this day and age, we cannot have mothers dying due to lack proper medical health care.

I am sure that there are many community health workers who assist mothers to deliver children in the villages of Nyando as well as many other villages across the country. We must look into ways of assisting such health workers. My colleagues have stated that such community health workers do not need cars or salaries. They only need to get motivated and be given a stipend. If we had many community health workers, the child mortality rate as well as the deaths related to child birth can be reduced. The community health workers are experienced in their field. All they need is motivation and minimal training.

Mr. Deputy Speaker, Sir, growing up, I remember that cases of snake bites were treated locally by making a cut on the affected area, sucking out the blood and giving some medication. Nowadays, snake bites have to be treated by pharmaceutical medication which sometimes fails. I can see that there is a motion on the Free Administration of the Snake Bites Anti-Venom in Public Health Facilities in today's Order Paper, but I think community health workers treated snake bites better.

I beg to support this Motion on the Engagement of Community Health Workers by County Governments. I hope that the Chairperson of the CoG, Gov. Oparanya and his colleagues will be on the fore front to engage the health workers. The herbalists are critical people in the society. Some people suffering from terminal illnesses such as Cancer are being assisted by the community health workers. The community health workers may not have formal education, but they understand their work. I hope that once this Motion is passed, it will engage the Ministry of Health and the County Executive Committee (CEC) members in charge of health in the 47 counties.

Mr. Deputy Speaker, Sir, before I conclude, I would like to urge the county governments not to confuse allocation of money to building infrastructure and training human resource. Most of the county governments have huge budgets, but when you look into them you will notice that they concentrate on infrastructure rather than capacity building or human resource. If we support community health workers, we will achieve the universal health care to all people.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well. Kindly proceed, Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru:** Thank you, Mr. Deputy Speaker, Sir, for giving me the chance to speak on this important Motion by Sen. Nyamunga on the Engagement of Community Health Workers by County Governments. One of the things that is ill understood is what a community health worker stands for. There is a misconception that most of the health facilities and services being offered by county governments must end up to be curative services as opposed to promotive and preventive services. There must be a water shade between the curative, preventive and promotive services.

The huge expenditure that we incur in curative services can be forestalled as high as 60 per cent of the expenditures if we adopted simple and basic services that are offered by the community health workers. As soon as that message sinks, the better it will be for this nation and for our counties. One of the fundamental issues that this Motion is seeking to do is in the area of training. I know that the Kenya Medical Training Colleges (KMTCs) have courses tailored towards community workers. The doctors being trained at the Moi Teaching and Referral Hospital (MTRH), have a special heavy bias towards community health. This is borrowed from the curriculum in Cuba where 50 per cent of the doctors are trained as community workers or community doctors.

There is an array of workers ranging from community nurses, community technologists, community laboratory technicians, community researchers and community social workers. Therefore, community carries everybody on board. It should be available to community surveillance systems and the ones who are in charge of statistics.

One element that I want people to appreciate is that health sanitation plays a major role in preventing many diseases that may occur. Currently, we have floods in this country and the next thing that you will hear of is epidemics. Many people will perish in peripheral areas. We have heard of floods in Turkana, Wajir, Marsabit, Kisii and even Nairobi. The only way of keeping pace with issues happening at the rural level, urban and peri-urban centres is by having community workers who can do surveillance. Without surveillance, it will be very difficult to keep pace.

We are talking of a person who is a jack of all trades. He should be able to do surveillance when we have catastrophe like the floods that are happening around us now. They should be able to monitor for the outbreak of cholera and mosquitoes. There was a time when highland mosquitoes ravaged most of the people who were in non-endemic malarial areas. People died by scores until we realised what needed to be done. They were given mosquito treated nets for them to survive and stay in that place.

There is another category, the birth attendants. Those are community workers. Women are delivering in very dangerous circumstantial areas. At most, we have these birth attendants who are properly trained to do critical measurements, particularly in

areas of danger like checking blood pressure and monitoring that the mothers do not go into premature labour. Those community workers are able to monitor any slight degree of disturbance in pregnancy, particularly the bleeding disorders that may occur leading to danger during child delivery. These are people who can do it effectively and monitor it.

In fact, if we interface technology, these people can transmit critical information to the primary health centre or to the primary community health hospital where that information can be analysed and feedback given for us to spend little time, but be quick in saving the mothers who are just about to deliver.

What are we looking at from this community worker? We should build them or capacitate them with simple basic tools that can do health measurements. They should be able to know if that child has been immunised or not. There are certain basic diseases like malaria that need to be immunised. We now have a vaccine in some of the areas. Tuberculosis has a very critical immunisation process and that includes measles. When I was a practicing doctor, there was a time when all our outpatients were abated by measles. More than 80 per cent patients in the outpatient clinics were suffering from measles. When we went in for effective immunisation, we were able to reduce that figure to a very manageable level. Today, you hardly see cases of measles because immunisation succeeded. Children are immunised at birth and we also have repeat immunisation being done after some years which boosts up their immunity.

Therefore, immunisation forms a very important function for the community health worker and that community worker needs to be given the tools that will help him or her know when the children were immunised. They also need tools that will help them detect the onset of a disease or a problem for them to alert the next higher level trained manpower in health organisations who can then take stock of what must happen.

The other thing that is critical when it comes to community health workers is the monitoring of nutrition. Nutritional care and nutritional support to the young children of this nation can cut off 50 per cent of the diseases that happen in this country. Kwashiorkor allows dangerous diseases to invade the poor children who quickly succumb because of low immunity. Therefore, nutritional requirement for these children is critical.

How does one monitor the nutritional level? Some of the parents need to be educated on simple methods of growing food that are rich in vitamins, carbohydrates, proteins and fats. That is what we refer to as a balanced diet. They do not have to go and buy them from the shelves. They can grow the fruits in their backyards and be able to comfortably feed their children. They can also spare a glass of milk for their children for them to get enough calcium for the growth of their bones rather than succumb to early childhood diseases as a result of low immunity or as a result of not taking a balanced diet. The community worker can also perform that function.

What does it take? This is a policy matter. It is a conscious decision by the national Government and the county governments. To do that, they can train effective manpower, human resources and be able to capacitate them to do certain skills. We must define those skills one by one. I have already gone through a catalogue of those skills that we need to focus on such as the monitoring standards, values of growth of a child to help detect early growth stunting and the problems that are associated with that stunting and the onset of infectious diseases that come as a result of not immunising the children.



Today, we pride ourselves of being techno savvy. We use M-Pesa with much abandon. We transfer millions and billions of shillings through M-Pesa and a mother who does not know how to handle technology can send money to the daughter or the son using M-Pesa. Therefore, we can use our smartphones to monitor and evaluate the disease process and the health standards in our community. We can then reduce the distances and clerkship work where the clerk has to ask for the patient's name, village and all that.

These technology tools can also help us monitor blood pressure within seconds. All one needs to do is to put a puff on the pulse of the finger then read the blood pressure without the cumbersome business of putting around the calf and testing it physically. One can also test their temperature by simply putting something on their forehead rather than putting the thermometer under their armpit and waiting for it to read their temperature. These things are technically connected with each other. Once you put it there, it registers the temperature and puts it in the record of that patient because it is all easily recorded. Some of the community health workers can interpret the information and give first aid or first line of treatment for patients.

Mr. Deputy Speaker, Sir, we need to spend more time on preventive and promotive health because that is the only way we can reduce the burden of disease in this country. We should use the community health workers because they are plenty and they have been trained. They should be oriented for specific skills so that when a health worker goes to monitor nutrition, they will do so by reaching many people in one single screen.

What do we do with those who have difficulties in interpreting the results that they find at primary healthcare centres like dispensaries or health centres? We can have them transmit electronically that information to a county hospital where certain interpretations are done. Transmission of information may not be done by anybody because once they are familiar with gadgets, they can transmit it without any difficulty.

The only way we can reduce the disease burden is to strictly adhere to the principles of the management of these individuals so that they deliver quality services and quality healthcare. This way, the UHC becomes a reality when we espouse some of these basic principles. We do not have to spend so much money.

With those few remarks, I support this Motion and congratulate Sen. Nyamunga for bringing it on board. We need to move forward and do more because we can achieve much with little effort.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. (Prof.) Ongeru, it is clear that you are at home. Thank you for those very educative remarks and contributions.

Sen. Halake kindly proceed.

**Sen. Halake:** Mr. Deputy Speaker, Sir, I stand to support this important Motion brought by Sen. Nyamunga. I cannot think of a better Motion to support the UHC than this.

Our country is very good at strategies. We have one of the most robust community health systems strengthening strategy, but we cannot achieve this without empowering community health volunteers. In the Red Cross, they are called community health volunteers. Even though sometimes they worked harder than some of the health workers, they were not given much because they were not trained to required levels. For that reason, we used to call them community health volunteers.

We had close to 7,000 community health volunteers. Most of them were in areas of communicable diseases such as prevention of HIV/AIDS, Tuberculosis (TB), malaria and immunization. As part of the Community Health Strategy (CHS) for this country, we cannot achieve the UHC without involving community health workers or volunteers as they are called.

Our country is now considered a middle income country yet we have quite low budget for health, but we must commend our Government for the recent spike in the health budget. However, we are still below the threshold that will enable us achieve the UHC.

Innovative ways of providing access to healthcare as per Article 43 of our Constitution need to be engaged. To achieve good results, we should engage community health volunteers. Sen. Nyamunga's Motion proposes to train, facilitate and give supplies and some stipends so that they are taken care of. The best support is to ensure that they are evaluated, supervised and provided with their requirements.

