

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Wednesday, 27th November, 2019***The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.**[The Deputy Speaker (Sen. (Prof.)
Kindiki) in the Chair]***PRAYER**

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators. Good afternoon. Let us have the Petition from the Chairperson, Standing Committee on Labour and Social Welfare.

PETITION

REPORT ON PETITION: SETTLEMENT OF AWARDS
TO EX-KENYA AIR FORCE OFFICERS AND SERVICEMEN

Sen. Sakaja is not in.

(Petition deferred)

Next Order.

PAPERS LAID

REPORT ON THE 50TH CPA AFRICA
REGION CONFERENCE

Sen. Halake: Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Wednesday 27th November, 2019-

Report of the Parliament of Kenya delegation to the 50th Commonwealth Parliamentary Association (CPA) Africa Region Conference held in Zanzibar, Tanzania, from 30th August to 5th September 2019.

(Sen. Halake laid the document on the Table)

REPORT ON THE 20TH ORDINARY SESSION OF THE EXECUTIVE
COMMITTEE OF THE FP-ICGLR

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. The next Paper is from Sen. Poghisio, who is not present. The Paper is deferred.

(Paper deferred)

Next Order.

NOTICE OF MOTION

NOTING OF THE REPORT ON THE 50TH CPA
AFRICA REGION CONFERENCE

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

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the 50th Commonwealth Parliamentary Association (CPA) Africa Regional Conference held in Zanzibar, Tanzania from 30th August to 5th September, 2019.

The Deputy Speaker (Sen. (Prof.) Kindiki): Next Order; a Statement under Standing Order 48(1) by the Senator for Tana River, Sen. Wario.

STATEMENTS

FLOODING DISASTER IN TANA RIVER COUNTY
CAUSED BY PERENNIAL OVERFLOW FROM
THE SEVEN FORKS DAMS

Sen. Wario is not present. The Statement is deferred.

(Statement Deferred)

The next is a Statement by the Senator for Isiolo County; proceed, Sen. Dullo.

EXECUTION OF LEGAL NOTICE No.150
SEEKING TO OPEN UP LAND IN ISIOLO
COUNTY FOR ADJUDICATION

Sen. Dullo: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Lands, Environment and Natural Resources concerning Legal Notice No.150 of 27th August, 2019, released by the

Ministry of Lands and Physical Planning, opening up land in Isiolo County for adjudication.

In the Statement the Committee should-

(1) State what informed the Ministry's decision in issuing the Gazette Notice which, in effect, will lead to the conversion of communal land into private land, despite there being a number of contentious land related disputes in the county which are yet to be resolved.

(2) Explain why the Ministry decided to exclude the Kenya Defense Force's (KDFs) School of Infantry and Combat Engineering from the adjudication process, knowing very well that there is a court order in place stopping the KDF from carrying out any survey in the contentious area until the dispute is settled.

(3) Explain why the Ministry of Lands and Physical Planning is attempting to convert land lying along the Lamu Port-South Sudan-Ethiopia-Transport (LAPSSET) Corridor and Isiolo Resort into public land, knowing very well that the said land has its rightful owners, who are yet to be compensated.

(4) Explain whether in issuing the Legal Notice, the Ministry of Lands and Physical Planning sought and received approval of the county government, who are the legal custodians of unregistered community land.

(5) Explain why the Ministry of Lands and Physical Planning failed to undertake public participation, engage with all leaders and other stakeholders before issuing the Gazette Notice, knowing very well that the communities' interests must be protected at all times; and,

(6) State whether the Legal Notice issued by the Ministry of Lands and Physical Planning was in accordance with the law, and in adherence with the principles of openness, accountability and the confines of public participation.

Sen. Halake: Thank you, Mr. Deputy Speaker, Sir. I rise to support this Statement by Sen. Dullo, and congratulate her for bringing it to the attention of this House and the nation. In my view, Gazette Notice No.150 is illegal and should be revoked. Pastoralists already own their land collectively. What we seek is registered community land titles to evidence our ownership.

Mr. Deputy Speaker, Sir, this Gazette Notice is going to disempower communities, because while we are not averse to titling, we would like that to be done properly under the Community Land Act, where community titles are issued and other tenures are looked at.

Article 40 and 61 of our Constitution on public, private and community tenure are distinct, but equal in legal force and effect, as per the phrase of the Article and reinforced in Section 5 of the Land Act, 2012.

Our Constitution deliberately distinguishes between a community land title and appreciates that while equal in legal force and effect, socially collective tenure has special demands. Therefore, we do not wish to subject this community land to adjudication when we have not demarcated what is community land, private land and what, indeed, is public land.

Mr. Deputy Speaker, Sir, I keep saying this again whenever I speak about land; governments are starting to become the number one grabber of community land. County governments are supposed to hold community land in trust, but not to just go ahead and do anything they feel like doing with it, because they do not own it. They are just trustees of community land.

Section 5 of The Land Act, 2012 on customary tenure and Section 5(iii) of the Community Land Act, 2016 on inclusion of customary rights is very clear. For once, as the community of Isiolo, registration is a priority for us. Our lands are slipping off our hands and this is mainly due to our continued treatment of community land as public land. Therefore, to preempt this, we, as pastoralists, have decided to double lock our land under community titles and other legitimate land use before we can start with adjudication.

Mr. Deputy Speaker, Sir, the Government, both at county and national levels and communities, often claim the same land and, therefore, to declare an adjudication area is just going to pit the communities against the Government. Consequently, with the power dynamics, the communities will definitely lose. The law is very clear, even though a little open ended, and that could constitute the public land, the Land Act Section 12 and may categorize any other public land in other sections.

Additionally, the National Land Commission (NLC) has been setting aside land for investment. While we are not averse to this, why is it that in northern Kenya, land set aside for development is never compensated? These double standards must stop and we say no to these kinds of conversions that follow no laws. Although then, title is wasted a lot in the community, as owners, the community makes its own rules and this is what we want; the community to be the one to tell the national Government what it wants.

Mr. Deputy Speaker, Sir, I would like to inform this House and this country that communities in Isiolo have already started registering their land and an inventory of all the community land had been submitted to the Ministry of Lands and Physical Planning. However, to scuttle this process, when they have seen that we have gone very far, this Legal Notice No.150, which I should actually call 'illegal notice,' was put there to scuttle the process of community land registration. This is wrong and we, as community leaders in Isiolo, are going to stand up for the rights of communities. If these lands are adjudicated before demarcation of what is community, public and private, then the community will be disinherited. This is what we do not want to see.

Mr. Deputy Speaker, Sir, the legal protection of community land prior to registration is not being honored by state actors. Legal protection is included constitutionally in Articles 40, 61 and 63; in Section 5 of the Land Act and in Sections 3(iv)(iii) of the Community Land Act 2016. The Community Land Act enables the Government to exclude specified parts of the properties. This is exactly what is happening. Within the land adjudication, there is no demarcation of what acreage is going to be adjudicated. Therefore, we could see a situation where all the range lands that have historically belonged to the communities being taken away from them.

Mr. Deputy Speaker, Sir, other laws that interfere with the pastoral land tenure and resource rights were already starting to challenge them and, therefore, it is not in

order for the Cabinet Secretary (CS) to gazette this illegal notice, which we are challenging in court, as we speak. Why has the Commissioner for Lands still not been appointed, and who would do this job in his absence? These are the questions that we are asking. The Government and Ministry should not do an inventory of public land prior to identifying community land. This goes against what we have given already and, therefore, we say, no to the illegal gazette notice.

As communities of Isiolo, we have seen, with that notice that a lot of the community land is overlapping. We have been told that it is only for urban areas, but what is an urban area? What is the acreage of an urban area? Who determines an urban area? Who decides what this urban area should look like, or why and who owns it?

Mr. Deputy Speaker, Sir, it is very unfair for the Government, which should ideally be a custodian and a trustee of community land, to go and use its powers in the wrong way. They are using things like wanton gazettment to deny communities their rights to the grazing areas, the rights to ownership of community titles and the rights to identification, demarcation and ownership of their lands.

Pastoral land security means ensuring that losses to pastoralists are minimized. Ideally, this includes helping communities to know about their rights under the Community Land Act, which we are currently doing, and lease land to investors even in cases where investment is envisaged. Both levels of government should not be on a land grab mission from communities by shifting boundaries, sometimes not necessarily physically, but also through definition of what public and private land is.

Mr. Deputy Speaker, Sir, the procedure for securing land is straightforward; it is contained in law, but is being ignored. Therefore, we say no to this kind of wanton conversion of land that is not following any legal procedures as laid down both in the Community Land Act and the Land Act, 2012 as well. I condemn any attempt by the county government or the national Government, for that matter, to disinherit communities through gazettment. I do not think that gazettment is enough to deny them their right to have the community land demarcated, an inventory made and community titles issued.

Mr. Deputy Speaker, Sir, the Lands Act, 2012 defines public purposes too broadly, including for private commercial use. Therefore, the risks are very high. This is why we say adjudication, at this juncture, when the private commercial users have not been defined well and the open ended nature of public purpose needs to be reined in or procedures greatly improved, for us to accept these kinds of adjudication. A lot of work has to be done, but it must be done legally within law and within the Community Land Act, 2016, for it to make sense for communities in Northern Kenya, especially for communities in Isiolo.

I support and repeat that Legal Notice No.150 declaring Isiolo an adjudication area is illegal. We ask for its revocation immediately.

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

Proceed, Sen. (Eng.) Hargura.

Sen. (Eng.) Hargura: Thank you, Mr. Deputy Speaker, Sir. I thank Sen. Dullo for bringing up this issue. My understanding was that once the Community Land Act was enacted, then even the adjudication of the other land was supposed to cease. However,

the last time we had a workshop with the State Department for Lands, they told us that the existing ones will continue until the Community Land Act registration process starts.

Mr. Deputy Speaker, Sir, this is now a new adjudication area which has been created. The notice says that: “All community land within Isiolo County, except some parts which are said to be public land.” However, it starts with all community land. Community land is supposed to be registered in a very systematic manner according to the Community Land Act.

The same CS who is supposed to operationalise the Community Land Act is creating adjudication areas out of community land. Had she said, “All land within Isiolo County,” then it would have been better. It is very clear that she knows what she is doing. We expect the CS for Lands and Physical Planning to appoint the Community Land Registrar and send community land registrars to all counties which have community land, and then we start the process.

We have already done sensitization. I have attended two workshops which were driven by Non-Governmental Organisations (NGOs). The State Department for Lands is not doing anything along that line, and we are now seeing why it is not doing anything. It is because of the kind of mischief they have. I will not be surprised if tomorrow there appears a similar notice saying, “All community land within Marsabit County.”

Mr. Deputy Speaker, Sir, it is high time that the public officers in the State Department for Lands understood that we enacted laws here based on our Constitution. We expect them to do their part to operationalise this Act, but not subvert the process by now trying to introduce adjudication areas where they are not supposed to be.

The other part is where it even talks of land which will be taken up by the LAPSSET Project. This is a project which I personally do not think will take place, because we have been saying that we will do the project for a long time. The only thing on the ground is three berths in Lamu Port. Our neighbours like Ethiopia, who we are trying to cooperate with, have already changed their mind. Ethiopia has connected its railway line through Djibouti, because you cannot wait for Kenyans to make their decisions.

Mr. Deputy Speaker, Sir, how somebody says, “Except the land to be taken by LAPSSET,” which we do not even know, yet the community has not been compensated nor consulted, is not in good faith. The Constitution says that public participation is paramount and mandatory in anything concerning the public. There is nothing which concerns the public more than land. You do not consult them and then come up with these kinds of notices. As we know right now, that land is supposed to be held by the county government on behalf of the community, and they cannot do anything without consulting the community. However, we are now seeing a very clear case where I do not know whether the county government was involved, because the national Government is making decisions on community land.

Mr. Deputy Speaker, Sir, I beg to support the Statement and I hope that the CS will present the position of the national Government. Hopefully, they should have this Gazette Notice revoked.

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

Proceed, Sen. Wambua of Kitui County.
Sen. Dullo, approach the Chair.

(Sen. Dullo approached the Chair)

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I congratulate Sen. Dullo for bringing up this matter for debate, and tabling it before the Committee on Lands, Environment and Natural Resources.

On this issue of Legal Notice No.150, the first question I am asking is: “Why Isiolo County?” Isiolo County is not the only county where you find communal land. There is communal land in many pastoralist areas. The question that I think is the basis of the Statement by Sen. Dullo is: “Why the focus on Isiolo County?”

Having said that, the fact that Sen. Dullo is bringing up this Statement and the fact that we have Sen. Halake from the same county raising an issue with this Legal Notice, it is a clear indication that the two leaders from that community were not involved in making this decision.

Article 96 of the Constitution defines the role of the Senate and by extension, the roles of Senators. The role is to defend the interests of counties and their governments. There can never be a bigger interest in any county than land. Land is an issue that is more important than many other issues in counties. Therefore, if decisions on communal land in Isiolo County are being made without the participation of Senators from that region, by extension, it means there is very little, if any, public participation on making decisions on land in Isiolo County.

Mr. Deputy Speaker, Sir, in support of this Statement which has come at a very good time, a moment that this country is talking about building bridges, I would ask the Committee to which this Statement will be referred to and the Senators from Isiolo County to look into the Building Bridges Initiative (BBI) Report and find out what it says about land issues. This is because leadership and the burden of leadership is local. There is no way that you will be telling people to look into global issues when the pertinent issues that affect them and their communities are not addressed.

In support of the Statement by Sen. Dullo, for good order and to make sure that everybody is brought on board, I recommend that the CS withdraws this Gazette Notice and consults the leadership and the people of Isiolo County. They should then agree on the best way forward in terms of adjudication of communal land in Isiolo County.

I beg to support.

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

Proceed, Sen. Cherargei of Nandi County.

Sen. Cherargei: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support the Statement raised by Sen. Dullo, the Deputy Majority Leader and the Senator for Isiolo County. I congratulate her and confirm that women leaders – being an elected Senator and being a leader in this House – are doing very well. It is contrary to what has been said before about the Chairperson of---

The Deputy Speaker (Sen. (Prof.) Kindiki): You have redeemed yourself, Sen. Cherargei. You did very badly yesterday.