We have vertical programmes in our country. We have community health volunteers for HIV/AIDS, malaria, TB, immunization and sexual and reproductive health. Perhaps we should start looking at an integrated approach to the community health services. Sen. Nyamunga should consider having an integrated approach.

Currently, we have a disturbing trend of many of our young people facing mental health issues. I am sad that Sen. Kasanga is not here. We should consider having community health workers trained on mental health so that they do not just look at HIV/AIDS and malaria alone because we also have mental health issues. There is a gap because mental health has been ostracized. There is stigma to people suffering from mental disabilities, but nobody seems to know what is happening in our communities. Nowadays it becomes news when children kill themselves.

We should integrate and train community health workers not just on preventive, promotive and curative health, but also non-linear aspects like mental health. We should have mental health added to the community health services so that our community health volunteers or workers also look at mental status and report back to health facilities that are linked to them to ensure that care is provided. They do not have to become psychiatrists or counselors. Anyway they already are because they live in the communities. Sen. Nyamunga should consider adding mental health and look at this as an integrated approach as opposed to the linear and vertical programmes that we have. If that is done, money spent on community health workers or volunteers will be well spent.

Since I used to work for the Kenya Red Cross Society (KRCS), I can report that the figure of about 10,000 community health volunteers fluctuate depending on the donor funding. It used to be sad because we could train, evaluate, educate and link them to facilities, but we could let them go the minute the donor money increased. We did not know where they used to go. In fact the community health service is almost 80 per cent supported by donor funding from the Global Fund, United States Agency for International Development (USAID), Centre for Disease Control and Prevention (CDC) and the World Health Organization (WHO). When international donors pull out, the community health service faces a drawback. So, we need to look at our own---

They used to give us feedback all the time. They said that our country needs to look at domestic solutions for strengthening community health systems. This is a timely

Motion that allows us to look at our CHS from the perspective of domestic sustainability so that we come up with our own solutions through community health volunteers.

If you look at the community health services, it has all these things but it is the implementation that has not been done. In fact, Sen. Nyamunga, if you add some small things here and there such as incorporation of mental health because it is a bit dated since it was done in 2014 or thereabout, then it will be a very beautiful strategy that will integrate and ensure that people who live and work in our communities and are known to us also take care of us and link us to care centres. They will support us in that sense.

The other aspect is that community health volunteers can be a source of data. Right now, the biggest source of revenue for some countries is the data they sell to the pharmaceutical companies. Data on health indicators, immunization levels and many others things that ail us could be collected using mobile phones. Therefore, this can become a planning tool for this country to use community health volunteers as a source of data for the Government.

As I speak, the District Health Information Software (DHIS) does not capture community data. You will find an expensive DHIS without data from the communities. If you say that you have certain data, you will be asked for its input. These are the kinds of the things we can sit with Sen. Nyamunga and show her where the gaps are. The bulk of it is there. It is just a little tweaking and those amendments can make us go forward to ensure that the UHC sees the light of day.

Mr. Deputy Speaker, Sir, it is important to look at community based resources such as community health volunteers and workers. In fact, our strategy for community is so robust in this country. We have community units of 5,000 people each covering a certain radius that has a number of community health volunteers attached to it and linked to a facility. It is a beautiful strategy, but there is no implementation or support in terms of resources or supervision from the health care workers.

More importantly, all the data goes to waste. Only a small portion of data from organisations, for example, the KRCS and AMREF Health Africa that are supported by international donors get into the system because they pay for it. I do not know what we are doing if we are not collecting data. For people who are so far removed from the realities on the ground as policy makers and planners sitting in Nairobi, what data are they using to plan for our health systems, purchases and investments that we are making in infrastructure and other areas of the health sector?

Mr. Deputy Speaker, Sir, this is a timely Motion that will amend our Health Bill so that other aspects that are missing in it, for example, data and mental health are put in. Sen. Nyamunga is on to something big. We will support her to take this to the next level. These are the kinds of change-making proposals that we need to make sure that we find innovative ways to take care of our health especially now that we are a middle income country.

With those few remarks, I support.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Halake. You have taken the cue from Sen. (Prof.) Onger. I now call upon the Mover to reply.

Sen. Nyamunga, you have a maximum of 15 minutes.

**Sen. Nyamunga:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to reply to this Motion. First of all, I am grateful to the Senators who have shown interest in this Motion and added a lot of flesh to it.

I thank all the Senators who have contributed to this Motion starting with Sen. M. Kajwang who seconded it and gave us some information that I did not have. That is, in Turkana County, Gov. Nanok has gone ahead and put in place a system that works for him. He has done the units from the village, sub-location, location and community level. This means that he has started the walk. So, it is up to the rest of the governors to put these things in order.

Mr. Deputy Speaker, Sir, we all know that healthcare is one of the President's Big Four Agenda. It is his legacy that it should be successful now and onwards. There should be continuation of proper health care for Kenyans.

I also thank Sen. Poghiso for supporting this Motion. I also thank Sen. (Dr.) Langat, who gave good contributions. Most of the contributions that we have got from Senators will help us to make this a Bill that will go a long way to make sure that healthcare is provided to each and every person in Kenya.

One of the problems that we have in our country in as far as healthcare is concerned is facilities. As many Senators have said, we are building many Level 5 hospitals. However, we are putting a lot of money on the structures which is not enough. We should go to the basics. We do not need to travel to India for some of the diseases that we suffer from. However, at the same time, we should make sure that people get value for money and services.

Some people are not able to afford medical services because they do not have money. This is because the little money that they have is meant for the day's food. So, they would rather be sick and stay at home. For example, I am not a doctor, but I can tell a child who is sick by touching his or her body. However, people lack resources. Sometimes, it is the infrastructure and the vastness of some counties which makes it difficult for some people to reach the hospital. So, if community health workers are equipped with the necessary equipment that will identify diseases without guess work, it will help many people.

I also thank Sen. Wetangula who also talked of something that used to happen in the villages a long time ago, that is, Afya Bora. I do not know how it escaped my mind. These are some of the things that we should bring back to make sure that our people do not suffer as much as they are. At some stage, in the former President Kibaki's Government there was a lot of spraying against malaria during the rainy seasons. We never suffered from Malaria that much.

Community health workers can visit villages and make sure that people do not have stagnant water bodies which could breed mosquitoes. It is also important to make sure that we have toilets and running water in all the villages. Running water does not mean tap water; it means that people can improvise any technique that can make running water available, for example, to the children. So, this will work as prevention to most of the diseases that we suffer from.

For example, it is raining right now. What are we doing about it? Are we waiting for people to die? The numbers that we have heard of are bad. People are dying because we do not plan well or teach them enough times.

Mr. Deputy Speaker, Sir, I also thank Sen. Orengo who also gave good insights on this Motion. The main idea is that we enhance it to a Bill and make sure that it is implemented. I have always said that Kenya is full of many good things, for example, reports and paper work which are done well. We are recognized for doing a good job, but we lack implementation.

I also extend my gratitude to Sen. Mutula Kilonzo Jnr. who apart from supporting the Motion, he said that we should make the issue of remuneration come out clearly to make sure that community health workers do not do voluntary work forever. They should also be put in the payroll. Even if they get a small token, it will go a long way.

I thank Sen. (Dr.) Ali, who also supported this Motion. He talked of spraying of worms which will reduce diseases. He also said that money cannot buy health. So, it is better for us, as a nation, to spend more money on prevention and better nutrition which Sen. (Prof.) Ongeru talked about.

Sen. Halake also said that there is a gap. Apart from giving community basic healthcare, we should also bring in mental healthcare which we have a lot of issues with in the rural areas. It is not only in cities where people commit suicide. There is a lot of suffering at every level.

The Senate Majority Leader, Sen. Murkomen also had a lot to say about community health workers and how far we can go. Apart from providing healthcare, community health workers can do a lot. When it comes to providing data, we can get it from them. When it comes to policing, we have *Nyumba kumi* which helps with security. However, community health workers will do more because they are in touch with every home. They know if there is a visitor in the home who does not look like a good person. They can tell people who are fishy in whatever nature.

Mr. Deputy Speaker, Sir, I am encouraged. I thank Sen. Shiyonga for supporting this Motion. Her take was about cholera prevention. We must teach our people how to prevent cholera.

Sen. Pareno also gave good insights on the Bill. I thank Sen. Cherargei who also pointed out the issue of maternal healthcare. The moment we have these community health workers in place and they do their work, they should be able to help young mothers. There are many young children; in fact we have children giving birth to children. This is rampant in the rural areas. We talk of teenage pregnancy, which is a big problem that we are facing. The figures that I saw were worrying. If in one year we can have over 100,000 children getting pregnant, it is worrying.

Mr. Deputy Speaker, Sir, we cannot move on like this as a nation and count ourselves as taking care of our people. How can we leave many of our young people to get pregnant? The people who are impregnating them are grown-ups not children. I believe children cannot make other children pregnant. They must be grownups. Therefore, community health workers will do much more than what we expect. They will help us in healthcare; policing the communities -that is security - and so much more. The data that they have will go a long way.

Last but not least, Sen. Halake, who spoke last, spoke with a lot of knowledge on this. I think she has worked with the Kenya Red Cross Society (KRCS). That gives her a lot of information because the KRCS works in the villages. They work during difficult times; like during floods. That is when they are really on the ground.

Mr. Deputy Speaker, Sir, when I was moving this Motion, what I initially said was that if you compare the number of doctors and health workers that we have to the number of patients, it is very low. One doctor attends to 17,000 Kenyans. That is not possible. We have so many nurses, but if you compare the number of nurses to the population we have, the numbers are so big. I gave all the figures that we have in the health sector in terms of doctors, clinical officers and nurses. As a nation, we cannot move and give our people proper healthcare if we do not attend to the community health workers. This is because the community health workers will give very necessary support to the other regular medical people we have.

I thank all of us. We will work together with all the people who have contributed to make sure that we come up with a good Bill, to make sure that it goes up to the point of implementation.

With that, I beg to reply.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order Members. Order, Senator for Meru. You can take a seat next to your sister and continue with the consultations. I hope you are consulting.

Very well. That brings us to the end of the debate on that matter. In accordance to Standing Order No.79, this is not a matter concerning counties and, therefore, we shall vote by acclamation.

Before I put the question, I also want to prepare the Chairperson of the Committee on County Public Accounts and Investments (CPAIC). Immediately we exhaust this agenda, we shall move to Order No. 9, which is the report of CPAIC, so that we can move forward with that particular issue.

Finally, I also want to communicate that I had undertaken to give further clarification on a ruling that I had given on Thursday last week. I had said that I would give some further ruling today. I want to seek your indulgence. The ruling shall be provided tomorrow at 2.30 p.m., God willing.

*(Question put and agreed to)*

Very well. As directed, we will go back to Oder No. 9.  
Next Order.

*(Sen. Mutula Kilonzo Jnr. spoke off record)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Mutula Kilonzo Jnr. I appreciate your excitement, but the Chairperson of CPAIC is moving the CPAIC Report, which is noted with a lot of excitement from all quarters. Sen. M. Kajwang' you can see you are doing well. You must maintain the tempo.

*(Sen. Mutula Kilonzo Jnr. spoke off record)*

Yes, you have been called and whipped.  
Proceed, Sen. M. Kajwang'.

**MOTION****ADOPTION OF CPAIC REPORT ON INQUIRY INTO FINANCIAL  
OPERATIONS OF VARIOUS COUNTIES FOR FY 2014/2015**

**Sen. M. Kajwang’:** Thank you, Mr. Deputy Speaker Sir. I beg to move the Motion-

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Baringo, Busia, Elgeyo Marakwet, Embu, Kajiado, Kericho, Kilifi, Kirinyaga, Kisii, Kwale, Lamu, Makueni, Marsabit, Meru, Nakuru, Narok, Nyamira, Uasin Gishu, Vihiga and West Pokot Counties for Financial year 2014/2015, beginning 1st July, 2014 to 30th June, 2015, laid on the Table of the Senate on Wednesday, 9th October, 2019.

Mr. Deputy Speaker, Sir, I would like to bring to the attention of the hon. Senators that this is a 600 page report. If you go to the iPads before you, you will find the report either under the business of the House, or in your briefcase. It is a huge report that might not make a lot of sense to print.

Kindly go through the report. It has 20 counties. We have decided to combine the counties. Therefore, technically, this is not the second report of the County Public Accounts Committee (CPAIC); it is probably the second Motion this Session. This is because last week, we dealt with a Motion that had 10 Reports. This week we are dealing with a Motion that has 20 Reports. Therefore, in about three weeks, we have brought 30 Reports wrapped up in two Motions.

Mr. Deputy Speaker, Sir, last week, the House considered the Motion of the Committee on 10 counties, which were Nandi, Elgeyo-Marakwet, Baringo, Laikipia, Machakos, West Pokot, Tharaka-Nithi, Siaya, Embu and Nairobi. In the last Session, the Committee brought before the House seven Reports that were adopted and these were reports for the counties of Nakuru, Turkana, Kilifi, Kisii, Kajiado, Narok and Homa Bay. There are 26 Reports at the Table Office and 10 additional reports that our Clerks are working on, which shall be brought before this House. Our intention is to ensure that by the end of this Session, all the Reports for FY 2013/2014 and 2014/2015 shall have been brought to this House for consideration. They shall hopefully be adopted so that we can follow up on implementation and deal with the other three years, where the hearings have already taken place.

Mr. Deputy Speaker, Sir, in the debate on the Motion that we brought before the House last week which had 10 counties, it was fairly disappointing that it attracted contributions from just about four Senators. I would expect that the Motion before the House today, which has 20 counties, should get the contribution of at least 20 Senators. This is because I believe as far as oversight is concerned, the issue of scrutinizing the Auditor-General’s reports has been delegated to the CPAIC. Not every Member of this House sits in that Committee. We do a job as an agent of the House. When we bring the Report to this House, we would expect each and every Senator whose county forms part of that Motion to, at least, agree or disagree with the findings of the Committee.

I, therefore, look forward to a much more robust debate on the 20 Reports that are before the House today.

*(Loud consultations)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, hon. Members! I am sure that some of you do not know that, that Motion is bringing reports of your counties.

*(Laughter)*

How many counties are involved in that Motion?

**Sen. M. Kajwang'**: There are 20, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): 20 counties; that is almost half of Kenya. Let us, therefore, consult in low tones; kindly.

**Sen. M. Kajwang'**: Thank you, Mr. Deputy Speaker, Sir. Allow me to go to the substance of the Motion or the report that is before the House today.

Mr. Deputy Speaker, Sir, the report has combined 20 counties, as you have rightly stated. For the first time, we are getting a report for the FY2014/2015; we have been on FY2013/2014. This House has rightly pronounced itself saying that is such a historic duration that might not make a lot of sense to this House. At least we have moved one year ahead.

Mr. Deputy Speaker, Sir, in the FY2014/2015 that we are considering, county governments received a total of Kshs226 billion. In the FY2014/2015, pending bills for county governments stood at Kshs74 billion. Now, this is where the issue of pending bills started going wrong. In the very first year of devolution, the pending bills for county governments was Kshs62.8 billion out of a total allocation of Kshs210 billion. You would expect that pending bills would catch up with counties several years later. However, it appears that even on the FY2013/2014, county governments were not settling obligations promptly. They will argue that some of those commitments were long term in nature and, therefore, they will become due at a later date. However, the pending bills never reduced. That is one of the first observations that we have made in that report, and you will find the issue of pending bills cutting across all the 20 counties.

Mr. Deputy Speaker, Sir, in consideration of this problem, the nation sat down the governors and the National Executive at the Intergovernmental Budget and Economic Committee (IBEC). They commissioned the Auditor-General to carry out a special audit on pending bills across the Republic of Kenya for county governments and for the national Government. The information we have is that this is an exercise that cost Kshs200 million. Unfortunately to date, there is no single governor who agrees with the findings of the Auditor-General on a special audit that consumed Kshs200 million. We called the Auditor-General and the former Controller of Budget (CoB) to appear before the Committee to explain to us how they carried out an exercise which then met so much resistance from the governors.

On this issue of pending bills, the CoB, the Auditor-General, the Head of Treasury, the former Cabinet Secretary (CS) of the National Treasury and the Permanent Secretary (PS) in the National Treasury were very key players in this consideration. All



of them have left office without this matter being settled. We are setting the stage for one of the biggest cons that this country has ever seen; this issue of pending bills.

In that report on those pending bills which was disputed by most governors, the Auditor-General said that out of Kshs108 billion presented, Kshs57 billion was fake. He called it 'ineligible' and used other English terms that sugar coated the issue. Our view is that if the Auditor-General says, "Do not pay Kshs57 billion," then it could only be an attempt to fleece the public by putting in place fictitious claims. You can imagine what Kshs57 billion can do, if this amount that is going to float around counties in the form fake pending bills. We probably need to have some closure on this. My Committee has compiled a report on the Auditor-General's Special Audit on Pending Bills and it will be coming as a separate report. However, across the 20 counties, we can see that pending bills are increasing every year.

Number two, the payment to the CoGs remains a constant feature for all the counties. This was a second year of devolution, and it was characterized by a very rancorous relationship between the CoG and the Senate. The CoG was struggling hard to take away the role of the Senate to defend and protect devolution. They were, therefore, looking for money to do things, like taking the Senate to court and training governors on how to be little presidents. Each county was required to make certain payments to the CoG and a part of the payment was used to secure office space. Part of it was used to finance the operations of the CoG. Our Committee has recommended – and these recommendations have been previously approved in the Fiduciary Risk Report that we brought before this House – that all payments to the CoG are nugatory. We also recommended that the Chief Executive Officers of those counties should be surcharged. If they continue to make further payments, they should then be investigated and prosecuted.

*(Applause)*

This is because the Intergovernmental Relations Act makes it clear that the CoG is an institution that shall be funded from the Consolidated Fund, and not from the County Revenue Fund. If you go across those 20 counties, you will find that in cases where a county made nugatory payments to the CoG, we have recommended – not just the CEC Finance, but also the governor, as the Chief Executive Officer – to be held responsible for those payments.

Mr. Deputy Speaker, Sir, the other risk that you will find across all those counties is the issue of identification of assets owned by the defunct local authorities. You have provided leadership to this House in the last Parliament, when you were discussing the status of the Transition Authority (TA). They left office without completing the job that had been entrusted to them. We are currently looking at a very dangerous situation. We are talking about all the assets of defunct local authorities. You can imagine all the land that used to be held by the Nairobi City Council; all the primary schools; all the hospitals and all the other assets that the defunct authorities were holding across the country. These include prime lake property in Homa Bay and Kisumu, prime real estate assets in places like Mombasa, and things like motor vehicles. Up to date, we have not concluded the process of identifying and transferring these assets.