(Laughter)

Sen. Cherargei: Mr. Deputy Speaker, Sir, I confirm to the House that---

The Deputy Speaker (Sen. (Prof.) Kindiki): On behalf of the House, I also congratulate you on your redemption.

Sen. Cherargei: Thank you, Mr. Deputy Speaker, Sir. I hope that many women will follow her and Sen. Halake as being among the trailblazers.

(Sen. Dullo spoke off the record)

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Dullo? I thought the accolades are in your favour.

Sen. Dullo: On a point of order, Mr. Deputy Speaker, Sir. Is Sen. Cherargei in order to call Senators or women Senators in this House “women?”

The Deputy Speaker (Sen. (Prof.) Kindiki): I think today he has been careful, unless something escaped my ears.

(Sen. Wambua sought an intervention)

Can we hear from the Senator for Kitui? Let us confirm whether Sen. Dullo heard properly.

Sen. Wambua: Mr. Deputy Speaker, Sir, I think you congratulated the Senator for Nandi too early---

(Laughter)

He is becoming a repeat offender---

Sen. Dullo: Exactly!

Sen. Wambua: In making reference to female Senators as “women.”

(Applause)

Could you give direction on how to deal with the Senator for Nandi?

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Cherargei, is that allegation true?

Sen. Cherargei: Mr. Deputy Speaker, Sir, I wanted to refer to them as “female Senators.” I did not---

The Deputy Speaker (Sen. (Prof.) Kindiki): Did you repeat the same offence you committed yesterday?

Sen. Cherargei: No, I did not, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): You are now becoming a serial offender.

Sen. Cherargei: Mr. Deputy Speaker, Sir, I think there is a calculated move by Sen. Wambua to look nice before female Senators.

(Laughter)

You must find somebody---

The Deputy Speaker (Sen. (Prof.) Kindiki): Before whom, Sen. Cherargei?

Sen. Cherargei: Before female Senators, so that he may find favour. He is seeking for a favour.

The Deputy Speaker (Sen. (Prof.) Kindiki): Are you imputing improper motives on the Senator for Kitui?

Sen. Cherargei: No, Mr. Deputy Speaker, Sir. It is on a light touch.

The Deputy Speaker (Sen. (Prof.) Kindiki): Yes.

Sen. Cherargei: I meant that he made those comments in good faith. What I wanted to say---

(Sen. Dullo sought an intervention)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order. Sen. Dullo is not done with you yet.

What is it, Sen. Dullo?

Sen. Dullo: I am not done with him, because there are no “female Senators” here; we only have Senators in this House. Can Sen. Cherargei address Senators properly in this House?

Thank you, Mr. Deputy Speaker, Sir.

(Sen. Wambua spoke off record)

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

Sen. Were: Thank you, Mr. Deputy Speaker, Sir. As we discuss this issue, Sen. Cherargei needs to be told in uncertain terms from the Chair that he needs to---

The Deputy Speaker (Sen. (Prof.) Kindiki): In no uncertain terms?

Sen. Were: Yes, he needs to be told, in no uncertain terms from the Chair, that the Senators in this House who are ladies are here by right, and they know what they are doing in this House. He should, therefore, desist from any kind of talk that discriminates Senators in this House.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Wambua: Mr. Deputy Speaker, Sir, this is a House of records---

The Deputy Speaker (Sen. (Prof.) Kindiki): Indeed!

Sen. Wambua: The Senator for Nandi has imputed improper motives on the person and character of the Senator for Kitui.

The Deputy Speaker (Sen. (Prof.) Kindiki): Really? By saying that you are trying to look good? There is nothing improper in looking good. You are the one who is imputing improper motives on yourself.

Sen. Wambua: Mr. Deputy Speaker, Sir, I want it to go on record that the Senator for Kitui looks good; and that approval is given by his wife---

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

Sen. Wambua: Mr. Deputy Speaker, Sir, there is no intention on the Senator for Kitui County to look good to any other person.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator! You do not mind looking good to any other person?

Sen. Wambua: Mr. Deputy Speaker, Sir, I do not mind, but that is not the intention.

The Deputy Speaker (Sen. (Prof.) Kindiki): You see, Sen. Wambua, it is you who is harbouring improper ideas. On face value, there is nothing wrong with trying to look good, but let us leave it there. I would rather pursue the major issue of gender prejudice, which has been raised, because it is bordering on that. That is not something I would want to leave just like that.

*(Sen. Halake sought an intervention
by raising her hand)*

Proceed, Sen. Halake.

Sen. Halake: Thank you, Mr. Deputy Speaker, Sir. I would also like to weigh in on this. I do not know why whenever it is a lady who has done something--- We do not need these patronising accolades that are not genuine. This is how it has now ended up derailing a very important issue on land matters in Isiolo, degenerating into gender issues. Therefore, this kind of patronising accolades are not welcome, and we do not even need them.

Therefore, Senator, just get on with it and talk to the issues.

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

Sen. (Eng.) Hargura: Thank you, Mr. Deputy Speaker, Sir. As we say, this is a House of records, rules and procedures. I would, therefore, like you to give some guidance. This is because what is coming up is that, by nature, human beings are either male or female. I heard Sen. Dullo saying that you cannot refer to female Senators as “female Senators.” Can we have very clear guidance so that we know how to identify different genders in this House?

(Sen. Cherargei applauded)

(Laughter)

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

Sen. Dullo: Mr. Deputy Speaker, Sir, our Standing Orders are very clear, and it done not actually mention female or male. We are all equal in this House. Therefore, the title that should be used should be “Senator so and so” and not “female Senators.” We do not have such titles in the House. I think my point is very clear.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Were again.

Sen. Were: Thank you, Mr. Deputy Speaker, Sir.

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

Sen. Were: What is new is the way it is being used. I am just trying to refer to Sen. (Eng.) Hargura’s comment, on how we should be referred to. Yes, we have male and female Members in this House, but when it is used to impute discrimination and to demean the person then we will not accept it.

The Deputy Speaker (Sen. (Prof.) Kindiki): Enough! Order, hon. Members. Order! Order everybody, including the Sergeant-at-Arms. Order!

Sen. Cherargei, please get this clearly; that we can excuse all the jokes, prejudices and funny things that we do, as Senators and leaders outside this Chamber. However, what we cannot allow is to perpetuate some of the things that do not align to our standards and procedures in this Chamber, in the glare of the millions of people who watch the proceedings of this House through the internet, not only in Kenya but in other parts of the world.

Indeed, somebody told me two weeks ago about how they were watching the proceedings of this House from an aircraft while travelling from Europe to the Far East when they were airborne. That is how serious what we do here is. Therefore, I will not be that Speaker who allows the House to degenerate into a place where we can perpetuate things that will lower the dignity of our institution.

Sen. Cherargei, I warned you because we had this discussion yesterday. Now, it is not about you and individual Members, male or female, but about you and the House. I would like to draw your attention to the Standing Orders No.116 and No.117. Standing Order No.116 is on disorderly conduct, which has quite severe consequences. That disorderly conduct includes when a Senator creates disorder, as you are doing. You are creating disorder by provoking unnecessary points of order, contests and raising emotions. You are creating disorder. This is an orderly House.

Sen. Cherargei, I invite you to not only look at the punishment that goes with creating disorder, which is in paragraph (ii) of that Standing Order, I also invite you to look at Standing Order No.117, which relates to gross disorderly conduct. I am of the view that unless you are curtailed, the direction you are taking in the last two days is taking us to the application of Standing Order No.117. This gross disorderly conduct includes defying a ruling or direction of the Speaker or the Chairperson of the Committee.

In other words, we gave some guidance to you yesterday on this sensitive issue, which you appear to be trivializing. I also invite you to look at Standing Order No.117(1)(h), which states:-

“A Senator commits an Act of gross disorderly conduct if the Senator-

Demonstrates or makes disruptive utterances against the suspension of a named Senator.”

This is in regards to the name ‘Senator,’ which does not apply.

Standing Order No.117 (1)(i) states:-

“Attempts to or causes disorder of whatever nature during an address by the President or a visiting dignitary pursuant to Standing Order No.25.”

This is in regards to the President’s speech.

However, I saw something else, which might be of interest. You have not used any violence or interrupted the Speaker’s procession or removed the mace from its place. However, you have almost committed an offence according to Standing Order No.117(m). You are bordering towards it.

It states that-

“commits any other breach of these Standing Orders, that is in the opinion of the Speaker, constitutes gross disorderly conduct.”

So, in my opinion, I cannot entertain prejudices against men or women Members or non-members of this House. Therefore, Sen. Cherargei, the Senator for Nandi, this is the last time I will have the proceedings interrupted by so many Standing Orders relating to gender-prejudiced statements coming from you or any other Senator.

On that note, I direct that we stop at that and continue. However, having said so, I absolutely see no reason in, for example, qualifying and saying that Senator so and so is either a great man. If qualification of gender is done in good faith at face value, and is not a tricky way of trying to introduce prejudice, there is nothing disorderly about that. Sen. (Eng.) Hargura asked for guidance around that issue. There is nothing wrong in saying that the distinguished Sen. Abshiro is a great lady. However, it should be said in *uberrimae fidei*, and not *malafides*, or with the intention to demean or introduce sarcastic prejudices. That is the end of this matter.

Sen. Cherargei, I hope you remember what you were supposed to say about this Statement by Sen. Dullo.

Sen. Cherargei: Thank you, Mr. Deputy Speaker, Sir. From the outset, land is an emotive issue that should be handled carefully. I have been following the issue of Isiolo for a couple of days. It is sad that the county commissioner is on a collision path with Members of Parliament (MPs) or the leadership from Isiolo County. We expected the county commissioner to engage more constructively and ensure that this land issue is resolved in a good and honest way.

The ministries of Lands and Physical Planning and that of Environment and Natural Resources should take the lead in ensuring that the rights of the people of Isiolo are protected. The law is clear with regard to the principles of land policy; Article 60(b) is on security of land rights. Classification of land has been provided for under Article 61, for example, on whether it is public, community or private land. The law is clear on the aspect of changing private or community to be used, and *vice versa*. The law has also provided for compulsory acquisition.

Mr. Deputy Speaker, Sir, the Ministry of Defence and the Ministry of Lands and Physical Planning must ensure that the land rights of the people of Isiolo are protected.

The law has provided for how to change land use from one classification to another. Therefore, if the intention is to convert community land to public land or *vice versa*, there are some constitutional conditions or legal provisions that have been provided for that. Therefore, the people who purport to have issued this Gazette Notice should listen to this carefully. If the intention of this land was to build a health facility in Isiolo County, a military installation or any other thing, then it cannot be built. This is provided for in the Constitution. We should stop double standards.

Mr. Deputy Speaker, Sir, the famous BBI has been launched today and the launch presided over by the President. Why is it that the people in Nairobi are compensated while those in Isiolo are not? That is what happened in Nandi County the other day.

Therefore, as we have this conversation of constitutional review and whether we want to change the executive structure, we should respect Kenyans. For example, we should not disrespect Kenyans simply because they come from North Eastern or Rift Valley. A person should not think that they have more rights because they come from a particular region. Whether a person comes from Tharaka Nithi or not, he or she should be treated the way we do a Kenyan in Namanga or in Kisumu. Therefore, the people of Isiolo County must be given their rights. They have a right not to allow that land to be used for earmarked purposes. That is what the law has provided for.

Mr. Deputy Speaker, Sir, I join the leaders from Isiolo; I also appreciate and celebrate them for standing firm. I have monitored the county commissioner, who tried to demean them. He tried to lecture, intimidate and coerce leaders who are standing for the rights of people who elected them. They should be reminded that an elected leader is a voice of God. The voice of the people is also the voice of God. This shows that there may be some characters in the Executive who are misusing county commissioners. This is not the first county commissioner to lecture elected leaders. We have seen others in some other parts of this country telling us to either shape up or ship out.

Therefore, I urge the Chairperson of the Committee on Lands, Environment and Natural Resources, Sen. Githiomi, to prosecute this matter within a short time. We know how people can be mischievous in the Government. If we allow it more time, by the time we are concluding this matter, somebody else will have a title deed. We have had cases where a person has a title deed to public land. Just the other day, somebody hived off the headquarters of the Ministry of Lands and Physical Planning. Therefore, if the Ministry is not safe, how can we be sure that the issues of Isiolo are protected?

Mr. Deputy Speaker, Sir, the last point, so that I can allow my colleagues to contribute, is the aspect of public participation. Article 10 of the Constitution of Kenya provides for public participation. I have heard that the BBI report has recommended a rapporteur on the issue of public participation in this country. It is sad and illegal that public participation was not conducted on the issues of land affecting the residents of Isiolo. Kenyans should shun away from the practice of receiving soda and bread so as to sign some fake public participation documents.

Mr. Deputy Speaker, Sir, if we do not bring the issue of public participation to the fore in the constitutional referendum, then we are doomed. The ANC party leader, Hon. Musalia Mudavadi, spoke candidly at the Bomas of Kenya today. He stated that the

conversation should be about Kenyans; and that Kenyans should be involved in public participation and decision making. The Judiciary should make a ruling on the issue of public participation, and call out of order any State organ or officer who does not conduct public participation, as enshrined by the Constitution. The opinions and views of Kenyans must be respected. I wonder why the people of Isiolo are being ignored by their leadership.

Mr. Deputy Speaker, Sir, I thank the Senate Deputy Majority Leader and the Senator for Isiolo, Sen. Dullo, for bringing this issue to the attention of the House. As Prof. Tom Ojienda taught me in the law of conveyance, land is an emotive issue, especially in the African context. Issues of land disputes are not only in Isiolo; we have witnessed similar issues affecting land across the country. The Mau Forest eviction was gazetted, but the evictees have not been compensated to date. Can the CSs in the line Ministries not just use gazette notices? There should be a threshold before you put a gazette notice on the change of public policy, use, access and ownership of land in this Republic.

Mr. Deputy Speaker, Sir, there are so many cases of land historical injustices in Nandi County. The Truth Justice and Reconciliation Commission (TJRC) Report that is before my Committee addressed the issue of land historical injustices. I will invite my colleagues to give views on the ways of implementing the TJRC Report. If we do not arrest the issue of land affecting Isiolo County, we will have another case of land historical injustice in 20 years. I would not like Isiolo County to experience the issues of historical land injustice that have been witnessed in most parts of the Rift Valley.

I hope that the CSs who are invited to appear before the Committee will take the invitations seriously. Many CSs do not take the invitations seriously, and end up sending people who do not hold executive decisions within their ministries. I am very emotional when talking about land issues, because if a man does not have land in my community, he is a nobody.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Cherargei, you have done generally well, except for the last sentence. Anyway, you have acquitted yourself. You are a fairly good debater, under ordinary circumstances. I appreciate and recognize your reform in the last ten minutes.

The next statement is by the Chairperson of the Committee on Roads and Transportation. Sen. (Eng.) Hargura, do you have any brief on the activities of the committee?

Sen. (Eng.) Hargura: I do not have a copy of the Statement.

The Deputy Speaker (Sen. (Prof.) Kindiki): A copy of the Statement can be provided to you, so that we dispose of the matter. We cannot keep waiting for the Chairman to a time when he will feel it is convenient for him to be in the Chamber. The Senate waits for no one.

We shall give Sen. (Eng.) Hargura time to go through the report. In the meantime, I ask the Chairperson for the Committee on Finance and Budget to issue his statement.

PENDING BILLS IN COUNTIES

Sen. (Eng.) Mahamud: Mr. Deputy Speaker Sir, I rise, pursuant to Senate Standing Order No.51(1)(a) to make a Statement concerning the stoppage of funds to county governments due to failure to pay pending bills.

On Thursday 21st November, 2019, a question was raised on the floor of this House as to the purported stoppage of transfer of funds to county governments by the CS for the National Treasury and Planning. The Speaker directed that the Committee on Finance and Budget meet with the CS on Tuesday 26th November, 2019, and present a report to this House on the issue of pending Bills.

Mr Deputy Speaker, Sir, the Committee held a meeting with the CS for the National Treasury and Planning, and the following information was presented-

(a) That vide National Treasury Circular No.20/2019 Ref:IGFR/Pending Bills/01/A(24), the CS for the National Treasury and Planning informed the governors of the county governments of Narok, Machakos, Nairobi, Vihiga, Isiolo, Tana River, Migori, Trans Nzoia, Bomet, Kirinyaga, Nandi, Mombasa, Kiambu, Garissa and Baringo of the decision to invoke section 97 of the Public Finance Management Act, 2012, to stop transfer of equitable share of revenue for financial year 2019/2020 with effect from 1st December, 2019, as no effort had been made by these counties to clear eligible pending bills between 1st July, 2019, and end of October, 2019;

(b) that additionally, the CS indicated that no conditional grants would be released to the aforementioned county governments for the Financial Year 2019/2020 until and unless amicable settlement of the matter is arrived at;

(c) that vide a letter dated 25th November, 2019, the CS had forwarded the aforementioned circular to both Houses of Parliament for approval as required under section 97(2) of the Public Finance Management Act, 2012.

Mr. Deputy Speaker, Sir, under Article 225(3) of the Constitution the CS responsible for finance may be authorized by statute to stop the transfer of funds to a State organ or any other public entity—

(a) only for a serious material breach or persistent material breaches of the measures established under that legislation; and,

(b) subject to the requirements of clauses (4) to (7).

Mr. Deputy Speaker, Sir, Clauses 4 to 7 set out the procedure for the stoppage of funds in the following terms-

“A decision to stop the transfer of funds under clause (3) may not stop the transfer of more than fifty per cent of funds due to a county government.”

The contention was whether the CS complied with the Constitution and the provision of law. In our opinion, the CS has complied with the provision of law because he has raised the intention to stop the funds by 1st of December, and has subsequently applied to both Houses of Parliament, as required under Article 97(2) of the Public Finance Management (PFM) Act.

We have established that under provision of law, the Controller of Budget is required to investigate the matter and submit a report to Parliament, in accordance with

Article 225(7) of the Constitution, within 14 days of the decision, to stop the transfer. The decision was made on 19th November, 2019. Therefore, by 3rd December, 2019, the Controller of Budget is supposed to bring a report to Parliament.

Mr. Deputy Speaker, Sir, Parliament is required, by a resolution of the two Houses, to either approve or reject the decision of the CS. As the decision to stop the transfer of funds is dated 19th November, 2019, Parliament is required to make a decision on or before 18th December, 2019. The approval by Parliament is predicated both on a consideration of the report of the Controller of Budget and any representations that will be made by the county governments affected by this decision, as contemplated under Article 225(5) of the Constitution.

Therefore, Mr. Deputy Speaker, Sir, the Committee urges the Controller of Budget to expedite the investigation and submission of the report, as contemplated in the law. Further the Committee intends to give an opportunity to the affected county governments to answer to the allegations against it, and to state its case as contemplated under the Constitution. We will be seized of this matter and proceed with it as from next week, awaiting the report from the Controller of Budget, and then present a further report to this House.

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

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Eng.) Mahamud before you resume your seat, this is a very critical issue because the Cabinet Secretary (CS) for the National Treasury said that they will not release money to a number of counties.

In the final paragraph of your Report, you said that you intend to engage the concerned counties to know why they have not cleared the pending bills. Do you not think that you are taking too much time on this matter considering that the CS has made it clear that there will be no disbursements from December, which begins next week? Do you not think you are taking too long to deal with a financial emergency?

Sen. (Eng.) Mahamud: Thank you for the question, Mr. Deputy Speaker, Sir. Article 225(7) of the Constitution states as follows:-

“Parliament may not approve or renew a decision to stop the transfer of funds unless—

- (a) the Controller of Budget has presented a report on the matter to Parliament; and
- (b) the public entity has been given an opportunity to answer the allegations against it, and to state its case, before the relevant parliamentary committee.”

That is the provision of Article 225(7) which binds us.

The Deputy Speaker (Sen. (Prof.) Kindiki): That is okay. In the meantime, please note that the two Houses of Parliament will adjourn for the Christmas recess next week as per the Calendar. Unless the Calendar is altered, the Houses will adjourn for recess.

Secondly, you should also take into consideration that non-disbursement of funds even for one month can be quite costly to the activities of the counties. So, look for ways of expediting the process. Even if you intend to work after the House adjourned as per the

Calendar, committees' activities will be suspended at some point for Christmas recess as it is the custom.

Sen. (Eng.) Mahamud: That is why I intend to have a meeting on Tuesday next week to look at these critical issues of timelines.

The Deputy Speaker (Sen. (Prof.) Kindiki): That is okay, but please draw a calendar with those factors in consideration.

What is it Sen. Dullo?

Sen. Dullo: Mr. Deputy Sir, you have already made a ruling on what I wanted to say. This matter is very serious and should be dealt with expeditiously. A better strategy should be drawn because you cannot stop the whole budgetary allocation to the counties. Maybe what the Committee needs to look at is the issue of pending bills instead of budgets for county governments.

Mr. Deputy Speaker, Sir, you have already given direction and I think that is in order.

The Deputy Speaker (Sen. (Prof.) Kindiki): Chairman, I believe you have heard from Sen. Dullo.

It looks trendy and fancy when some bureaucrats invoke certain sections of the law, but the consequences are devastating. Those provisions are there for extreme circumstances. We do not know what the factors are, but please make sure that no county is frustrated simply because of things that other remedial measures of a lesser impact would have been applied.

Sen. (Eng.) Mahamud: Mr. Deputy Speaker, Sir, the National Treasury cannot stop disbursing the funds without our approval, which is supposed to be given in 30 days. We must respect that timeline.

The Deputy Speaker (Sen. (Prof.) Kindiki): We will give a lot of weight to the recommendations of your Committee because the House relies on committees. That is why we are urging you to do a good job expeditiously. Make your report as objective as possible, so that the House relies on your expertise to make a decision.

Sen. (Eng.) Mahamud: Even if they stop, they cannot stop more than 50 per cent.

The Deputy Speaker (Sen. (Prof.) Kindiki): Alright.

Hon. Senators, I will defer the Statement by the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations with a caveat. Going forward, we shall not be lenient with owners of business who just disappear and expect that the House will indulge them just like that. Going forward, we shall be very stern. In fact, some of these Statements should just be dropped, never to appear in the Order Paper.

ACTIVITIES OF THE COMMITTEE ON NATIONAL SECURITY,
DEFENCE AND FOREIGN RELATIONS

(Statement deferred)

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Eng.) Hargura are you ready now? Please have the Floor.

ACTIVITIES OF THE COMMITTEE ON
ROADS AND TRANSPORTATION

Sen. (Eng.) Hargura: Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.51(1)(b) to make a Statement on the activities on the Standing Committee on Roads and Transport for the period commencing 1st July to 30th September, 2019.

During the period under review, the Committee had a total of 22 sittings. Regarding Petitions, pursuant to Article 118 of the Constitution, three Petitions were referred to the Committee during the period under review. These are-

(1) Petition on the delayed compensation by the National Land Commission (NLC) to the land owners affected by the Eldoret Town Bypass in Uasin Gishu County;

(2) Petition on rehabilitation and capacity enhancement of James Gichuru Road junction (A104); and,

(3) Petition by residents of the Western Bypass Road Projects in Wangige, Kiambu County.

The Committee has considered and adopted reports on the delayed compensation by the NLC to the land owners affected by the Eldoret Town Bypass Road Project in Uasin County. Further, the Committee is undertaking engagement to inform its recommendations on the two remaining Petitions.

Mr. Deputy Speaker, Sir, regarding Statements pursuant to Standing Order No. 48(1), 12 Statements were referred to the Committee during the period under review namely-

(1) Statement by Sen. Seneta regarding traffic offences committed by Tanzanian registered Public Service Vehicles (PSVs) on Kenyan roads especially along Namanga Road;

(2) Statement by Sen. (Eng.) Hargura on the state of Loiyangalani Airstrip in Marsabit County;

(3) Statement requested by Sen. Wetangula concerning the state of the Malaba International Border Point;

(4) Statement requested by Sen. Pareno on the state of land compensation and environmental restoration in roads construction projects; and,

(5) Statement by Sen. Prengei on the traffic congestion at the Gilgil Weighbridge along Nairobi-Nakuru Highway.

Further, the Committee is processing the following Statements-

(1) Statement by Sen. Wambua on the state of Syongila-Tulia Road in Kitui County;

(2) Statement by Sen. Mutula Kilonzo Jnr. on the death of Mariam Kigenda and Amanda Mutheu at the Likoni Ferry Crossing;

(3) Statement requested by Sen. Cherargei on the reintroduction of the new speed governors for public transport vehicles;

(4) Statement requested by Sen. Loitiptip on the delayed compensation of fishermen affected by the construction of the Lamu Port in Lamu County;

(5) Statement requested by Sen. Loiptip regarding the economic benefit of the Lamu Port-South Sudan-Ethiopia-Transport (LAPSSET) Corridor Project to the residents of Lamu County;

(6) Statement requested by Sen. Shiyonga on the safety of road users, specifically pedestrians and persons living with disability; and,

(7) Statement requested by Sen. (Dr.) Lelegwe on the implementation of the LAPPSET Corridor Project.

The Committee has provided provisional requests to the above listed Statements to the concerned Senators and is facilitating responses to the remaining Statements.

A detailed report will be tabled once all the matters raised in the Statements are concluded.

Mr. Deputy Speaker, Sir, during the period under review, the Committee also held a joint sitting with the Standing Committee on Lands, Environment and Natural Resources on the Statement that was sought by Sen. Mutula Kilonzo Jnr. regarding the delayed compensation for persons affected by the Kibwezi-Athi-Mutomo-Kitui Road project in Kitui County.

During the Senate sitting in Kitui County on 18th September, 2019, the joint committees held public engagement with the Ministry of Transport, the National Land Commission (NLC), the Kenya National Highways Authority (KNHA) and the project affected persons at Ikanga market, Kitui County. A report on the findings and recommendations is being finalized for tabling in the Senate by the two committees.

Mr. Deputy Speaker, Sir, on 31st October, 2019, the Committee undertook an inspection visit at the Kenya Ferry Services (KFS) to audit the emergency systems as well as the security and safety of the passengers using the ferries.

Further, the Committee facilitated engagement that involved the Ministry of Transport and Infrastructure, Kenya Port Authority (KPA), County Government of Mombasa and transporters affected by the directives by Kenya Railway Corporation (KRC) requiring that all cargo from the port of Mombasa be transported via the Standard Gauge Railway (SGR). The Committee resolved to issue summons to the Cabinet Secretary, Ministry of Transport and Infrastructure to appear before the Committee on Wednesday, 4th December, 2019 following his failure to honour invitations to deliberate on diverse issues including unsatisfactory answers to Statements sought by the Senators.

Mr. Deputy Speaker, Sir, lastly, the Committee undertook a successful inspection of the Malaba One Stop Border point on 22nd November, 2019 to follow up on the measures put in place to address the gridlock and the congestion at the facility.

Going forward, the Committee has scheduled the following activities-

(1) Visit the Gilgil Weigh Bridge within one month, inspect and assess the cost of the traffic congestion and mitigation measures to be put in place to arrest and reverse the current trend; and,

(2) Undertake infrastructure inspection and audit visit in all counties to assess the cause of all stalled public projects and implementation status of the ongoing projects.

Thank you, Mr. Deputy Speaker, Sir. I table the report.

(Sen. Hargura laid the document on the Table)

Sen. Halake: Thank you, Mr. Deputy Speaker, Sir. I would like to congratulate the Committee. Most committees in this House do a very good job and I would like to congratulate them.

However, I have had a number of Statements to this Committee that have gone unanswered or were not satisfactory dealt with. I am wondering because I was listening very keenly to find out what happens to those and I have not heard anything. Perhaps, we could be told what happens in cases where a lot of time has lapsed and the answers to the questions we have asked have not been forthcoming. They have now fallen off the report of the Committee without even a mention as to whether or not in future, these are still being considered or still being checked on.

That said, I would like to congratulate most of our committees. I think this House does a fantastic job regarding committee work and we value the work that is done by the committees. However, we would like to see that a lot of the questions that we ask, come back to us with satisfactory answers or stating the next course of action with regards to follow through, so that we are not just seen to be shouting and nothing else is coming out of these Statements.

Mr. Deputy Speaker, Sir, actually, since the beginning of this House, we have brought very many Statements and I have noticed that a lot of the issues go unresolved. It begs the question as to what happens next if a committee is in possession of a question that has been long outstanding and there is no mention as to how that will be processed going forward.