Mr. Deputy Speaker, Sir, the risk now is that those people who have been in offices, running our counties for the last seven years, are slowly appropriating some of those properties to themselves. This process was not just about the identification of assets rather, it was identification of both assets and liabilities. We now have crooks who are coming up with fake liabilities, saying that they were owed by the defunct local authorities and someone will pay for them.

Mr. Deputy Speaker, Sir, I would wish that this Senate, probably, through the Committee on Devolution and Intergovernmental Relations, because it is the one that was working very closely with the Transition Authority, moves the necessary Motions to ensure that the Senate is involved and informed of the progress of the work of the Intergovernmental Relations Technical Committee (IGRTC). No single county out of the 20 that are before us have concluded their process of asset identification and transfer.

This is where we sometimes disagree with the Office of the Auditor General. When you go to Makueni County, for example, you will get unqualified opinion, but the Auditor General does not reflect that Makueni has not concluded that process of identification of assets and liabilities. When we ask why that issue has not appeared in the Audit Report, the Executive of Makueni feels like we are being too hard on them. These are crosscutting issues, and no governor should do anything or pay any money to ensure that these issues do not appear in their audit reports.

Another issue that you will find in all the 20 counties that are before us is the allocations to county assemblies. This House, apart from holding governors and County Executive Committee Members (CECs) individual liable, must address itself soberly on the allocations to county assemblies and county government entities.

Mr. Deputy Speaker, Sir, in the Public Finance Management (PFM) Regulations, we had put a cap of 7 per cent of county revenue to be allocated to a county assembly. We then introduced ceilings in the County Allocation of Revenue Act. The net effect of the ceilings is that county assemblies are getting an average of 10 to 12 per cent of county revenues, yet here we are demanding that county governments spend at least 30 per cent on development.

The real situation is that 10 per cent of county revenue goes to the county assemblies, where there is no development; it is salaries and allowances and legislation. You would say that representation is expensive, but I wonder whether the cost of representation at the county government level should exceed 10 per cent. If you look at the cost of representation at the national Government level, it is zero point something per cent of the national revenue. You will see that across a few counties.

The other issue that cuts across is on the wage bill. Most counties are above 35 per cent of the wage bill. One good example that you find in that report is in Elgeyo-Marakwet County; the county of champions where the Senate Majority Leader comes from. The Auditor General told us that in the year under review, 51.58 per cent of total revenue was spent on compensation of employees. You ask yourself what else remains for Elgeyo-Marakwet to carry out development and to do the other services that people expect from county governments.

Imagine a county like Elgeyo-Marakwet, in that financial year, spent Kshs1.5 billion on salaries, and their total allocation was Kshs3 billion. If Kshs1.5 billion has gone to salaries, then out of the remaining Kshs1.5 billion, probably 10 per cent of it goes

to the Assembly and another percentage goes into operations. How much money then does Elgeyo-Marakwet remain with to do development? Compare that with Kakamega County, where after paying their salaries and buy *mandazi* and tea, they remain with Kshs6 billion for development.

We need to relook at how some of these counties are using the money that is sent to them. But, definitely, when a county is using more than 51 per cent of its revenue on salaries, then something is extremely wrong. That county should not get anything under the fiscal responsibility measure. The dilemma is: If you do not give them anything under the fiscal responsibility measure, again, their equitable share reduces to a level they can hardly even pay salaries and run the county. You will see that in the Report for Elgeyo-Marakwet County.

Another issue that cuts across is the Integrated Financial Management Information System (IFMIS). It is a problem in every county. Again, when we went to Nyamira County, the Auditor General told us verbally that in Nyamira, they are using IFMIS 100 per cent. In Makueni, we were told that they are using IFMIS 100 per cent.

The national Treasury came before us and told us that there are certain modules that are not working and others that are still being implemented. Therefore, when the governors come and the Auditor General confirms that the county is using IFMIS 100 per cent, we wonder on which side the truth lies. This is because the national Treasury is the custodian of the system. When they tell us that there are certain things that are not working--- We saw the budget lines of Kiambu County were attributed to IFMIS. However, some governors have attempted to convince us that IFMIS is working for them, and yet it is one system. It brings about some questions; whether the executives are working with the auditors and coaching each other to bring to the Senate certain answers to make them look good.

Today, in the morning, we had a conversation with officers from the Kenya National Audit Office (KNAO) and agreed that in those cases, particularly Nyamira and Makueni counties, we need to get a reconfirmation. This is because we know the challenges that IFMIS has. This House has pronounced itself in the past, challenging the national Treasury to put in place adequate measures to ensure that IFMIS delivers for counties.

There are many systems in counties; IFMIS for financial management, Integrated Payroll and Personnel Database (IPPD) for personnel management, G-pay, which they use for payments and also revenue collection systems. These systems do not talk to each other, and every year, the Auditor General reports variances in numbers that are in IFMIS, manual financial statements, IPPD and Excel based payrolls.

Mr. Deputy Speaker, Sir, the risk that counties run, particularly when it comes to personnel management, is that many of them are paying casuals from Excel worksheets. So, at the national level, there is no visibility on the exact number of people who work for county governments. We are like Somalia. The people of Somalia do not know how many soldiers they have in that country because people are being paid out of pocket. That is the situation we have with county governments.

If we were to ask how many people work for county governments in Kenya, I bet we will not get an answer. This is because if you count what is in the IPPD, it is 55 per cent of the total number of people who work for the county governments. The other 45

per cent are people who work for inspectorate, bloggers and people who used to campaign for the governors. They have been put on a manual Excel payroll. This is a big risk and we have already seen that salaries are already taking close to 40 per cent of the money we send to counties. We need to deal with this and the solution lies in the Capacity Assessment and Rationalization for the Public Sector (CARPS) exercise, again, where we spent millions of public funds.

I remember it was championed by the current Governor for Kirinyaga when she was in her other life. Unfortunately, after spending millions of shillings on this exercise, governors have kept the reports in their study rooms. We have made recommendations that the CARPS Report be implemented.

Mr. Deputy Speaker, Sir, legal fees is also an issue that cuts across a number of counties. Last week when we had a debate, under several points of information, the House learnt some of the tricks that counties and very few wayward lawyers are using to fleece counties. I believe that the legal profession is one that is bound by a very serious code of conduct. Therefore, we do not believe that those people who are conniving with counties to levy very huge legal fees are on the right path of the profession.

A report that we brought here for the Financial Year 2013/2014, which is yet to be voted on was for Nairobi City County. If you look at the values of legal fees for that county, there will be a red flag; you will know that something is wrong. We have made certain general recommendations that each county must engage a county attorney and establish a department or a section that will advise the governors on legal issues.

We realized that some counties found themselves in trouble because of their own impunity. A governor wakes up one day and fires somebody without following the due process. Governors must follow the due process because any shortcut is expensive, not to the governor as a person, but the county and country as a whole. There are cases where county government officials delay to pay dues to advocates, and they go to court and get very punitive orders. Sometimes you are convinced that there is some collusion between the insiders and the advocates because we have seen awards of Kshs13 million mutating into Kshs100 million, and the governors are forced to pay. Even though we do not have evidence, we get the feeling that after the money hits the accounts, it is distributed back to the people who approved the payment. We have made certain recommendations on that.

Mr. Deputy Speaker, Sir, allow me to talk about an issue that does not necessarily point at county governments, but points back at the national Treasury. Yesterday, I had the fortune or misfortune - depending on how you look at it - to be on the same flight with the Chairman of the Council of Governors (CoG) and we sat next to each other. We reflected on a few issues regarding the relationship---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order! Can that be a misfortune?

*(Laughter)*

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, I said it depends on how you look at it.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): How can it be misfortune? Maybe you have reasons.

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, some people were looking at us curiously. They were wondering why we were looking a bit cosy; but you must be cosy with someone sitting next to you.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Your client.

*(Laughter)*

**Sen. M. Kajwang'**: Thank you, Mr. Deputy Speaker, Sir, for guiding me.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): It is not illegal to travel with governors or their chairmen. Those are our clients.

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, we had this conversation about the role of the national Treasury in frustrating county governments. Every year, the national Treasury has been sending money to counties late; in this regard, to the Cash Disbursement Schedule that this House passes. There are cases, like this particular financial year, the national Treasury sent money to counties in July and yet the financial year ended in June. County governments use the cash basis accounting method and not the accrual method. When the national Treasury sends the money late in July, they force county governments to recognise that money as having come in the financial year that has closed. This is dishonesty by the national Treasury.

When county governments make noise, the national Treasury will be very quick to publish a notice in the newspapers showing that they have sent money and go ahead and cheekily publish the amounts of money sitting in bank accounts of counties. We need to call out the national Treasury for this dishonesty. They need to disburse funds to county governments on time. We have made certain recommendations in the Report that is before the House.

Mr. Deputy Speaker, Sir, imprest management is an issue which we believe that the Senate should not be focusing too much on because these are issues that need to be dealt with at the County Assembly level. The law is very clear on how imprest should be managed. If imprest is not surrendered within seven days, it should attract certain levies at the prevailing interest rates yet you still find counties holding millions of shillings in unsurrendered imprest for durations exceeding 90 days or even 100 days.

In those cases, we have made it clear that not just the County Executive Committee (CEC) Members for Finance or the Chief Officers but the Governor as a Chief Executive Officer (CEO) must also take responsibility for failing to enforce the provisions of the Public Finance Management (PFM) Act that requires imprest to be dealt with within seven days.