I thank you, Mr. Deputy Speaker, Sir.

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

Proceed, Sen. Cherargei.

Sen. Cherargei: Thank you, Mr. Deputy Speaker, Sir. I want to congratulate the Committee on Roads and Transportation for that Statement. I have seen that last week, they did summon the Minister in charge of Roads and Infrastructure, Cabinet Secretary, Mr. Macharia.

Mr. Deputy Speaker, Sir, two things. One, I want to call upon them that the rains are ongoing and as a result there is so much destruction of roads across the country. We even witnessed this havoc in West Pokot, in the City and across the counties.

Mr. Deputy Speaker, Sir, I would urge the Committee to move with speed and talk with the Kenya Rural Roads Authority (KeRRA), Kenya Urban Roads Authority (KURA), the Ministry of Transport and Infrastructure and the caucuses of roads departments across the counties to ensure that as the rains continue, the roads are passable to allow goods and services to reach the market and also people to reach their places of work.

Mr. Deputy Speaker, Sir, I would inform the Committee that in Nandi, we have roads that need to be raised to bitumen standard. They are a circuit of around 85 kilometres. We request the Committee to give us audience because the contractors that were sent to---

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Eng.) Hargura, you should be taking notes.

Sen. (Eng.) Hargura: I am listening.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Cherargei, you are supposed to make observations.

Sen. Cherargei: Mr. Deputy Speaker, Sir, I should also request the Committee because this is a Committee of the Senate. You know the role of committees---

The Deputy Speaker (Sen. (Prof.) Kindiki): In other words, be brief.

Sen. Cherargei: I will, Mr. Deputy Speaker, Sir. I am just concluding. I know the committees are doing a good job. Sometimes when they invite these agencies, they do not turn up because of many factors. I am happy that last week, they did summon the Cabinet Secretary, Ministry of Transport and Infrastructure. I would request in the near future, the audience of the Committee in Nandi County to address various issues of roads whereby contractors have abandoned their work stations; they are not working on the roads yet they have been awarded tenders to do those roads.

I would request the Committee that even as the CS, Transport and Infrastructure appears before them, they should at least notify most of the Members because roads is a national and county concern; so that we can be part of the process.

I thank you, Mr. Deputy Speaker, Sir.

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

Proceed, Sen. Dullo.

Sen. Dullo: Mr. Deputy Speaker, Sir, I wanted to move Motion on ---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! We are not there yet. We are on this Statement, if you can give us a minute or so. I thought you wanted to comment on the Statement from the Committee on Roads and Transport.

Proceed, Sen. Seneta.

Sen. Halake, approach the Chair.

(Sen. Halake approached the Chair)

Sen. Seneta: Thank you, Mr. Deputy Speaker, Sir. I just want to congratulate the Committee on Roads and Transportation. I really do not want to preempt what the Cabinet Secretary will present to this particular Committee next week on 4th December, 2019 because I am among those Senators who had pending responses from the Ministry and also unsatisfactory responses to Statements.

Mr. Deputy Speaker, Sir, the reason I have risen to add my voice on this particular Statement is because of the implementation of Statements. I wish I could get the attention of the Deputy Speaker. If my good friend, Sen. Halake, could allow me to have the attention of the Chair.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Seneta. What do you want the Speaker to do for you?

(Laughter)

Sen. Seneta: Mr. Deputy Speaker, Sir, the reason I am calling for your attention on this particular Statement is because of the implementation of the many Statements we raise in this House.

The Deputy Speaker (Sen. (Prof.) Kindiki): Yes.

Sen. Seneta: We should not be just a House that passes so many Statements and attracts attention from the citizens.

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

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

Sen. Cherargei: Mr. Deputy Speaker, Sir, is it in order for Sen. Seneta to call for your attention as an individual instead of addressing the Chair. Some of these things can be captured.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Cherargei, she is in order. That is why I asked her to state the reason as to why she wanted the attention of the Speaker and she has acquitted herself. I would have come down heavily on her if she did not have a good reason. She has mentioned that she wants the House to assist, through the Speaker, with the many Statements and reports that come here and that she wants them implemented for us to maintain the dignity of the House.

Sen. Seneta: Thank you, Mr. Deputy Speaker, Sir. Good responses have been given here on many Statements, but you will realise that the reality on the ground is different.

A number of roads have been washed away by the floods and some of the roads have been blocked by private investors. A number of issues that we have raised concerning roads in this country must be followed up and our responses to Statements must be implemented. We should not just receive good responses. We cannot take those responses to our citizens. The only things that we can take to the citizens are actions and measures that have been put in place.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Eng.) Hargura, your Committee has been challenged to pull up its socks.

Sen. (Eng.) Hargura: Mr. Deputy Speaker, Sir, I thank my colleagues for the observations that they have made. We have engaged Sen. Halake and Sen. Seneta. When we get the replies to the Statements, we normally share them with the Members who asked for them and ask them to check if they are satisfied with the response. If they are not satisfied, we do ask the Cabinet Secretary (CS) to come to the Committee in the presence of the Members to elaborate and give further answers to the satisfaction of the Members. We have tried that and the Senators will bear me witness.

We called the CS, but he did not turn up and we issued summons for him to appear. I do hope that we will get satisfactory answers when the CS appears before the Committee. I do encourage them to always confirm if the answers that we have received are satisfactory. If they are not satisfied with the responses, we will still have to look for the CS.

We are experiencing a lot of washout on the roads because of the heavy rains and we have to engage the two levels of government because there are some roads which are under the county governments and some that are under the national Government. We do

give conditional grants and the road maintenance levy fund hence we have to engage the county governments and the national Government authorities like Kenya National Highways Authority (KeNHA), KeRRA and KURA. Those are some of the issues that we want to engage the CS on when he comes on 4th December, 2019. That will help us have a clear roadmap. We are now facing a lot of emergencies on our roads and they have to gear their work plans towards emergencies and not the normal construction or improvement.

I also mentioned the issue of Malaba in the Report. We went to Malaba One Stop Border Point with Sen. Wetangula. We realised that there is sheer negligence on the part of Kenya's Ministry of Transport and Infrastructure. The trucks have piled for 20 kilometres. We measured the kilometres when we were driving to Bungoma. The problem is a 50 metre section on that border point which should have been completed two or three years ago. Ugandans have done their part.

In a One Stop Border Point, trucks from Kenya are to drive straight to the Ugandan side where the Kenyan and Ugandan revenue authorities are to clear them and those coming from Uganda will go straight to the Kenyan border and they will also be cleared by the Kenyan and Ugandan revenue authorities. The Ugandan side is flowing, but we have not provided the loop for them to go round the customs in Kenya. There is a snarl up on our side because they have to first allow the trucks from Uganda to go through. We are told that in a day---

The Deputy Speaker (Sen. (Prof.) Kindiki): Chairperson, kindly summarise.

Sen. (Eng.) Hargura: Mr. Deputy Speaker, Sir, we are told that in a day, we have 1,100 trucks from the Kenyan side and about 800 from Uganda side. When they are clearing the 800 trucks from Uganda, the 1,100 trucks have to wait for about four days. We have been talking about the movement of trucks from the port to the border and that has now been streamlined for they now take about two days but they then end up taking four days at the border. We are, therefore, not assisting the business community.

You will realise that 90 per cent of those trucks are owned by Kenyans and we intend to bring a substantive report to this House for it to be debated. The Ministry needs to pull up its socks because as things stand right now, we are punishing Kenyans for doing business.

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir. I will be very brief. I sit in this Committee. I want to echo the sentiments of Sen. Seneta about good reports. What Kenyans are looking for is not just good answers to their questions but they are looking for results. Kenyans want to see action on their roads.

There is a Statement that was raised by Sen. Seneta on the road to Namanga through Kajiado. She said that vehicles bearing Tanzanian registration numbers cause accidents there, but they are let free yet vehicles that bear the Kenyan number plates are impounded by police if they make the same mistake along the same road. The CS was supposed to respond to that question but they instead gave references to Acts of Parliament and regulations on roads.

On the issue of compensation of private land owners, we have an example of the road being constructed in Kitui; the Kibwezi-Mutomo-Kitui Road. That road is halfway

done. In fact, they will be finalising the area around Kitui town this December. The people whose land was taken have not been compensated to date. Sometime early this year, when I was sitting in this Committee, there was destruction of private property around Nkoroi where very expensive houses were brought down. Amazingly, there was money to compensate those people within two weeks yet they have not compensated the poor Kenyans whose land was taken in Kitui and Makueni where that road is passing. It is raining heavily but those people cannot till their land because it has been taken for road construction with no compensation.

The issue mentioned by Sen. (Eng.) Hargura is a collective shame for this country. Close to Kshs400 million was paid to the contractor for the construction of the One Stop Border Point in Malaba. There is a balance of about Kshs58 million. The balance of Kshs58 million has not been paid and the Government terminated the contract and the section of the road that is remaining is less than 50 metres. On account of that, business people are losing business in billions of shillings. We were told that the border point collects over Kshs250 million every month yet we do not have Kshs58 million to pay the contractor to complete the work.

Mr. Deputy Speaker Sir, what I am requesting, because I am a Member of another committee, is that when we table this report, perhaps, immediately after we come from recess, action must be taken, not by the Cabinet Secretary, but action pushed by this Senate for relief to Kenyans and for value for money. This is because we are losing a lot of money, Kenyans are crying, and they are looking up to us. I believe what this Ministry is doing, is just trying to give good answers to questions; ticking boxes; that they have done their job and yet things are different on the ground.

I support.

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

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Dullo, what is it now?

PROCEDURAL MOTION

ELECTION OF SENATOR TO PRESIDE OVER SENATE SITTING PURSUANT TO STANDING ORDER 15 AND ARTICLE 107 (1) (C) OF THE CONSTITUTION

Sen. Dullo: Thank you, Mr. Deputy Speaker, Sir. I beg to move-

THAT, pursuant to Article 107 (1) (c) of the Constitution and Senate Standing Order No.15, the Senate elects Sen. Petronila Were Lokorio to preside over the sitting of the Senate in addition to other Members of the Speaker's Panel present, in the absence of the Speaker and the Deputy Speaker for the remainder of today's Sitting.

I request Sen. (Dr.) Hargura to second.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Eng.) Hargura.

Sen. (Eng.) Hargura: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. I will apply Paragraph 2 of Standing Order No.40 and direct that we proceed immediately to Order No. 25.

MOTION

CREATION OF PARA SPORTS ASSOCIATIONS IN THE 47 COUNTIES

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Dr.) Gertrude Musuruve. I hope that I pronounced your name well. Is it Gertrude or Getrude?

Sen. (Dr.) Musuruve: It is Gertrude.

The Deputy Speaker (Sen. (Prof.) Kindiki): That is okay. Proceed.

Sen. (Dr.) Musuruve: Thank you, Mr. Deputy Speaker Sir for giving me this opportunity to move this motion.

I beg to move -

THAT, AWARE THAT sport has the unique ability to transcend linguistic, cultural and social barriers, making it an excellent platform for inclusion and adaptation of different groups;

FURTHER AWARE THAT the universal popularity of sport and its physical, social and economic development benefits makes it an ideal tool for fostering the inclusion and well-being of persons with disabilities;

COGNIZANT of the fact that persons with disabilities often face societal barriers and disability evokes negative perceptions and discrimination in many societies and, as a result of the stigma associated with disability, persons with disabilities are generally excluded from education, employment and community life which deprives them of opportunities essential to their social development, health and well-being;

ACKNOWLEDGING that sport can help reduce the stigma and discrimination associated with disability by transforming community attitudes towards persons with disabilities by highlighting their skills and reducing the tendency to see the disability instead of the person;

FURTHER ACKNOWLEDGING that sport has become a career to many young people with talents, hence a source of income;

CONCERNED that there are many young talented youths with disabilities in the counties whose talent in sports has not been tapped, and that these young people are wallowing in poverty which they have the potential to eliminate through sports and talent;

NOW THEREFORE, the Senate calls upon the Ministry of Sports, Culture and Heritage in partnership with the Council of Governors to ensure that county governments-

1. Create a Para Sports Association in each of the 47 counties, affiliated to the National Paralympic Committee, and responsible for the development and promotion of Para Sports within the counties.

2. Submit an annual report to the Senate on the activities of the Para Sports associations, including the amounts of money spent on disability sports, and the number of paralympic games, teams and players sponsored by the county during the year.

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

Sen. (Dr.) Musuruve: Thank you, Mr. Deputy Speaker, Sir. The reason I came up with this Motion is because it is an issue of great concern. Persons with disabilities (PWDs) have sports that have not been promoted. When we talk of Paralympic sports, we refer to sports that are played by persons with physical disabilities.

There are some people who have disabilities that can be seen. For instance, there are those who do not have one hand. Some do not have two hands, some have one leg, some miss both legs and some are even blind.

However, most of these people are talented, but do not have an opportunity to showcase their talent. Why I talk about this is because in many instances PWDs in the counties have really wanted to participate in national and international games, but they do not have that support from their counties.

We are talking of issues of sports in general and mainstream sports which have quite a number of benefits. Sports help in team building, social networking and physical fitness. This is a benefit that needs to be extended to Persons with Disabilities (PWDs).

When we talk of Para Sports, they have been there since 1952. There are different categories and competitions for Para Sports because the classes are different. Paralympic games are major international multi-sport events for athletes. This is a time when Kenya can front its PWDs to compete nationally and internationally.

When we go out there we find that we have PWDs who are talented in sports, but they do not have support from the counties. This is a very sad affair. For example, I will give an example of a county that I visited in 2017. I was invited to oversee the national Paralympic games in Bungoma County. When I went there, I found that the county executive members were not present to watch or even coordinate the games. This was a national event, it was a sorry state because the athletes who were there were not provided with breakfast, 10.00 a.m. tea, lunch, transportation or any compensation from the county government yet they were expected to participate.

It is important for---

(Loud consultations)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Members, let us listen to Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Thank you, Mr. Deputy Speaker, Sir for your intervention. It is important for us to have a county and even national conversation concerning PWDs. Many times PWDs are discriminated in national conversations. I represent PWDs in this House and all the 47 counties. If there is discrimination out there and we are not heard, I

will bring it to the floor of this House. This is because I know that the Senate is a House of reason and so issues of disability---

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

Sen. Kinyua: Thank you, Mr. Deputy Speaker, Sir, I wanted a clarification from the Member---

The Deputy Speaker (Sen. (Prof.) Kindiki): Which Member? There are many Members here.

Sen. Kinyua: Sen. (Dr.) Musuruve. This is on whether there is discrimination in this House because I did not get it clearly.

The Deputy Speaker (Sen. (Prof.) Kindiki): Whether there is?

Sen. Kinyua: Whether there is discrimination in this House because I did not get her clearly.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Dr.) Musuruve, you may respond.

Sen. (Dr.) Musuruve: Thank you, if the HANSARD can be rechecked, I said that there is discrimination on PWDs out there. I mentioned that being a representative of PWDs in the 47 counties, I will bring the matter here so that the issues are heard because the Senate is a House of reason.

The Deputy Speaker (Sen. (Prof.) Kindiki): Actually, Sen. (Dr.) Musuruve, it is Sen. Kinyua who was absent minded. We do not have to check the HANSARD; the Speaker was very alert and, in fact, nodded. He would not have not nodded if you said what Sen. Kinyua is talking about.

Sen. (Dr.) Musuruve: Mr. Deputy Speaker, it is important for PWDs to be heard and involved in county and national conversations. I want to say right here and I will say this without blinking and fear, I was at the Bomas of Kenya in the morning. We were talking about the Building Bridges Initiative (BBI). The PWDs were not given a chance to speak for themselves. When we are talking about discrimination and the marginalized, let it come out clearly that women and the youth talk about marginalization because they are marginalized. However, PWDs are the most marginalized and, therefore, their voice ought to be heard.

When it comes to sports in counties, there is need for county governors to ensure that they prioritize issues of disability and giving them a chance to participate in sports. What is happening is that there are PWDs with talent which has not been nurtured. Most of the time people look at them from a pity paradigm even when they have a talent or education and they have a disability. Sometimes people do not notice. Even when you have ideas that can be brought in decision making, people do not notice because they have a notion that PWDs are supposed to be in abject poverty, cannot deliver or they are poor.

When you defy the odds as someone with a disability and you are able to excel in sports, academics or other areas, sometimes whatever the talent you have does not pop out. In many cases, and I would not fear to say this, people prefer representing PWDs, where they say: "I am doing this for PWDs." However if a PWD himself or herself does

it, people rarely recognize this. I will say this on the floor of this House because it was a hurtful situation when PWDs were not able to voice their issues. PWDs have what it takes to be involved in sports and bring gold to this country. Many times when they go out there for international competitions they are able to come with silver and gold, but this is not magnified. It does not come out and so people do not realize that PWDs have what it takes.

There is need to come up with a policy that will ensure that PWDs are supported in sports. I am saying so because sports has become a career. For example, I went to Dubai for a world championship event. From Kenya we were only able to take 30 participants. These 30 participants came from the counties. I do not know if this was done by a phone call, but they were not given adequate preparation or support for them to compete, practice and beat other teams internationally. It was a painful event because right from the counties, they tried many times, they wanted the county governments to support them or give them preparatory activities. This is so that when they go for games out there nationally and internationally, they would win. They were not given a hearing.

I will raise issues of disability, what I see on the ground and if we are not given a hearing--- I know that this House is a House of reason and it will obligate county governments to do what they are required to do. In the budget of the county governments, they need to set aside money to ensure that they are developing PWDs. They need to ensure they are investing in disability sports. When I went out of the country in Dubai, I realized that so many countries out there invest in their PWDs. When they realize that a person is good in para-volley ball, they enhance it. When they realise another one is good in sitting volley ball, they enhance it and eventually it becomes a career for them. When it becomes a career for them, those PWDs do not become a burden rather they bring glory and honor to their country.

Mr. Deputy Speaker, Sir, PWDs can bring glory and honor to this nation. What they lack is an opportunity. They should be given the right opportunity so that they are able to showcase the talent they have and if they do so, they become our pride.

I suggest that there is need for this Motion to go a notch higher so that policies are put in place or we even have a Bill that speaks to it so that PWDs are not discriminated. If I represent PWDs and yet I am not able to speak on their behalf in very important decision-making processes, who will talk for them? There is need for the Senate to come out clearly and ensure that this Motion goes a notch higher and county governments are brought to account so that they support the PWDs in sports.

Mr. Deputy Speaker, Sir, sometimes Persons with Disabilities (PwDs) are even unable to come to Nairobi to practice for qualifying games. This is simply because they do not have transport; they do not have a venue, and their coaches have not been paid. It is very unfair for PWDs to be despised or treated as if people are not thinking about them.

Mr. Deputy Speaker, Sir, we keep talking about inclusion, and I would like even the President, the Deputy President, Sen. Wetangula, Hon. Kalonzo Musyoka and all the people who matter in decision making to hear this. There is need to include PwDs in everything.

(Loud consultations)

The Deputy Speaker (Sen. (Prof.) Kindiki: Order, hon. Members. Order, Sen. Cherargei.

Proceed Sen. (Dr.) Musuruve. You are doing a good job.

Sen. (Dr.) Musuruve: Mr. Deputy Speaker, Sir, I would like them to hear my voice. If they cannot hear my voice there, let them hear my voice here. When we are talking of inclusivity as a country, we cannot talk of inclusivity if we are not helping our PwDs to excel where they can. We have a duty, as a nation, to ensure that we carry on board the PwDs. Even when we are talking about the BBI, let inclusion not only be of women and youth. Let the inclusion be women, youth and also PwDs.

Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity. I would like to call Sen. Cherargei to second this Motion.

The Deputy Speaker (Sen. (Prof.) Kindiki: Well done, Sen. (Dr.) Musuruve, for those very passionate and moving remarks.

I concur with you entirely and, as they say, I have nothing useful to add.

Proceed, Sen. Cherargei. I hope that you are still in your reformed element.

Sen. Cherargei: Yes, Mr. Deputy Speaker, Sir. I will be very careful.

Mr. Deputy Speaker, Sir, I want to congratulate Sen. (Dr.) Musuruve for this Motion. It has come at the right moment; this is the moment, because we are having a national discourse on the constitutional review process. I noticed with a lot of disappointment that the PwDs were not given a chance to talk about issues that face them in Kenya. I hope that, that will not be the trend, as we engage in the discourse of the constitutional review process that we have started today through the BBI.

Mr. Deputy Speaker, Sir, many people do not know that there are many categories of disabilities that happen; it can either be physical, mental, permanent or temporary. You will remember that at the beginning of this Session, after being newly elected and sworn in as the Senator of Nandi, I was a temporary PWD at that point in time. I saw a lot of discrimination when I was undergoing treatment for my knee. It was as if the world is always looking at the PwDs with a lot of pity. These people have extra strength; they have unique strength and intellect. They only need support systems.

Mr. Deputy Speaker, Sir, I have even heard in one of the comments presented today in the BBI that we should create pedestrian walkways and bicycle lanes as we construct new roads and infrastructure in the country. However, today the presenters of the BBI failed to capture and include the PWD lanes, which should be marked and proper signage installed. I hope that as we go forward in the review, we will factor in that issue. Therefore, issues of PwDs sometimes cannot be permanent; it can be temporary because of many other factors because there are different categories. Therefore, I call upon my colleagues that we need to support this Motion to ensure that we give our people opportunities.

Mr. Deputy Speaker, Sir, the Disability Act of 2003 was given impetus by Article 54 of the Constitution. The obligation that has been given to various state organs and agencies is to ensure that all PwDs are given a good environment; that the policymaking and legislation process should consider them, and all aspects must be protected. Under

Article 54 of the Constitution, it is very important that PWDs should be given the respect they deserve; and they should not be seen in pity. They should be given opportunities, just like what the Mover of the Motion, Sen. (Dr.) Musuruve, said on the issue of sports. We have what we call Para Sports, adaptive sports or disabled sports, and one of the sections is the Paralympics.

From the county I come from, Abraham Cheruiyot Tarbei won gold in the Paralympics of 2008. These are people who you might think are unable, but if they are given the necessary support, they can make it to the top. For example, there is a famous athlete from South Africa - I cannot recall his name - who ran into problems the other day and he is facing criminal charges. However, he is one of the world's celebrated short distance runners who used blades. Therefore, these people are not limited. As my neighbour, Eliud Kipchoge, would say, "No man is limited." Therefore, even for the PWDs, we should facilitate them not to be limited, because they have the capacity, intellect and strength even in terms of sports. A person like Henry Wanyoike is among the people who we celebrate, as a country. He is a Paralympic living with disability, but he has not allowed that disability to limit the potential opportunities and capacity that he has.

Therefore, Mr. Deputy Speaker, Sir, I call upon county assemblies, the county executives and the county governments across the 47 counties that, as we go into the future, we should put these associations in place. I do not know whether we will still have 47 or 46 counties, because the BBI Report has proposed Nairobi to be scrapped among the counties. I do not know, but let us assume that they will be 47 counties, as things are. When we go to sports, for example when we went to Senate *mashinani*, we have noted that counties do not give prominence the PWDs Para Sports. When we form these associations, it will allow proper coordination and synchronisation of the issues of sports for the PWDs.

Therefore, I call upon the county governments to be on the forefront of forming these associations. I assure Nairobi City County that they will not be scrapped in the near future, because we are the protectors of devolution as envisaged under Article 96.

Mr. Deputy Speaker, Sir, my third point is on The Persons with Disabilities (Amendment) Bill, 2019. I know that it is still a Bill. Clause three, which has been introduced - and I hope we will have an opportunity to look at it, since we are creating obligations for both national and county governments - is because this is a shared function. We also want the national Government as well as the county governments to play their roles. I like the wording of that Bill, because they have said an obligation for the county and national governments. We should make them obligated. When you walk into a building and there are no ramps for access by PWDs, that building should be closed down, just the way public health closes down buildings because of lack of sanitation. We are constructing beautiful roads, bypasses and walkways, but when we do not give space to the PWDs? It is very disappointing.

Therefore, in amendments of 2019 on the PWDs Act of 2003, as revised in 2012, when you look at Clause 3, both county and national governments have been obligated to come up with policies, guidelines, rules, regulations, by laws and legislations. We hope

that the Judiciary will walk with us through this process. Even as we call upon the Judiciary to be the guardian of the rights of PwDs, let me say this as one of the people who is passionate about human rights. Land rights, civic rights, PWDs rights and any form of right, is as good as people living with their rights. Therefore, I urge the Judiciary that when a matter concerning PWDs comes up, they should assist us by setting a precedent.

Mr. Deputy Speaker, Sir, being a celebrated academician and having taught law for a long time, you know what the precedent by the Judiciary can do to a society. We have landmark rulings that have been made here and even abroad, which could change our perception and the way society views PWDs.

Mr. Deputy Speaker, Sir, even as you go on your academics sojourn, you should in future consider factoring in the issues of PWDs. I am willing to be under your tutelage, together with Sen. (Dr.) Musuruve, so that we go to uncharted waters to ensure that the rights of the PWDs are factored. I hope Sen. (Dr.) Musuruve will be among those who will bring amendments on Article 54 of the Constitution to enhance the rights of PWDs. Sen. (Dr.) Musuruve should be given an opportunity to lead us on the issues that PWDs face.

(The amber light was switched on)

I can see my time is almost up. This is a noble idea and it is also unique. We should have Para Sports associations across the counties.

I call upon county assemblies, governors and the County Assemblies Forum (CAF) to consider formation of Para Sports associations.

Mr. Deputy Speaker, Sir, I request your Office to organise for Para Sports---

(Sen. Wetangula walked into the Chamber)

As the Ford Kenya (Ford-K) party Leader walks in, he should note this because they are given an opportunity when it comes to constitutional discourse in this country. Para Sports are critical and we should be engaged in the entire processes.

When we have Senate *Mashinani* sittings, we should have Senate *Mashinani* Para Sports for the 47 counties. The Senate should lead from the front by creating civic awareness on the importance of the PWDs. The potential of PWDs should not be limited by anybody, system or any state officer.

I urge my colleagues to support this Motion and ensure that we adopt it. We should pass it to allow the Senate to lead from the front on the issues facing PWDs. As we wait for constitutional amendments to be brought, we hope they will enhance Article 54 of the Constitution which is about PWDs, so that their rights can be protected just like any other rights are considered important in this country.

I thank you.

(Sen. Cherargei spoke off record)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Cherargei! You have done very well. I am convinced that if you abandon the side issues, you can perform very well as you have at the moment.

Hon. Senators, I now want to propose the question.

(Question proposed)

Sen. Were: Thank you, Mr. Deputy Speaker, Sir, for the opportunity to contribute to this Motion ably moved by Sen. (Dr.) Musuruve on the creation of Para Sports associations in the 47 counties.

The role of sports in the society cannot be ignored. It is not just at the national, but also international level. Other than ensuring we have us physical health, sports have a feel-good effect on the people that participate. They also provide social bonding and a sense of belonging amongst the people that participate. These are some of the things that are in the Maslow's Hierarchy of Needs.

We have denied sports to members of society that are physically or otherwise challenged. These are the people we refer to as PWDs. That is being discriminatory and denying them a right that is available to other Kenyans. Therefore it is unacceptable.

Having Para Sports associations in every county will ensure that not only do they participate and improve health wise, but it will also make sure that we are aware that we have these people in our society. Para Sports associations will also make sure that they move out from where they are hidden to participate. This will go a long way in dealing with the stigma that is associated with the PWDs. The acceptance will make more PWDs to come out. Therefore, they will not only participate in sports, but also in other areas and make a contribution to this country.

As the Mover said, PWDs have brought glory in other countries. In this country, every time we have an international activity to participate in, they are not treated well. They have problems with their travel and accommodation plans. That must be a thing of the past. Once it is devolved to the county level, the issues will be dealt with early enough before they come to the national level.

Mr. Deputy Speaker, Sir, sports are also a source of income. As we talk about economic empowerment of marginalised groups, the PWDs will get some money to run their lives. Devolution came to this country as a good thing to bring services closer to the people. We cannot leave out a segment of the society in enjoying the fruits of devolution.

With those few remarks, I beg to support this Motion seeking to create Para Sports associations at the county level.

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

Sen. (Dr.) Milgo, proceed.

Sen. (Dr.) Milgo: Mr. Deputy Speaker, Sir, I also wish to support this Motion that has been brought to this House by my colleague, Sen. (Dr.) Musuruve. This is a very important Motion bearing in mind that we are talking about the PWDs.