The issue of incomplete projects cuts across many counties. Allow me to highlight this because we were treated to this when we were in Uasin Gishu County during the first sitting of the Senate *Mashinani*. In West Pokot County, the Governor or CEC, in their own wisdom, decided to set up headquarters for every ministry. So, if you go to West Pokot County in Kapenguria, there is the County Treasury, Afya House, Maji House and Kilimo House which are all physical buildings. They were replicating what has happened at the national Government level.

Mr. Deputy Speaker, Sir, that thinking was challenged just a few minutes earlier by Senators who were commenting on the community health workers Motion, where

people think that development is brick and mortar. They do not think that buying medicine and equipping hospitals is development. They want to do grand projects. I think it is because it is easy to vary and reduce quantities in those grand projects. If you are going to do five inches of tarmac, it is easy to do three-and-a-half inches and maybe the rest disappears into your pocket. How else do you explain those grand projects initiated but incomplete? We are talking about Financial Year 2013/2014 and to date, many of those projects remain incomplete.

In Baringo County, Kshs31.9 million was spent on various irrigation projects: Kapkelelwa Irrigation Project, Cheraik Irrigation, Awee Domestic and Irrigation Project, Mukuyuni Irrigation Scheme, Emsos Irrigation Scheme and Emining Irrigation Scheme. When the Governor appeared before us when we were sitting in Uasin Gishu County, he confessed that he is not aware of where those irrigations schemes lie.

We thought that because he was a new Governor, he was trying to discredit the other administration but the Auditor-General also confirmed that indeed, money was committed and paid but those projects do not exist. These are cases where we have recommended that the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) to investigate and prosecute all persons involved. Looking at Article 225, whether someone is in office or not, they still take responsibility for any loss of funds occasioned during their time.

Mr. Deputy Speaker, Sir, there are other very interesting projects. In the Busia County Government, two firms were paid a total of Kshs6.1 million to supply and plant tree seedlings at Amukura Hills and Sio-*Siteko* Wetland. We are glad to report that only 20 seedlings could be physically seen on the ground. I do not know whether we should be glad.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): I am actually surprised that you are reporting with gladness.

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, well, a little bit of satire there. You can imagine Kshs6.1 million and only 20 seedlings could be physically seen on the ground. I think we are stretching this joke too far.

When these reports come out, certain bodies like EACC and DCI do not need to wait for Parliament to go through this process to take action. This is because if you are going to audit trees planted in the Financial Year 2013/2014, even those that were there - that is wild mangoes and particularly guavas that thrive because of the open defecation practices of certain parts of this country - will be counted as part of the trees funded by the county government.

That is why EACC, DCI and all those other agencies, once the Auditor-General reports, you must take an interest in some of these queries. They should not wait for Parliament which will come one or two years down the line. Those are some of the jokes that we saw. Kwale County planted trees and spent millions of shillings and then blamed it on God. They said they did not have any control over the trees, that the rains did not come; so, what they were they supposed to do?

Mr. Deputy Speaker, Sir, before you implement a project, there has to be certain feasibility studies and participation of the public. You need to make sure the project you are implementing will not be subjected to the mercy or the whims of the gods, but you should have planned for it. Again, I think we have stretched the joke too far. I am told

that even the failure in Galana-Kulalu Irrigation Scheme could have been blamed on God, that He did not send adequate rainfall.

However, we have made certain suggestions that regarding those trees, seedlings, irrigation projects and the grand projects of West Pokot County, the governors, CECs and COs cannot escape. They must be made to account for those public funds.

As I finalise, it is surprising that we still have counties making statutory deductions from employees but not remitting them to the relevant State agencies. There are two things; there are those who do not deduct but I think the biggest sinner is the one who deducts the National Hospital Insurance Fund (NHIF) for an employee and does not remit it to the NHIF. This has caused untold suffering to poor and innocent workers and their families.

Mr. Deputy Speaker, Sir, it is not just NHIF, there are also loan deductions. People have been blacklisted by the Credit Reference Bureau (CRB) as a result of the negligence of county governments. It is just that we are a country guided by the rule of law. Some of these things might tempt you to propose mob justice kind of approaches but we have made it clear that all officers whose responsibility it is to deduct and remit those statutory deductions must take responsibility not just for their negligence but also for the costs.

If you do not remit NHIF or the National Social Security Fund (NSSF), there is a penalty. That penalty should not be borne by county residents but should be surcharged on the individuals who failed to do what they were supposed to do.

If you allow me, I have seen Members of my Committee present here and Senators from the respective counties are also present. I want to encourage them to look at the reports for their counties very keenly. I do not promise a perfect report. This is a 600-page report. We probably could have come up with certain standard recommendations whereas it would be more prudent to make more specific recommendations for counties. I invite Senators to interrogate the reports and advise us. Where we have made punitive recommendations or have been lenient, that can be flagged.

Mr. Deputy Speaker, Sir, as I finalise, today, we had an interesting conversation around Sections 11 and 12 of the Public Audit Act. The officers from the Kenya National Audit Office, as far as they are concerned, there is no Auditor-General in Kenya and there is nothing that can be done right now that has the force of the Auditor-General of the Republic of Kenya.

Section 12 of the Public Audit Act provided for the circumstances where the Auditor-General is not in office and allowed the President to appoint the senior most deputy to act; in the same way we did with the Controller of Budget (CoB). Transparency International (TI) went to court and got orders that annulled certain parts of Section 12 and said it was unconstitutional.

We are in a situation where since Mr. Edward Ouko left, the officers at the Kenya National Audit Office cannot commit themselves on anything. They cannot bring any report to this House with the signature of the Auditor-General.

Mr. Deputy Speaker, Sir, we have a crisis. The process of appointing a new Auditor-General should take a minimum of 52 days from the time the vacancy is declared to the time the Public Service Commission does what it is supposed to do up to the point

where the names are taken to the President before he brings them to Parliament. However, there is no exit out of that process.

In the event Parliament rejects the nominees put forth by the President, that process can go on, over and over again indefinitely. A mischievous government, particularly the one that could have been caught in a deathtrap or in grand projects, some of which are difficult to justify, would be interested in making sure that the Office of the Auditor-General is frustrated. For the situation we have right now, things can only go well if we have angels in the Executive, Parliament, and the Kenya National Audit Office. However, since we have a devil in one of those three offices, we are in a very dangerous situation.

I was glad to be joined today by the Chairman of Committee on Justice, Legal Affairs and Human Rights during the discussion with the officers of the Kenya National Audit Office. There is a serious problem and lacuna. This is the moment that bad people can take advantage to ensure that they run away from accountability. Therefore, we need to look at Section 12 that was struck out and find ways of dealing with this so that eight years from today, we will have a better way of managing succession planning.

On implementation of our reports, Section 52 of the Public Audit Act is clear that three months upon adoption of our report, the relevant accounting officers shall furnish Parliament with a report on measures taken. That section is interesting. Failure to which, Parliament may impose any sanctions including reduction in rank or any other sanction that it might deem fit.

We have power on implementation. We probably just do not have a dedicated committee that can follow up these issues. That is a candid conversation we can have now that we are slightly over two years into this Session since devolution began. We should find out how well we have fared as far as implementation is concerned. Is it still viable to ask committees that make recommendations to be the ones to follow up implementation?

God forbid because this is not what happens in the Senate. Assuming that a committee was compromised to come up with wrong recommendations, how will the committee follow the implementation of the wrong recommendations? That is why sometimes there could be a case for saying that the person who recommends should not be the person who implements. That is the wisdom for having a separate implementation committee but I believe the leadership of the House will guide us on that.

Finally, I hope that the National Assembly will move fast to ensure that the Auditor-General is in office. I hope it will not go beyond 52 days cycle because I am told that interviews are ongoing. The information is in the public domain that I have proposed in the past that the process of appointment and vetting of the Auditor-General should not be the exclusive preserve of the National Assembly. Unfortunately, that is how it is worded in the Constitution. So, it can only be through magnanimity that the National Assembly would agree that we have a joint committee.

If sense prevails, the National Assembly should see that the Auditor-General is critical to the operations of counties that the vetting of the Auditor-General and the Controller of Budget (CoB) should be done by a joint committee. Right now, the Constitution gives them that duty. We hope they will make a good decision and once the



Auditor-General is in office, the conversation will be around making sure that what goes to the county assemblies is different from what comes to the Senate.

We cannot be sitting here to deal with imprest or a road or seedlings that did not germinate when we have county assemblies on the ground. What is their duty? That is why sometimes some of our colleagues like Sen. Dullo go ballistic and bare knuckles when dealing with county assemblies.

I wish to report that next week, the CPAIC shall hold the Annual Accountability Forum. We have invited Members of the Public Accounts Committees from the 47 counties, the Office of the Auditor-General and other stakeholders for us to discuss where oversight and scrutiny of financial statements start and end at the county assembly and where the Senate should pick up from to avoid a situation where we ask the same questions.

Mr. Deputy Speaker, Sir, allow me to stop at this point and ask my colleagues in the Committee to second. I can see the Senator for Kirinyaga County. His body language suggests---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. M. Kajwang'! Just tell the House who your Secunder is because you are on a fishing expedition---

**Sen. M. Kajwang'**: They are well prepared. Sen. (Prof.) Ongeru was the first one but I know Sen. Kibiru is also more than ready. For this purpose, Sen. (Prof.) Ongeru shall second.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Why are you flip-flopping?