Most of the issues concerning PWDs are hardly considered particularly when it comes to sporting activities. These people have been sidelined yet we know that sporting

activities is one way of encouraging our youth to engage in gainful activities. Sporting activities bring economic benefit to our country and are also beneficial to the health of the people concerned.

We have been talking about the issue of inclusivity in our country and many of the human rights activists have tried to do this in many areas. However, when it comes to sporting, nobody has thought of the PWDs because all the time they are relegated to the back. We know that the PWDs are abled differently. For those who can perform some activity, it is high time a chance was given to them so that they participate and create employment for themselves.

Mr. Deputy Speaker, Sir, recently, when I was in my country, I decided to go round to identify persons of various disabilities. I wanted to give them water tanks. When I went round, I found that there are many people with different disabilities. Some were lying on the floor, others crawling and some could not see. I found one disabled person who said he had passion in sports, but nobody assisted him to take part in any sporting activities.

This Motion has come at the right time so that we sensitise our counties to ensure that they look into the issue of forming the Para Sports associations. This way, we can identify and bring on board all the PWDs that can engage in sporting activities. By so doing, we will relieve guardians who take care of these people. Despite the 2003 Act that proposed that county governments bring on board policies and regulations to ensure that PWDs are considered in various ways, the issue of implementation has since become a challenge.

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

[The Temporary Speaker (Sen. Were) took the Chair]

Today the Building Bridges Initiative (BBI) Report was released. I am happy because we have been given a chance to add our voices. Sen. (Dr.) Musuruve will be able to input something concerning the PWDs, particularly when it comes to sporting activities. Recently, Eliud Kipchoge showed the world that no person is limited. If no person is limited, it does not matter whether someone is a PWD; that person is abled differently.

Madam Temporary Speaker, we are calling upon the Ministry of Sports, Culture and Heritage as well as county governments to ensure that they put in place Para Sports associations to enhance employment and ensure that PWDs earn a living. These associations will enable us to tap their talents and potential.

We have many PWDs. I still remember Ms. Mary Atieno who used to be a good singer. If she was still singing at this particular time, she would have gone very far in life. We also have many others who have done many things and contributed to the economy of our country. If Para Sports associations are formed in all the 47 counties, it will sensitise our society to know that PWDs can also contribute to our economy because all the time, we cry on how else we can assist them.

Sen. (Dr.) Musuruve should be encouraged to further this Motion and bring to this House a Bill concerning the PWDs. This is an important issue in the society. It will help in tapping into the potential, talents and skills that the PWDs have. It will go a long way to create employment for these people who have physical challenges.

I support this Motion.

The Temporary Speaker (Sen. Were): Thank you, Sen. (Dr.) Milgo.

Sen. Shiyonga, proceed.

Sen. Shiyonga: Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to this Motion. I congratulate Sen. (Dr.) Musuruve for coming up with this Motion on Creation of County Para Sports Associations in the 47 counties in the Republic of Kenya.

It is a Motion that gives heart and hope to Kenyans. Once we come up with such associations, then definitely we will give hope to a cluster of people living in this society that need to be acknowledged, but many of our counties have forgotten them. Giving them such an environment, especially in sporting activities, will enable them excel in their potential talents. The PWDs are our sisters, brothers, children and relatives. We need to embrace them and popularise these associations so that they play a role and feel a sense of belonging.

Madam Temporary Speaker, like one Senator has put it, these associations should be encouraged in counties. Most counties have money, despite the fact that we are saying that funds are limited in the counties. However, if they form associations, we will definitely have associations that are empowered and funded. We do not want to have Para Sports associations that are dormant. We want active and well-funded associations.

When these people come together and are recognised, they will be embraced because they will have funds that will enable them move from one level of activity to another. Through their level of participation, they will be ably funded to move from one place to another. When they are funded and well equipped, it will be possible for them to even compete internationally if not at the national and county level.

This Motion has come at the right time when we are embracing BBI. This should be taken on board. Sen. (Dr.) Musuruve is doing her work and we can see what she is putting in. Many have served here, but they did not adequately raise issues facing the PWDs.

We should embrace this cluster of people. We should also grow the skills of these citizens and hence, reduce the stigma associated with them. If you are not affected, then definitely you are not part of the society that we come from.

Once we empower these people, they will be financially stable and will never depend on any person. They will dig into to their kitty, get the money, do the necessary and move ahead. We will have protected them financially, economically and even spiritually. That will create a sense of belonging.

Madam Temporary Speaker, there are many challenges facing this cluster of people in the society. However, if this is devolved, chances are that the challenges they face will reduce. Some are physically challenged and others mentally challenged, but once they are actively involved in any sporting--- When you involve someone in a

sporting activity, definitely they become energised. It changes their understanding and thinking. It will definitely change the culture of how people look at them and how they associate with the environment and people around them.

At the beginning of last year, I supported a football team of disabled persons who have a lot of challenges. Nobody was recognising them even at the Ministry level. It was sad when they went to the Ministry seeking to travel to participate in an international game. These are people who need to be facilitated, but nobody took care of them. I felt it when I went to the ground. They were playing against teams in the inter-country sporting.

It was encouraging to them and some us, but the Ministry let us down. They went to Russia to compete, but they were left alone. Nobody bothered to even know how their passports would be processed for their flight just because they were unable to move as fast as any other persons.

I encourage Sen. (Dr.) Musuruve because she is a champion. She should be praised and honoured because she is looking at these people with the interest that we need to have for our fellow human beings. Through their talents in various sports and training, it is possible to empower these people and make them feel part of the community, Kenya and the world. They are people who were born here and will be proud of their country.

Madam Temporary Speaker, I congratulate Sen. (Dr.) Musuruve. Let us continue networking with these people and enhance what they have so that more can come out from the villages. This is important for the counties where these associations will be formed because that is where these people emanate from and live. If we encourage them, just like the way we are encouraging other people, they are going to be champions. They will make their counties and the country dignified. Everyone will respect this country, the counties that support these people and their sports associations.

Thank you. I support.

The Temporary Speaker (Sen. Were): Very well, Sen. Shiyonga. Proceed, Sen. Ochillo-Ayacko.

Sen. Ochillo-Ayacko: Thank you, Madam Temporary Speaker, for the opportunity you have given me to talk to this very good subject. I take this opportunity to congratulate Sen. (Dr.) Musuruve for thinking about the less privileged, forgotten and despised members of society.

The good book called the Bible is very clear about the mission of Jesus. I am sure Jesus of the Bible is the same like the one of the Quran. So, when I talk about the Bible, our Muslim sisters and brothers should know I am also talking about the Quran.

When Jesus traversed the earth, he looked on the people who were suffering affliction, discrimination and uplifted them. He particularly healed the disabled persons and brought them forward. Quite a number of them went back and expressed gratitude to His Excellency Jesus Christ for that consideration that he had for them.

If you are a servant leader and you lead the Government based on religion, morality and any other good thing, remember that Government is collective authority of the people. It is also collective resources of the people and is intended to serve the

welfare and protect all the people. Disabled persons are part and parcel of our society. They are among us, we are among them, and we must live together.

Madam Temporary Speaker, any government that is worth talking about must allocate sufficient resources, pay attention and have interest in people who are less fortunate by acts that are beyond their control to be members of that society. These people are the ones for whom government is formed.

Government is not formed for strong or wealthy people. Wealthy people can form their own cartels and run whatever they want to do and strong people can defend themselves. Government is for the defence of people who require to be defended. Majority of people are humble in their origin, endowment and their physical disposition. Therefore, when we have a government that does not look at a section of society favourably and does not defend these people, that government is not living to the creed for which it was established.

I had the rare privilege, as the Minister for Gender, Culture, Sports and Social Services, to be the first person to constitute the National Council for Persons with Disabilities (NCPWD). At that time, my good friend Sen. Mwaura had the privilege of capturing my attention and I appointed him to that Council. I can say with a lot of pride that he continues to excel and he will get very far in life.

Madam Temporary Speaker, I also happened to have been the Minister in charge of Sports. This Motion is very important because sports are activities that change attitudes of people and how they view others. When a sportsman, woman, child or any person who participates in sports, start being iconic and admirable to you and you start appreciating the fine qualities for which constitute their making, you start seeing leadership in them and appreciate them and their abilities.

Any sports activity that excludes an important section of the society is one that creates attitudes and environment that encourages and entrenches discrimination. It encourages putting disabled persons behind the room so that they are not seen by visitors and puts them behind the society so that they are not seen by people who are supposed to see them.

We should have a proper and public funded register of all the disabled persons wherever they are. That register should be available in the counties. We should have a visible budgetary framework that indicates how much resources are allocated for the welfare of our disabled persons. When we merely talk about their existence and mention it in statute books and policies, we are not doing much. For instance, I should know how many people are living with disabilities in Migori County and what we have allocated for their welfare, specifically their sporting activities.

It is not enough for me to sit here as a Senator together with other Senators and say that we are putting in statute and legislation on activities that compel institutions to mainstream the rights of the disabled. We should allocate money and resources for them to be seen, which should also be audited and be known that they were applied for such functions.

I encourage Sen. (Dr.) Musuruve to move forward with this Motion and try to introduce legislation that will compel the Government to put it clearly and visibly how

much resource are allocated to the county governments to support disabled persons. We should audit them annually and get feedback from this section of society on whether they benefited from those resources.

The talk about supporting the disabled and allocating them quarters has been going on for long. We need to take stock and audit what actual progress has been made in this regard and what we have attained as a society in terms of bridging the gap between what we allocate and how we support our less fortunate members of the society.

People might think that disability is about people who are born with it. Actually, as all of us in this House and anywhere else grow older, we become disabled. We cannot avoid it. We all want to live longer. As we do so, we start to lose certain functions that we have. Gradually we lose the ability to walk. That is why we need bridges to cross the roads or access to lifts because all of us will face it one day. We can read, but a time will come when we are unable to do so.

We should not think that those with disability are the ones who are born with it or suffer in the course of life. All of us who hope to live long are destined for that kind of situation. If wisdom is with us, let us make a society that mitigates and lessens the burden of living with disability because one day or the other, we will live with disabilities.

Madam Temporary Speaker, I am sure that all of us have read about the health situation of the second President of Kenya, Hon. Daniel Moi, who was an active person. I had the privilege of serving in Parliament when he was the President. I can assure you that he was the most physically fit President that I have ever seen.

I went to primary school when Mzee Jomo Kenyatta was the President. He was not as active as President Moi used to be. Right now we know that the former President, Hon. Moi, is unwell and needs assistance. It all tells the story that in as much as we are strong and might think that we are herculean, a time is coming when we will need the support of the society. We will require all the facilities that the disabled need. That will happen when we live long enough. All of us pray for longevity.

With those many remarks, I congratulate Sen. (Dr.) Musuruve for this good Motion. I encourage her to think a little broader about how to mainstream the rights and all the services required by disabled persons.

The Temporary Speaker (Sen. Were): Sen. Ochillo-Ayacko, it is experiences like yours that continue to enrich this Senate. Thank you also for reminding us that we are all candidates for disability.

Sen. Farhiya: Thank you, Madam Temporary Speaker, for giving this opportunity. I am happy to see you on that Chair. I congratulate you for being there today. Yesterday, we discussed about the role of nominated women in this House and issues around that. I do not want to belabour on that issue that was extensively discussed yesterday. However, I am glad to see you on the Chair.

I am impressed by the type of Motions, Statements and Bills that Sen. (Dr.) Musuruve generates around disability. I am not tired of repeating that PWDs are over-represented by Sen. (Dr.) Musuruve. I thank her for the active role.

Madam Temporary Speaker, I would like to bring the attention of the House to Article 27 of the Constitution that gives equality and freedom from discrimination.

Article 27(4) states that:-

“The State shall not discriminate directly or indirectly against any person on any ground including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.”

We have such a progressive Constitution and I wish we implemented even half of it. Most of the problems that we have in this country would have been history if we implemented it.

Madam Temporary Speaker, I happened to be at the Bomas of Kenya today. I am happy about the outcome of the BBI. There are many things that we need to do. I am glad that everybody spoke of cohesiveness and bringing everybody together.

As much as different groupings have been formed, we should include everybody so that we move this country forward. We should focus the amount of energy that we have to identify issues that need solutions in this country, so that we grow a society that takes care of the less fortunate and brings equity in terms of development and bridging the gap of inequality.

All the challenges that we face in the country are as a result of not developing in tandem with regions and everybody else. If we did that, the PWDs would have also benefited greatly. Resources would be abundant for everyone if we have equal development that benefits everyone and fight corruption.

If President Uhuru Kenyatta wants to leave a legacy in this country, he should stop corruption. All these other fights are driven by corruption.

Truth be told, nobody will pay the kind of money that we use to bribe voters if our main aim is to earn salary. Every problem that we have in this country has its root cause in corruption. A man once said that there are enough resources for the whole population in this world. However, there are no enough resources for one person with greed. If we stop corruption, even the less fortunate or PWDs will benefit.

Creation of Para Sports in the counties is a good idea because it will empower a group of people to come together. When people come together, the ideology that is shared among them can change their lives. Everybody has their own unique experiences. None of us think alike. We all have different boxes with different thoughts. However, if we brought our ideas together, we can move mountains.

The Para Sports associations will also create jobs. That is something we look forward to for the PWDs. An idle mind is a devil’s workshop. If people are busy, a lot of good will be achieved. If a PWD is idle, the pain of having a disability is much more.

Madam Temporary Speaker, as Sen. Ochillo-Ayacko stated, any able-bodied person is a candidate for disability. For example, Sen. (Dr.) Musuruve was able-bodied yet she is a PWD today. That shows that anyone of us can become disabled.

Kenya takes keen interest in sports and we do well in most sports. If we create associations within all the 47 counties, we will have competition among counties and come up with an excellent paralympics team that could compete in the global arena and win.

Para Sports associations can also make contribution for the economy of Kenya. India has invested heavily on medical tourism. Kenya can invest in sports tourism. Paralympics will not be left behind if the 47 counties created similar associations for all the sports for purposes of sports tourism. Let us think of the Para Sports associations as an issue that affects all of us because anybody is a candidate for disability. If we take care of the PWDs now when we are able bodied, we will also be helped when we find ourselves in similar situations.