*(Laughter)*

Thank you, Sen. M. Kajwang', I almost called you Prof. Kajwang'. Proceed, Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru**: Thank you, Mr. Deputy Speaker, Sir, for allowing me to second this important Motion.

The House should appreciate that this Report of 647 pages is for 20 counties. The sheer volume of the Report may scare quite a number of us from reading it. However, the first few pages will give you a summary of the highlights of events that we captured as the most outstanding elements that require scrutiny and attention particularly of those who come from the respective counties. You can interrogate the report on your own county based on the Report that we have generated.

Let me also thank my colleagues in the Committee for having worked so hard to the extent of being misunderstood by the House that there was nothing happening in the CPAIC. Testimony will bear us out when we roll out more reports. We did not only look at audit reports for FY 2013/2014 but also for FYs 2014/2015, 2015/2016 and 2017/2018. Literally, we brought up to date information. Hitherto there has been a postmortem report on yesteryears but we combined the audit reports of FY 2017/2018 and mirrored back to FYs 2013/2014 and 2014/2015 which we discussed today. Reports for FYs 2015/2016 and 2017/2018 will also be tabled subsequently so that the House is in a position--- Looking at the Report, you can know where the mischief is and detect where the good work has been done.

We looked at the financial statements as presented by the Auditor-General. One of the things that struck us was non-compliance of approved budgets. People just went abandon. In some cases, we noted that the budgets that were approved were only approved for public consumption but the actual budgets that were being operated were other budgets that were not captured both in County Integrated Development Plans (CIDPs) and also the Annual Development Plans (ADPs). Therefore, they operated different modules all together. That is why they faced difficulties with the Auditor-General when they were being questioned on how they applied the funds that were given to them. One of the things you will note is that the vein that runs through which is non-compliance of approved budgets that were presented for various financial years.

The second thing you will notice is that some of the budgets are not approved or sanctioned by the CoB because that should be the first entry point. They have to get permission from the CoB before they access resources from the County Revenue Fund (CRF). That is a grey area that we debated a lot in the Committee. We wanted to know how the CoB can literally confirm and verify that the original budgets submitted are the ones they are following.

There are grey areas there that we need to look at. Maybe we should look at the law on how this should be done and how much the Controller of Budget must have in terms of control of those resources that are available to the county before they are allowed to spend them in accordance with the budgets which have been passed by the county assemblies.

Two, it is sad that in some of the counties - you are going to see many of them when you skim through this Report - there is laxity in collection of own-source revenue. In other words, there is under collection. They are only waiting for the regular County Allocation of Revenue Act (CARA) to be able to spend.

In fact, in one of the counties - I think it is Baringo - we noticed that the own-source revenue fell by as far as 78 per cent. Therefore, where are you expecting to get money to spend on your own other programmes that you have laid out in accordance with your budget? This is a major problem that we have noted that needs to be corrected. We have made appropriate recommendations in as far as that one is concerned.

Indeed, this own-source revenue under collection, there is always an overestimation of how much they are able to collect so that they can be able to attract some more funds from the fiscal responsibility index. Because of this, they are unable to collect those funds and that piles up. When you heard the Chairman, when he was moving his Report, say that, at the end of this financial year, the pending bills stood at Kshs108.9 billion; an increase of Kshs46 billion from the previous financial year; when I shall pick up on the pending bills, this is the kind of mess that we are noticing in this own-source revenue.

Unfortunately, one of the things that we noted is that when you looked at the banking elements, one would have expected that all own-source revenue would appear in the county revenue account. What we found out in the case of Busia, there were more than 25 accounts in various commercial banks, totalling to something like Kshs534, 189,994.54.

When we challenged them why they must have multiplicity of these accounts, the message that was coming through is that, at that time, they needed to collect because they

had markets all over various places and various areas and they had not been able to automate their collection points and, therefore, it was very difficult for them to collect money from various centres.

I think the Chairman of the County Public Accounts and Investments Committee has already made comments on the modes of collection, automation and collection of resources. There are so many platforms that are in use at the moment. You have the G-pay, Integrated Payroll and Payroll Database (IPPD), and others. These have not been synchronised or have not been made to be in sync with the Integrated Financial Management Information System (IFMIS) platform. Even the IFMIS platform itself, there are two modules. We understand the second module has not been rolled out. Therefore, when you hear that counties are in compliance with IFMIS, that is a total lie because that is not correct.

Therefore, you will be finding some of these recommendations recurring from county to county. Do not look at it as if it was a stereotyped recommendation. It is because we have gone into greater depth to study the content of this Report and know how these counties have been affected.

The other thing that we noted apart from this own-source revenue not appearing in the County Revenue Fund is that some of this money was being spent at source. Obviously, this gives challenges of accountability. How do you account for this money which is being spent at source? You can sample out that out of 20 counties, and you will see some of the counties we had pointed out who were spending money at source, which is contrary to the Public Finance Management Act (PFM Act); that all money and public funds collected must be deposited in the County Revenue Fund before it is appropriated out for expenditure. That can only be done by resolution of the County Assembly. That is why we think that we need to have a chat and a meeting with the public accounts committees in the various assemblies to know to what level they can oversight certain funds and to what level we can oversight as the Senate itself.

This is because some of this involves some little projects here and there that we may not be able to physically visit, check, and see if they have been captured in the audit report and that, indeed, they do exist. There are fake projects that do exist that have been factored in and have been challenged. When the governors appear before us, one of the first defence they say is that auditors only sampled a few; they did not visit the actual sites to see where it is.

The point I am making here is that, indeed, what we need to do is that this own-source revenue being spent at source should stop. There are penalties that we will sanction that will apply when governors go beyond this area.

The fourth point, and there are eight points that I want to flag out that you would use to go through this Report to make your reading easier because if you go through every page, it is going to be very stressful. The fourth point is the regular procurement of goods and services. What we noted is that most of them preferred single sourcing without the normal procurement procedures that are laid out under the Public Procurement and Disposal Act.

Therefore, you will find the recommendations we have made of those who have gone through this single sourcing is either where we are not very clear we have recommended to the Directorate of Criminal Investigation (DCI) or Ethics and Anti-

Corruption Commission (EACC), if we think that public resources have been squandered or misapplied, that they should investigate further and bring the culprits to book without any mercy.

This is because we cannot accept a situation where we are fighting so hard to give resources to the counties only for them to be misappropriated in one form or the other. Therefore, you will be able to find out when you skim through the Report.

The fifth point that we noted as part of the Report is poor records and books of accounts. When we looked at how they are representing the expenditures in their books of accounts, you have heard of the famous story when we were looking at the accounts, we found some expenditure heads reading State House expenditures. That is typical of Kiambu, and I think the story has sunk enough and I do not need to belabour the point. It is not only Kiambu. I think it was also the same in Kakamega.

How on earth do you find State House expenses budget being reflected in a county government? We have a feeling that when they saw that lacuna, they said the national Treasury made a mistake. We interviewed the Cabinet Secretary for National Treasury and his team and they said that they recognised that mistake, but that the records had not been updated. However, how do you spend money which does not belong to you? We think that is one window through which money was misappropriated. We have made appropriate recommendation, and the culprits must face the full force of the law.

We think that, that is the wrong representation of these Reports to this House. Therefore, the House must take a very firm stand. I leave it to you to make your judgement.

The sixth thing was obviously the weak human resource management and recruitment of staff, which was extremely irregular. I think that the governors took it that, that was an area where they were not likely to be audited, and they went on a rampage, recruiting people as and when they felt like. Suddenly, when you look at the budget proportion for the recurrent *vis-à-vis* the development expenditure, by law you should spend a minimum of 30 per cent on development expenditure. However, in reality, what we found out was that some of the county's expenditure on development was sometimes 7 per cent, 10 per cent, 18 per cent, if they can do it better; 22 per cent and 33 per cent.

That poses a major challenge, that if you are not able to absorb and spend your money on development, how else are you going to expand the economic activities of that county so as to create a favourable economic climate for further employment? If all your money is going to recurrent expenditure, how are you going to grow that county? There are many counties like that; some have their recurrent expenditure at the rate of 52 per cent and 70 per cent. One county was even at 80 per cent. When you look at that, you then see the sorry state of our counties in terms of using the resources for actual development.

Mr. Deputy Speaker, Sir, the other area that we noted was extremely difficult was weak internal control systems. The Chair has already said much of it.

One area that I needed to respond to, is the lack of legislation and policy to address matters of staff pension. The pension programme in these counties is in disarray. The sooner we apply, through a legislative mechanism on how the pensions are going to be run in these counties, the sooner will they run into problems. This is because these are our people who are working for the counties; they are supposed to be generating revenue

and development; and offering goods and services. Therefore, if their pension programme is not clearly defined and set out in accordance with the County Governments Act and other Acts in place, it is then going to be very difficult to manage these. If they are not already remitting the statutory deductions, how else are they going to promote the other funds?

What risks are we looking at, Mr. Deputy Speaker, Sir? I have already talked about the manual collection of funds, which we should look at when we will be looking at the respective counties.

There is also imprest management, which is not accounted for at the end of the financial year and it rolls off into the other year. We have recommended that there must be a serious surcharge on anybody, and it must be an individual surcharge. What we have noted in some of these reports is that some of them are being given multiple imprests, and some are even taking it on behalf of other people. The Public Finance Management Act does not even specify that multiple imprest must be carried out. Therefore, we have said there must be individual surcharge for those found culpable. If we cannot pin down individuals, then the CEO and the treasury must be held accountable. The head of treasury must be held particularly accountable for any imprest that has been surrendered.