Madam Temporary Speaker, I beg to support this Motion. I must state that I am happy to see you on that seat.

I thank you.

The Temporary Speaker (Sen. Were): Thank you, Sen. Farhiya.

Kindly proceed, Sen. (Dr.) Zani.

Sen. (Dr.) Zani: Madam Temporary Speaker, my neighbour is on the Speaker's seat today. I am very proud of you. You should be on that seat more often.

The passion and dedication of Sen. (Dr.) Musuruve is visible and her enthusiasm is amazing. If a Senator had the intention of walking out to attend a committee meeting, they will be compelled to sit and listen to her and make contribution. Sen. (Dr.) Musuruve seeks to address what is going on and that is good leadership. I hope that the PWDs in Kenya see and appreciate the work that she is doing to change their lives.

The Motion proposes creation of Para Sports associations in each of the 47 counties. I suggest that Sen. (Dr.) Musuruve works with the Directorate of Legal Services, to identify exactly which law might be appropriate. A quick amendment can be brought to the House because we already have the Kenya National Paralympic Committee (KNPC) in place. The laws should be cascaded to the counties. I think the amendment will find agreement in this House and in the other House because this is not a money Bill.

Madam Temporary Speaker, the suggestion to submit an annual report to the Senate is a little ambiguous because counties are independent devolved units. Instead, the reports should be submitted to the various CECs in charge of sports within the counties whose responsibility should be to follow through. This will give a good opportunity to conceptualize how the Para Sports associations will look like. The membership of the associations has to be clear as to whether it is any person with a disability or specific type of disability.

Prince Harry from the royal family in the United Kingdom (UK) is very popular for his passion with Paralympics sports for soldiers who were wounded in a combat. That is a good way healing for the PWDs.

Exercise is also good to keep our bodies healthy. It is import to jig your body from time to time by taking walk or any other type of exercise. I urge Senators to also exercise more often. I know many Senators will take part in the East African Community Inter-Parliamentary Games (EAC-IPG) that will take place in Uganda starting next week, but that is not enough. We need to exercise more often. Exercises are very important for the PWDs. When they exercise, they aid their body to heal.

Sen. (Dr.) Musuruve has alluded that there are no facilities for the PWDs. In most developed countries, exercise equipment is available in parks for people to exercise. Any person, be they PWDs or not, can benefit from the available equipment. I wonder how many gyms are PWDs friendly. Are people making effort to provide gym equipment for the PWDs?

This Motion is focusing on creation of associations, but it is much broader than that. It seeks to address a constituent element of health. We are all aware that physical health leads to mental health. Sen. Kasanga recently brought a Bill on mental health to the House. Without proper mental health, we cannot have much development. Physical health leads to mental health. This is a big area. I dare say that it is an area that has been ignored for a very long time. In most sports races, you will find that there is only one race for PWDs.

Madam Temporary Speaker, when we held the Standard Chartered Marathon, I think you were there, some of the races had Paralympics and we had a race specifically for the PWDs on wheelchairs. Off they went very excited, happy and very engaged. Apart from such chances, what other opportunities are there?

Sometimes when we have sports events where we only have one race for PWDs, what happens when they are out there? What happens every morning when they need to exercise? This is a big conceptualization and a challenge. Sen. (Dr.) Musuruve, through a relevant Committee, can get together the stakeholders such as the County Executive Committee Members (CECs) from all the 47 counties and begin with a brainstorming session about what they are doing regarding PWDs, Para Sports in their counties and what facilities they have.

Like we did in the Eleventh Parliament, where we talked about each county having a university, this is another sort of must. I know that many counties were to do sports activities, but I highly doubt if many of them considered the PWDs to ensure that the sports facilities are made in such a way that they can benefit. If we think about it just as a sport or an activity, it is just that. However, when we think about other advantages of it, it takes a completely new turn. It is the same way we speak about the youth in sports in terms of engagement, interaction and getting of the steam out of the body. All of us need to do that.

Exercise is important in helping our muscles to function and to clear our minds, thus making us more productive. Sports are very key even in interactions. We have the national organisation dealing with PWDs, but I have never heard of those that deal with a specific issue. This is a big area. Probably it is important to start having a discussion with the CECs to find out what equipment and facilities they have.

Sen. (Dr.) Musuruve should find out how to come up with an amendment and a mechanism to get to the CECs. We should also task ourselves, as a Senate, through a particular Committee, to go round each of the counties or have some liaison within the counties. The association would also need a lot of conceptualization in terms of the membership, how to identify the members and if there will be a membership fee. A lot of more work needs to go in there as well because the running of the associations in the counties is critical.

The issue of funding is very critical too. I believe that funds will be required for the CEC, but if we do an amendment that requires money from the national Government, that automatically becomes a Money Bill, which is very difficult to push through. However, looking out for donor associations and linking up with some of the associations that are already doing work for PWDs will be important so that it is all inclusive.

This will also have a lot of implications when it comes to equipment for PWDs for mobility and also for sports, but it is not impossible. This is just a question of thinking through. For example, recently, I saw a new innovation that has been put into place; a wheelchair that is able to spring up and lift the person to a standing position. I saw it with people who were playing basketball on the wheelchairs. This is just a question of focusing on the specific area.

As Sen. Farhiya has said, the representation that Sen. (Dr.) Musuruve gives to PWDs is over-representation because it is well targeted and very key. The rest of the Motion goes ahead to specific things. For Example that-

“Sports ability transcends cultural-socio barriers making it an excellent platform for inclusion and adaptation for the different groups.”

That is true and critical. It will allow people to mix and interact. In fact, the beauty of sports and being in a sporting team is that if you meet for an hour, you could do the sport for maybe 25 minutes and then you have 15 minutes to interact.

Sports are universally popular across the world and even in Kenya. This is a win-win situation. Sen. (Dr.) Musuruve, will remember that when we went to Kitui, we visited the young boys and girls living with disability at St Michaels School for the Deaf. I remember a boy who was both blind and deaf was just sitting somewhere rampaging through some balls. That is some sort of sport. At least it gives them something to turn to. Even within that school, if you remember, we did not check the sporting activities. We made an assumption. If they do not get sporting activities within the schools, how many do they get outside?

If the schools only organise such activities within the school compounds, how about when they leave the schools? We are almost moving to a point where, a part from associations, we might then later on move to having specific PWD friendly facilities in each of the counties, so that we have facilities put in place and people are able use them at any time.

Another critical thing is that by participating in sports, they will show the world that we are capable of doing something. This revokes the negative perceptions and discrimination in any society which results to stigma. In the long run, it is important to ensure that they showcase their talents. I am imagining how exciting this will be because we could have inter-competitions between the various associations from all the counties. That will give the PWDs a sense of pride and help them to feel that they also contribute to the development of this country. It will also help them to understand better their own interaction within that particular setup. It might also lead to employment, community life and allow them to work towards a specific goal. For others, they might make a career out of it.

Now that we are well known in sports, this is a fantastic fresh area to go into so that we have people give completion to our usual marathoners. This is another way to showcase ourselves.

Last but not least, through this, we might identify talented---

(Sen. (Dr.) Zani's microphone went off)

The Temporary Speaker (Sen. Were): I will give you 30 seconds to conclude.

(Sen. (Dr.) Zani's spoke off record)

Okay you have one minute then.

Sen. (Dr.) Zani: Thank you Madam temporary Speaker. At least, we will have opportunities for them. Through sports, they will showcase their own talents to the world. With that they might move forward.

With the Ministry of Sports, Culture and Heritage in partnership with the Council of Governors (CoG), Sen. (Dr.) Musuruve should go for this.

I thank you.

The Temporary Speaker (Sen. Were): Thank you, Sen. (Dr.) Zani. You have given us quite a lot on how to move this Motion forward to ensure that it is implemented. I am sure that the Mover has heard, taken notes and will do accordingly.

Proceed Sen. Sakaja.

Sen. Sakaja: Thank you very much, Madam Temporary Speaker. It is very good to see you as the Temporary Speaker today. Yet again, Sen. (Dr.) Musuruve is playing and keeping true to the reason she is in this House.

As I have said many times before, whether she is here or not, Sen. (Dr.) Musuruve is a great example of what it means when you are nominated or rather elected through special party lists to represent a certain category of the population. When those provisions were put in the Constitution, it was because the country felt that there were very many groups under Article 27 of the Constitution that have previously not been allowed to participate in the mainstream social, political and economic part of our country.

We started 2013 by nominating the youth. I came in through a nomination as well, representing young people in the last National Assembly. There are some who came in representing women, workers and PwDs. For the first time, I can say that my record has been broken; if I can say so for myself.

Madam Temporary Speaker, this is because in the last Parliament, together with young parliamentarians, we brought around 11 pieces of legislation, Motions and questions. However, Sen. (Dr.) Musuruve has single handedly possibly broken that record. I must, therefore, say that I am proud of her. She should not tire and she should not stop doing this.

Madam Temporary Speaker, this Motion speaks to two very important aspects. Number one, how we, as a country treat or consider PwDs. The world over, the convention has moved from us looking at disability and PwDs from a medical

sympathetic point of view, to a human rights point of view. Before, it was about treatment and about people who cannot do anything.

If you look at the International Convention on Persons living with Disability, we were a signatory to it, as a country. That regime changed. We stopped looking at them as people to be given a hand up, to people with equalization of opportunities. These are people with whom we are in a regime where we go out of our way to make sure that we can equalize their access economically, socially and even politically. We look at them that they too can contribute to the wellbeing of our country, to the success of our economy and to the society at large. That is the aspect.

Madam Temporary Speaker, all of us have a disability. The built environment is designed to overcome our inherent shortcomings, as human beings. My office is on the 26th floor of the Kenyatta International Convention Center (KICC). If there was no lift or stairs, I also cannot go up to the 26th floor. However, because I can at least walk, we need to provide extra for the one who needs a ramp or who needs to make sure that the lift is working.

It was very embarrassing in the last Parliament that even within Parliament buildings, the first time we realized that we had an access problem was when one of our colleagues in the House Business Committee (HBC) in the National Assembly got an accident and got disabled. That is when we realized that there are Kenyans who cannot access just the first floor of Parliament. That change in mindset is what is important.

Sen. (Dr.) Musuruve, the more you bring such Motions, the more you make sure that we have these discussions, then the more you begin demystifying and debunking the myth that has always surrounded this sector of millions of Kenyans and people on this continent, who are living with disability. That is the attitude we must look at; it is a right.

Madam Temporary Speaker, Sen. (Dr.) Musuruve has attended the Convention in Geneva. I have also gone there to represent this country before. Kenya is lauded out there as a country that has moved forward, and we keep to most of our commitments. However, locally, we still have a lot of work to do when it comes to the recognition of PWDs.

Today, in my County of Nairobi City, it is very sad that everyday there are very many mothers – I know that they do not like it, as well – who, in the morning, because they have a child with disability or a child who possibly has a mental health problem or a physical disability, are locked up in their houses because the mother cannot afford to take care for that child. The mother needs to go out and eke a living. You might find that the ladies who come to wash your houses or the ladies who are sitting out there, waiting for a job, have left a child out there.

We started a programme where we go round picking these children. I am glad that the President was able to help us, and we now have a bus that we are using with some of the children's homes. We go and pick those children in the morning, and we bring them back in the evening. If you listen to the kind of work coming out of those children – their expression, art and intelligence – it is a shame that too many are wasting away. That is the first aspect that I wanted to point out; that we must change our attitude towards this great part of our populace.

Madam Temporary Speaker, the second thing is sports. Sports is a unifier; it brings out the best in us, as a society. Talking about competitive sports, Kenya has excelled in many fields. We have a natural talent. I do not know how God combined Kenya and its location with that talent of sports in many aspects.

I remember that in New York, they were joking that they are changing the name of the marathon from the New York Marathon to “Chase the Kenyans,” because they never look for number one or number two in those marathons. They just say, “Let us just chase the Kenyans,” and they start counting from number three, going down. That is what they strive at. God has given us this unique advantage as a country that we need to make use of.

When you look at many PwDs – which is why Para Sports comes in – you find a lot of esteem depression issues. This is because they are not allowed to interact or enjoy themselves because of that earlier view, which was sympathetic and medical. However, when we give them sports and allow them to interact; when we give them the facilities and encourage them to compete, they then get some more dignity. They feel dignified and they feel that they have the esteem.

If you go to many schools, for example, if you go to Thika School for the Blind, schools for the deaf or to some schools which have PwDs, you will find that when they engage in competitive activities, there is a change even in their academics because they have realized that they can excel. The first time you realize that you can win something, you go on and you keep on going. We must, therefore, give them that opportunity, to participate, exercise themselves, interact with others and to compete. Let them know that they can even compete, not just in sports, but also in academia. They can also compete in several other aspects and in business.

In the last Parliament, one of the laws that we brought was the 30 per cent procurement quota for youth, women and PwDs. However, the lowest uptake is from PwDs, and there are many reasons to it, maybe awareness, *et cetera*. However, one of the biggest problems of why we do not have that uptake – because it cannot be that there are so many contracts and they have been denied – has been and research has shown that they have not been able to believe in themselves, and to believe that they can get it. Therefore, there is that apathy and cynicism; that, “You know what? They call it 30 per cent, but the other people will get it; we cannot get it and it is difficult.”

Madam Temporary Speaker, therefore, sports and such engagements gives them the belief in themselves. It shows them that you know what, if we could compete and win, we are a winner, and they can also actually do business, run for political office, vie for a seat and compete with the rest of us and the society.

Therefore, to help them face these societal barriers and the negative perceptions in the society, I feel that Sen. (Dr.) Musurue is spot on, by saying that each county, together with national Government, needs to look at how they can create Para Sports facilities within the counties. We pass a lot of money here that has gone to counties and counties are trying to build sporting facilities, but have they thought of Para Sports facilities?

When we talk about wheelchair basketball, there is some specific infrastructure that is required for that, and many other games that they participate in. As I have said earlier, we have a competitive advantage. We are already good in sports, as a country. If we just put in some little investment, they can even shine in the global sphere, and they can represent our country very well.