Then, of course, the one thing that I think the Chair may have forgotten to mention, is the question of car loans funds which are unaccounted for. This is a fund which is not audited, and if it is audited, then those resources are not properly accounted for. This is something that we need to look at.

Mr. Deputy Speaker, Sir, when we looked at the Baringo County, for instance, there was under-collection of revenue, weak human resource controls, lack of an interface between the Integrated Payroll and Payroll (IPPD), G-Pay and the Local Authority Integrated Financial Management System (LAIFOM). I have also mentioned about Busia. We also looked at various---

*(The red timer went off)*

Mr. Deputy Speaker, Sir, I beg to second.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Well-done, Professor. Order, hon. Members.

*(Question proposed)*

Proceed, Sen. Kibiru.

**Sen. Kibiru:** Thank you, Mr. Deputy Speaker, Sir. I rise to support the Motion. In so doing, I also declare that I am a Member of the Committee that did the good work---

*(Laughter)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator. Why are you praising yourself? Anyway, proceed.

**Sen. Kibiru:** Thank you, Mr. Deputy Speaker, Sir. It is always good to praise oneself sometimes, especially to say that we have an able Chair.

The Report we are talking about also touches on Kirinyaga. A lot has been said in some of the recommendations that we made, as a Committee. Kirinyaga, being one of the

counties that is in the current Report, we have issues of exaggerated construction figures, casual employees and the like; and proper recommendations have been made.

Perusing through the report, there are glaring areas where we have recommended that whoever was in charge be investigated, and that the proper legal processes should take place.

Mr. Deputy Speaker, Sir, I would want to look at the Report in a more general way. In the process of us looking at those reports – and we are very good at looking at those reports these days – we have come across a number of issues. One, I keep on asking myself who audits the Auditor-General, because his staff are Kenyans, just like everybody else. I say so because an auditor goes to Kirinyaga County, for instance, and decides on the sampling they are going to do. We have seen, especially during the last financial year, that every other county has got an opinion that is almost favourable. They are now moving from disclaimer and adverse opinion to now almost getting an unqualified opinion.

Mr. Deputy Speaker, Sir, one then wonders what goes on in that process. When we get those reports and we have an unqualified opinion, for instance, one would imagine that the process was good and everything else is good. However, when we dig deeper, there is a lot of misappropriation of public funds. This is to the extent, like the Chair will always say, we start wondering whether the process or the standards that were used by the Auditor-General are actually meant for our setup in this country.

One of the proposals that we probably need to make as a Senate, so that we can cure this issue is, what I was discussing with Sen. Mutula Kilonzo Jnr. We should have a pre-audit stakeholders' forum.

Before the Auditor-General goes to Tharaka-Nithi County, for example, we recommend that we should allow any member of the public, who has an issue that they would want to highlight to do so. This is because the people who live there know where things are not going well. They maybe allegations, but it is very important that the Auditor-General digs into them and finds out the truth. For example, if the cows in Kamweti were bought at an exorbitant price and are now not performing or not being taken care of--- That is the story in Kirinyaga County, but you will find that when the Auditor-General goes there, he may not sample that specific area.

We probably need to make a recommendation that the citizens of a county should be informed of the Auditor-General's intention, so that if there is anybody with an issue, they can raise it with him. That will bring in checks and balances. This is because the Auditor-General is a human being and may not be very thorough.

The other issue that has come up – and I heard the Chairman allude to - is that there is not one governor who takes the audit process seriously. The process of audit is that the auditor comes for the initial meeting, after which they do the sampling and audit. They then give the county the management letter. After being given the management letter, it is expected that the county staff, who are concerned with issue of finance, will be able to answer and clarify issues on the management letters. After that, there is an exit meeting, where the auditor sits down with the county staff and says whether or not they are satisfied with the response on the issues that they had raised on the management letter. They then conclude.

Many times, you will see governors or counties that did not present documents. That is one weakness that we have found. The documents emerge two years later when people are coming to the Senate. We keep asking that if we could not get the contract for the construction of the mortuary in Tharaka-Nithi County at that point in time, how come a copy of the contract that is stamped becomes available two years later to be brought to the Senate Committee?

The governors need to take this process seriously. I do not know what mechanism we will put in place, but as Chief Executive Officers (CEOs), the governors need to be in charge of this process; just the way they are in charge in trying to ask for more money and expending it. We know that not a single penny is expended in the counties without governors getting involved. As much as they do that and to avoid the allegations of witch-hunt, let the governors be in charge of the audit process.

Some governors have County Executive Committee Members (CECs) in charge of finance, who do not even understand issues about financial statements. The other day when we went to Mombasa, we had one of the chief officers of Mombasa County who did not have an ICPAK number. When he was challenged to bring the number, the gentleman left the room, and we have never seen him up to date, almost three months down the line. The governor tried to explain the circumstances, but you can see the joke that governors take when it comes to the audit process.

The stalled projects is my pet subject. The other day, we passed a Motion here that the first charge of the budget, especially for projects, should be on stalled projects. We still have Kshs366 billion in stalled projects. The Auditor-General flagged them the other day, but I will not be surprised that the same issues will come up in the last financial year.

We need to ask ourselves, as the Senate, how we recommend performance audit; value for money. I asked the Controller of Budget about this. For example, when one approves the purchase of baskets, a basket that probably costs about Kshs150, in the fullness of time, could be bought for Kshs10,000. We have incidences that I do not want to mention for purposes of---

*(Sen. M. Kajwang' spoke off record)*

The Chairman is telling me to talk about wheelbarrows, but I do not want to go that way.

*(Laughter)*

The auditor looks at the process and says it was okay. But then, the item that was bought does not even come close to the market price. Why would the auditor give the county a clean bill when there is no value for money for the product or services that were offered? The auditors in most cases do not look at the actual value for money. Their argument is limitation of resources.

As the Senate, we need to ask ourselves how we will make the audit process effective. How do we make it effective such that it will give us the performance in the county, where *Wanjiku* will get value for her money?

Mr. Deputy Speaker, Sir, all the issues of monies begin with procurement. Could it be that we have put in so many bureaucracies in the regulations on procurement that we have created an enabling environment for the procurement staff to have loopholes on how to get money? Anywhere the national Government is procuring, that is a fertile ground for corruption and fraud. We need to look at the laws and ask ourselves: Could we be putting stringent measures that are creating the enabling environment?

We have the engineer or the quantity surveyor who prepares the bill of quantities. In that process, what are the checks and balances? Secondly, do we need to give two people in the county tenure of office; the CEC Finance or Head of Treasury and the Procurement officer? These people are at the whim of the governors. The governor will direct that a process goes a certain way by all means. Since they are employees, they are at the whims of the governor.

Mr. Deputy Speaker, Sir, as I conclude, I would like to state that we have a lot of work to do. If we want devolution to work and services to be felt on the ground, we need to rethink widely and domesticate some of the laws that we have borrowed heavily from other jurisdictions. If we do so, the Senate will be protecting the counties.

I beg to support.

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

Kindly, proceed, Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, I rise to support the Motion by the County Public Accounts and Investments Committee (CPAIC) and for the avoidance of doubt, we congratulate them for pulling up their socks on these matters. We have now seen business about the CPAIC. Wherever these matters were getting stuck, somebody has pushed so that we can discuss these matters.

This morning, Sen. M. Kajwang', Sen. Cherargei, Sen. Faki, myself and a few other Senators met the representatives of the Office of the Auditor-General. This issue came to the fore about the absence of an Auditor-General. There is absence of a transitional clause in the Public Audit Act that we need to deal with.

Mr. Deputy Speaker, Sir, when you were the Senate Majority Leader, you moved the interesting amendments that came from the veto of the President to have an acting Auditor-General and in the position where they wanted the military and security services excluded from the Public Audit Office. I remember trying to persuade you when you were the Senate Majority Leader to allow me to make amendments but you gave me a very interesting persuasive---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Mutula Kilonzo Jnr., you can try me now.

*(Laughter)*

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, you attempted to persuade me to move the amendment at a later date but you can see that if Transparency International and the court had not come in to declare those portions of the law that came in through the veto of the President unconstitutional, that position would still be there.

The independence of the Office of the Auditor-General is paramount. Section 9,10,11 and 12 of the Act talk about perpetual succession. The fact is that the Office of the Auditor-General is not tied to his person. It is an entity. Therefore, for purposes of



protecting the Office of the Auditor-General, there is no reason to have an acting Auditor-General. Now that the political times have changed, you and I know that you could not admit the mistake then. That time, there was mischief in trying to have a deputy of the former Auditor-General, Mr. Ouko, but bygones are bygones.

Mr. Deputy Speaker, Sir, secondly, I think that Sen. M. Kajwang' can help us. These are reports on the operations of 20 counties in the Financial Year 2014/2015. I think that once these recommendations are passed by the Senate, in the usual manner that resolutions come from the Senate, the resolutions must be sent to the respective organizations picked from every report and once that is done, every Senator should be copied. The only way that we can do proper oversight at this point is if the governors know that we are aware of the issues that are bedevilling their counties.

There is an issue that bothered me, and it has been highlighted in the report. We asked the Auditor-General why he insists that the opinions that they render are standard documents. We therefore asked the question if the report of the Auditor-General says that they have made a determination which is also stating that there was no misuse of public funds and then in the next paragraph, talk about stalled projects worth Kshs140 million like in the case of Makueni County, that is a contradiction in logic. You cannot have it both ways. It is either you cannot render an opinion or there is misuse even if you have not verified. However, if you are the Auditor-General, you cannot say that you have not verified.