Madam Temporary Speaker, the Ministry of Sports has its role. If you look at the second part of the Fourth Schedule, it talks about responsibilities to the county governments. I want to put the challenge more to the county governments, because sports is a devolved function. Of course, it is concurrent, but a lot of it will happen in the counties. For them, when they view sports, let them not think of the most expensive things to do. You do not have to build a Kasarani or a Nyayo Stadium. Even within the estates, neighborhoods or villages, a very simple facility will actually suffice.

Some of the greatest stars who have played football, for instance, Mariga, used to play down here, just a walking distance from near Muthurwa. That pitch has never had grass, but he was able to excel and get where he is. I am not saying that we lower the standards, but let us not think that we need to put in billions, yet we can start with whatever we have.

Madam Temporary Speaker, the importance of bringing these associations is that they will help us create a pool of talent. Consequently, we will be able to encourage them to enroll, and we can get them training, because there are a lot of wonderful coaches. In many of these sporting fields, once you pass the age of 25 to 30, then you can no longer compete. We can encourage young people who played football for Harambee Stars, who played basketball for Kenya or who played different sports to now come and start coaching.

We invested in sports in some areas in Nairobi and you will realise that the levels of crime have gone down in those areas. I support a number of football teams and some of them are affiliated to Football Kenya Federation (FKF). We have recorded a reduction of crime rate by 20 to 30 per cent in some parts of Kayole because of Kayole FC, Kayole Starlets and the other teams that I support. The same is happening in Dandora and I am happy that a stadium is being put up by the Nairobi City County Government.

That stadium, Woodley Grounds and many others will facilitate sports. We want to see many of them in Nairobi and other parts of the country for us to engage our youth, especially those who are living with disability.

We should pronounce ourselves on this Motion and I want to challenge Sen. (Dr.) Musuruve to go forth with it. My Committee, where she is a Member, can write to all the sports Chief Executive Committee Members (CECs) and explain to them how to form these associations. We can give them a framework of how to affiliate themselves with the national Paralympic talent which can then become a pool of talent for the national Paralympic team which will help to promote Para Sports.

Today, we have Kshs8.1 billion at the Sports Arts and Development Fund. I challenge Sen. (Dr.) Musuruve to check the amount of money that has been allocated to Para Sports from the Kshs8.1 billion. They gave golf Kshs400 million yet golf is almost

elitist having in mind the people who engage in that sport. I do not play golf because I cannot afford spending two hours on a course every morning. I rarely do that.

We should do a value for money analysis and should get to know the impact of that money. The Kshs400 million will be enough for Para Sports across the country. It will actually go a long way in helping those young people get out of the villages, houses and estates and it will help them to start believing in themselves instead of being pushed around in wheelchairs. People are actually misusing them.

There is a cartel that takes people who live with disabilities and puts them on wheelchairs then they use them to beg money that they later collect in the evening. It is believed that some of them are from our neighbouring countries.

We should put the Ministry to task. We were talking about inclusivity today and how we can think of every aspect of the society. I suggest that this Motion be amended before the putting of the question to state that; 'a minimum of five per cent of the fund be committed directly to Para Sports'. That will be something practical other than us urging the Government to put their money in Para Sports. There is huge potential and great opportunity.

Hon. Dennitah Ghati changed my perception of people living with disability. One can be walking today just for them to be disabled tomorrow. Jesus gives a story in the bible of a child who was born with disability and His disciples asked for the person behind the sin that led to the child being born blind.

They wanted to know if the parents were the ones who sinned and Jesus told them that the child was born blind for the glory of the Lord. He told them that God knows the reason as to why that child was born like that. There are people who become disabled in their adulthood like some of my colleagues and friends and there are others who stay without disability throughout their lives.

Your nephew or child might be the victim tomorrow, hence, we should create a society that thinks of everyone and we should put ourselves in their shoes. We should empathise with them other than looking at it as a favour that we are doing to them. It is a great service to our country.

We cannot have cohesion without equalisation of opportunities. It is equalisation of opportunities that creates cohesion that will make one to know that no matter what kind of child he gives birth to or where his child is born, he or she has an equal shot at life. When an equal shot at life becomes the prerogative of all, then it becomes the real bridge and the real cohesion. Every Kenyan will then know that they are the same because they have institutions that are thinking about them.

I fully support this Motion and I congratulate Sen. (Dr.) Musuruve. As the Chairperson of the Committee on Labour and Social Welfare, I will follow up the commitments that I have made. I will find out about the portion of the Sports Arts and Development Fund that can go into this and how we can help the county governments to engage in this sector. They can use the database at the National Council for Persons with Disabilities. Let us put our money where our mouth is and let us do more action.

The Temporary Speaker (Sen. Were): Thank you, Sen. Sakaja. You are the Chairperson of the Committee in charge and you have said that you will follow up to see that what we have discussed here and what is in this Motion is implemented.

Sen. (Dr.) Langat: Thank you, Madam Temporary Speaker, for giving me this opportunity to support this important Motion by Sen. (Dr.) Musuruve.

Adaptive sports or what is normally known as Paralympic sports is an area that has been ignored more often than not by various institutions. I was assessing the current training for teachers and it is interesting that adaptive sports have not been developed well for people with disabilities. It is an interesting ignorance on our side and this area must be developed well for us to support our brothers and sisters who have different disabilities.

Sports is important and it cannot be ignored because it develops a person in three major domains. One is social development. It is known that sports develop one's self-esteem. As Kenyans, we felt esteemed when we saw Eliud Kipchoge win yet some of us have never met him. Sports do develop ones self-esteem. Our counties are not prepared to support Para Sports for children with disabilities and that means that we are denying them this important social aspect.

Sports requires endurance and perseverance and it helps one to develop discipline. Most people who engage in sports are always disciplined. We should engage the disabled people in sports for them to develop self-discipline. Another social aspect in the development that is enhanced through sports is self-acceptance. Some disabled people need to participate in sports and win for them to believe in the statement 'ability beyond disability'. Therefore, sports is important in developing self-acceptance amongst these people. We have witnessed this in Kenya.

When I was a lecturer in Moi University, I remember somebody asked how many professors of Moi University had huge buildings in Eldoret Town. The buildings we see in Eldoret and Kapsabet towns belong to sportsmen and sportswomen. They are doing well economically. If we engage these people and develop their talents, they will earn a living through this particular domain in life.

Sports also develops emotional balance. Human beings always develop their emotional abilities when they engage in various sports. According to various researches in psychology, the approach to issues of people who are active in sports is different. They react to issues differently. Moreover, sports promote movement. Most of the athletes that we have would not have travelled to different places of the world if it were not for sports.

As Sen. Sakaja said, this country has been blessed by God. People now want to compete with Kenyans. I do not know if there is anything else that we would be known for were it not for sports. Who knows? If we develop adaptive sports, we might also nurture talents for PWDs that are so unique to our country. That could also put us on the world map.

Sports also promote critical thinking. As the old saying goes, all work with no play makes Jack a dull boy. If we want our children to perform well in academics, we should engage them in various sports.

Madam Temporary Speaker, sports is a devolved function. However, interestingly enough, if you go round our various counties, you will realise that the PWDs are neglected and ignored by various county governments. We were shocked when we visited one of the polytechnics in Kitui County. The steps to the classrooms were so high that it was a challenge even to us. How about the PWDs?

Sen. (Dr.) Musuruve should request the Committee on Education to go to various counties and assess the challenges that PWDs face in the line of education. She can also engage another relevant committee, so that we visit various counties and see how they are promoting adaptive sports. For instance, most counties promote sports for able-bodied people, yet they can use other talents to promote their welfare.

Sen. (Dr.) Musuruve should also consider us visiting some schools and see if they are not only friendly to access, but also have developed sports for PWDs. We can even engage the national Government, through the Ministry of Education, to give us a report on the schools that have developed facilities that promote adaptive sports. As the Senate, we must take this seriously because we are among the countries that are lagging behind when it comes to promotion of adaptive sports.

I also encourage county governments to promote access through creating awareness. Up to this time, most of the PWDs have not been taken to assessment centres. I was surprised last year. Neighbours had to raid a neighbourhood so that they fish out a child who had stayed indoors without being taken to school because of a disability. She was 14 years yet she had not even been taken to Grade One. Many people are still ashamed of this category of people and that limits their access to facilities.

Most assessment centres in our country are not functional. Some of them have only one officer who could be having knowledge in one particular aspect depending on their educational background. For example, if one studied education for the deaf, that could be the only area they know. Therefore, we must promote assessment centres and ensure that they become advisory centres to the county governments.

Madam Temporary Speaker, we must confirm if these people are motivated in various counties. I really like the way Sen. (Dr.) Musuruve is playing this role. The people she represents are proud of her. In fact, when I arrived, I asked what was going on. One of the Senators told me that *ni ya* Sen. (Dr.) Musuruve. When I asked what it was about, she told me it is Sen. (Dr.) Musuruve and her usual fights for the disabled. That passion is a great blessing to her.

She should also invite to this Senate Members of County Assemblies (MCAs) who were nominated to represent PWDs. Most of the MCAs who were nominated to represent PWDs do not even have offices in their counties. My county is one of them. There are no offices for the PWDs to go to so that the issues affecting them are heard. It is time that Sen. (Dr.) Musuruve invited them so that we listen to the challenges that they face.

Madam Temporary Speaker, this is an important Motion. Our counties should promote adaptive sports, so that we develop particular aspects in the PWDs.

I support.

The Temporary Speaker (Sen. Were): Thank you, Sen. (Dr.) Langat.

Hon. Senators, there is no other Senator interested in contributing on this Motion. Therefore I call upon the Mover to reply.

Sen. (Dr.) Musuruve: Madam Temporary Speaker, before I reply, allow me to congratulate you for taking that position. I hope it is not a position that you will take once, but it should be many times. Congratulations because you are doing a good job and I am proud of you.

I thank my fellow Senators for coming out strongly to support this Motion. Kenyans should know that the Senate is keen on issues of inclusivity. The Senate is keen to see that PWDs are virtually included in everything.

Madam Temporary Speaker, I want to thank Sen. Cherargei, he seconded this Motion. I also want to thank the contributors to this Motion; Sen. (Dr.) Milgo and Sen. Were. You did a very good job and PWDs should know that you are a good friend of theirs as well. I thank Sen. Shiyonga, Sen. Ochillo-Ayacko, Sen. Farhiya, Sen. (Dr.) Zani, Sen. Sakaja and Sen. (Dr.) Langat.

It has come out clearly from my fellow Senators that everyone is a candidate of disability. It has also come out from my fellow Senators that we should never ignore issues of disability. It is very clear that even when issues of disability are ignored out there, as I mentioned, the Senate is a House of reason and they pick up very fast. I have also seen the performance of my fellow Senators in contributing to this Motion.

It has also come out as a big summary from fellow Senators that even when we are having a national or county conversation, we should never talk about inclusivity in this country without involving PWDs. This is something very important especially at a time like this when the entire nation is on a national conversation about the Building Bridges Initiative (BBI) and it has to come out clearly.

It is my prayer that President Uhuru Kenyatta, Deputy President William Ruto, Sen. Wetangula, Raila Odinga, Hon. Kalonzo Musyoka and all the principals should hear this. When you are talking of issues of inclusivity, it is not only an issue about women and youth. PWDs cannot be wished away or be ignored. They need to be engaged seriously in national conversation for purposes of decision making.

It should not happen like I saw, where I represent PWDs nationally, but I had no voice at all. It has come out clearly that when it comes to sports, it has benefits to PWDs in terms of ensuring physical fitness, career development, team work, self-worthiness and confidence.

I want to thank my Chairman, Sen. (Dr.) Langat, who has picked up the issue very fast and has even suggested that there is need to make a county visit in all the 47 counties to find out whether there are facilities of sporting in schools in Kenya.

I also want to thank the Chairperson for the Committee on Labour and Social Welfare who has committed himself to picking up the issue and saying that the Committee on Labour and Social Welfare will be part of the team that will spearhead this to ensure we also do county visits and help county governments to come up with associations that will help PWDs.

It has also come out overtly that when it comes to PWDs sporting, they do not have support from the county governments. Additionally, Sen. Sakaja said that sports is a

devolved function and can no longer be an issue of the national Government. PWDs in Paralympics are not represented in national and international sporting events simply because the county governments have taken a back seat and they are not supporting this.

There is need to interrogate the money that is given to sports and find out how much goes to Paralympic sports and how much is used in counties. The issues of accessibility are very important. There is need to have facilities that are accessible and infrastructure. There is also need to have a mechanism of ensuring PWDs are not excluded in any way.

I want to thank Sen. Ochillo-Ayacko who came up with a statement that was deeply thought. He even quoted the Bible and said that Jesus during his time gave PWDs an opportunity to walk, see and be meaningful in the society they belong in. When Jesus was alive he made sure that PWDs were meaningful in their societies.

It has also come from my fellow legislators that the county governments should give PWDs an opportunity to excel in sports and showcase their talents. They should nurture their talents.

I am happy about the encouragement that I have received from my fellow Senators. All of them have lauded me and they have told me that I should not rest on my laurels; that I should go a notch higher. As we speak, there is already a Bill that I am working on so that this becomes law of the land and ensures that PWDs have parity as stipulated in the convention of on the rights of PWDs.

I would like to remind the House that in 1990 Kenya was one of the countries that signed and ratified the United Nations (UN) Convention of Persons with Disability. When Kenya ratified, we were actually affirming that we will abide by the international laws. If we did, then it just an issue of implementation. The issue of implementation will come in terms of policies, Bills and ensuring that as a Senate we are implementing the UN Convention of the rights of PWDs.

I would like to thank my fellow Senators: Sen. Farhiya and the rest for supporting this Motion. I am sure they will help me as I develop the Bill with Sen. (Prof.) Kamar. We have already started the process of ensuring it is enshrined in law.

I beg to reply.

Thank you.

The Temporary Speaker (Sen. Were): Thank you, Sen. (Dr.) Musuruve. You are very passionate about the PWDs' issue and it is not news to this House. We thank you. You are the best person to represent them.

Hon. Senators, I have considered the Motion and pursuant to Article 123(2) and Standing Order No. 79(2), I rule that this is not a matter affecting counties.

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Sen. Were): Hon. Senators, for the convenience of the House and pursuant to Standing Order No.31 (2), it is now time to adjourn the House.

The Senate, therefore, stands adjourned until tomorrow, Thursday, 28th November, 2019 at 2.30 p.m.

The Senate rose at 6.15 p.m.