Mr. Deputy Speaker, Sir, the CPAIC, led by Sen. M. Kajwang' has pinpointed a key fundamental issue that Sen. Kibiru brought to the attention of the Senate through a Motion on the completion of stalled county projects through budgetary management. In the case of Makueni County, this is an on-going issue. They have projects which have never commenced or are halfway done yet they have been paid a sum of Kshs140 million. We asked the question, if that is the case, is that not an audit query. Why would the Office of the Auditor-General issue an unqualified opinion based on paper?

According to the Auditor-General, my county has presented such good paper that it qualifies for an unqualified audit opinion. When Sen. M. Kajwang' and I asked the Governor of the questions, Gov. (Prof.) Kibwana made a general comment that was directed at us. The Governor said that in Kenya, it is a bad thing to do well because we asked a fundamental question.

According to the governors who had unqualified audit opinion, the CPAIC led by Sen. M. Kajwang' should lead a team of Senators to that county and clap for them. Maybe, they expect us to carry rose flowers, hold a party and cut a cake for them because we are not supposed to ask questions. The person who represented the Auditor-General in today's meeting said that it now appears that their opinion should appear at the bottom. In logic, your opinion and conclusion cannot appear at the top and then contradict yourself in the middle. For purposes of the public because the documents that they present are for the public and the person who does not understand what an accounting standard is.

Mr. Deputy Speaker, Sir, if you go to Kathonzwani and talk about the accounting standards that I heard today that even I did know existed, that you can qualify your opinions and then contradict it, then it is understood, it does not make sense. In real essence for purposes of audit, the Public Audit Act and the Constitution only qualify the use of public resources. They say that if you have a building that you have constructed

and you did not disturb me back and forth about the documents on the building; you availed the documents, came for the meetings and were available, that according to them is a key audit query and would therefore lead to a conclusion that you supported the auditor and therefore you deserve an unqualified opinion. My God!

The question of the misuse or whether there is proper use of public funds becomes a secondary issue. We must change that. I have also requested through the Chair that in the case of your county, assuming the Auditor-General issues a report, the same way we ask the public to give us their opinions in the case of impeachment of governors, what is the contradiction in submitting the document of the Auditor-General before it lands in the hands of Sen. M. Kajwang' to the public to give us their opinion?

The public would know a project that has started, one that has stalled or cases where there is misuse of public funds. I suspect that the auditors are going to the county government offices in a plush place like Wote where they will be hosted and probably sleep at Kusyombunguo Hotel without leaving that precincts. Therefore, the information is limited to the information that they have been given by the person who is sitting to prepare the reports. I know of counties that spend sleepless night cooking documents and preparing fake receipts because the auditors just want to see receipts.

Mr. Deputy Speaker, Sir, we pointed out glaring contradictions between the document prepared by the Controller of Budget and the one of the Auditor-General. Is it possible that the quarterly reports submitted by the County Executive Committee Members (CECMs) become part and parcel of the final documents prepared by the Auditor-General? The reason is that the Controller of Budget is a little more detailed because they insist on a quarterly report and the information that the county is submitting is checked *vis-à-vis* the budget they have submitted. I am not sure whether our Auditor-General has the benefit of a County Integrated Development Plan (CIDP), annual development programme, supplementary budget and a budget like the Controller of Budget.

That is why the fact that our wage bill in Makueni that is at Kshs3.8 billion, about 42 per cent, was not flagged but it has been flagged by the Controller of Budget. Similarly, the Managed Equipment Service (MES) was flagged by the Controller of Budget but it was not been flagged by the Auditor General. You then begin to ask yourself if these two offices are working in tandem.

Sen. M. Kajwang' and his Committee have made very drastic recommendations. In the case of Makueni County, they have made recommendations to the extent that people should be surcharged and special audits should be conducted, financial statements should be issued and many more. We would want to know the implementation matrix of these recommendations.

I know that one of the Senators is collecting signatures for us to have an implementation Committee but is that enough? Is it enough to have an implementation Committee? How do we, as a Senate, ensure that a recommendation for surcharge is carried out and that there is default of the resolution of the Senate? I have proposed that there must be contempt of Senate where a resolution of the Senate is not complied with. It should amount to contempt of the Senate where we can find the Auditor General in contempt. We can either find him in contempt of the Senate or find sanctions for him not

complying with the directions that are here. It is not enough to pass this document. Let us find a method that we can follow up and make this to be like an order.

If a Committee of the Senate under Article 125 of the Constitution sits as a court--

*(Sen. M. Kajwang' consulted Sen. Murkomen)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. M. Kajwang'.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, if a Committee of the Senate like the Committee on County Public Accounts and Investment is sitting as a court under Article 125, why can our recommendations not go like a court order? We can attach, like we do, a penal notice and the resolution of the Senate saying that if the Auditor General does not comply, we are either going to seek sanctions against him by either a fine, imprisonment or something for that to be an order for him to comply with. A letter is not good enough. There must be a sanction. What is the point of this 647 page document published using public funds and issued by this good Committee if this document cannot be complied with and there is nothing that we can do about it.

I am trying to find a way which will ensure that this document and the work that Sen. M. Kajwang' and his Committee have put in does not go to waste in the event that we all leave this Senate and there is nobody to follow it up. Something must be done.

Sen. M. Kajwang' has proposed something and I agree with him. The framework of Article 229 is very confusing because---

*(Sen. Murkomen consulted Sen. Mutula Kilonzo Jnr.)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, the Senate Majority Leader and the Senate Minority Whip. You are out of order. You are both out of order.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, I was being harassed.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): You are both out of order.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, I was looking at you for protection.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, you were quiescent to the harassment.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, I am sorry.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Okay, proceed.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, there is a contradiction and Sen. M. Kajwang' mentioned it today. I think that we should make an amendment to the Public Audit Act but it will be better if we can find a way of doing it without an amendment because an amendment would be a little bureaucratic. Is it possible to have the details in the report going to the county assemblies and the overarching issues that Sen. M. Kajwang' and the Committee have addressed on page one to 17 come to the Senate for us to deal with them?

When we went to Makueni County, the County Assembly Members thought that we were challenging them because they had given the county a clean bill of health on the same Report. They wondered why we were asking questions on something that they had

seen and okayed. On the face of it, they are right because they had checked. However, we checked and disagreed.

The law has no dichotomy as to where the boundaries are. That is the reason as to why Governor Wycliffe Ambetsa Oparanya, became very belligerent in the last Senate, and ended up getting a ruling which said that we have a concurrent function. Yes, it is concurrent but to what extent can we go into the details as compared to the county assemblies? If you sit in a court of concurrent jurisdiction, that is if you are a judge of a High Court and Sen. Murkomen was a judge of a High Court, the ruling of Sen. Murkomen and your ruling as the Speaker, will not be binding.

In the case of the county assemblies, when they say that we have a concurrent jurisdiction, are we bound by the decisions of the county assemblies or can we simultaneously have an audit and have separate findings? Who is supposed to resolve the question of the County Assembly of Mombasa okaying the documents of Mombasa County Government and the Committee on County Public Accounts and Investments disagreeing or the Makueni County Assembly Committee on County Public Accounts and Investments agreeing entirely with the audit and not saying anything but we disagree with that? Who is supposed to resolve that? The Constitution does not give a dichotomy.

I want to refer to Article 229(7) and (8). Can we find a method where these documents come in the six months? They can go to the Assembly in the first three months and then come to the Senate in the second three months. We can then find a method of dealing with the overarching principles and where a big issue is flagged; we can go and deal with it.

Lastly, our solution is a Senate Audit Office. We can have an auditor sitting somewhere on the third or second floor. In the case of Sen. Murkomen's County where Kshs300 million or Kshs400 million has disappeared, we can send the auditors on our own Motion. Sen. Murkomen can move a Motion and I can second it, then we send the auditors there. Those auditors will then give us a report.

Let us look at the case of Kiambu County. Why do we have to wait for Noordin Haji to alert us that somebody is walking around with cash in his boot? The Auditor General and the Controller of Budget had not seen it yet money had been withdrawn from several accounts. In fact, one of the Senators told me that governors from the north eastern frontier are withdrawing money in cash. They can withdraw up to Kshs17 million and put in a box, and that is the end of it. Everything continues as usual.

I support this exercise. Sen. M. Kajwang' should include this in his final recommendation. Let us allow the public to whistle-blow on corruption. They did it in counties like Makueni. Let us not put a formula. Let us allow them to give us that information even if they write a letter on a foolscap using their own handwriting. We will not lay the dragon of corruption if we prescribe to the rules that are in our Standing Orders which insist that the petition has to be in a certain format, typed, written in correct English and have words that suggest that one went to school.

To that extent, we will make some progress if all these things can find their way into some law and some practice in the Senate Committee on County Public Accounts and Investments. Otherwise, what we are doing is going on and on like a broken record and nothing is going to happen. It is what Shakespeare used to call, 'much ado about nothing'.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Are you supporting the nothing or the much ado about nothing?

Sen. Mutula Kilonzo Jnr., you have exhausted your time. You may need to reflect further on your request for clarification on the normative hierarchy between the work of this House in audit *vis-a-vis* that of the county assemblies. Maybe the analogy in the conflict of laws under Article 191 of the Constitution may apply and help but I am not very sure. We need to reflect on it.

### ADJOURNMENT

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senators. It is now 6.30p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 23<sup>rd</sup> October, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.