

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Wednesday, 24<sup>th</sup> February, 2021

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

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

#### PRAYER

#### COMMUNICATION FROM THE CHAIR

##### VISITING DELEGATION FROM NAIROBI CITY COUNTY ASSEMBLY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of a visiting delegation from Nairobi City County Assembly.

The delegation consists of officers from the Research Services Department who are undertaking an exposure visit on the operations of the Senate and tap into the experience of the national Parliament.

I request each member of the delegation to stand when I call them out, so that they may be acknowledged in the Senate tradition. They are-

- (1) Paul Gisore, Senior Research Officer;
- (2) Daisy Ng'ao, Research Officer;
- (3) Melvin Wachira, Research Officer; and,
- (4) Yvonne Njagi, Research Officer.

*(Applause)*

Hon. Senators, on behalf of the Senate and on my own behalf, I welcome the delegation to the Senate and wish them well for the remainder of their visit.

I thank you.

**Sen. Cheruiyot:** Mr. Speaker, Sir, I join you and the rest of my colleagues in welcoming this delegation from Nairobi City County Assembly into the precincts of

Parliament. I believe that they will meet the best that this country has to offer in terms of parliamentary procedures and training.

I do not know how many Members of the Senate are aware that our Centre for Parliamentary Studies and Training (CPST) is a leading institution in the region and the entire sub-Saharan Africa that trains parliamentary procedures and practices.

Each year, we receive delegations from Zambia, South Africa and other different parts of the region and some from Europe who want to study the practice of democracy in Africa.

Therefore, I know that this delegation is in good hands of an experienced and well-trained parliamentary staff. I believe that this is in line with one of our key objectives as an institution, which is to train and pass on the knowledge that we have as a House to the county assemblies. May be in another five to 10 years, the same level of expertise, skill and professionalism that you find in the staff of Parliament will be replicated in our county assemblies through such visits.

Therefore, I welcome them, first as a Senator and second, in my capacity as the Chairperson of Staff Welfare in the Parliamentary Service Commission (PSC).

All the staff of Parliament are under my supervision. Therefore, I do not say these words just because I have to say them. It is because I celebrate and appreciate the kind of work that the staff of Parliament do. They deserve all the accolades that I have said. Many of our colleagues will appreciate that they are worth it.

**The Speaker** (Hon. Lusaka): Thank you, Sen. Cheruiyot.

Next Order.

## STATEMENTS

### INVESTING IN MENTAL HEALTHCARE POST THE COVID-19 PANDEMIC

**Sen. (Dr.) Mbiti:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.47(1) to make a Statement on an issue of general topical concern namely, investing in mental health in the post Covid-19 recovery.

Mr. Speaker, Sir, the global economy has been devastated by the COVID-19 pandemic. In Africa, this has led to a significant contraction of the national economies and more people living in abject poverty. The journey to recovery will be a long and difficult one for African economies and will be strongly dependent on the resilience and productivity of the work force. There is increasing global evidence that productivity at the work place is profoundly influenced by mental health.

Mr. Speaker, Sir, Lancet Commission on Global Mental Health and Sustainable Development defines mental health as the capacity of thought, emotion and behavior that enables every individual to realize their own potential in relation to their development stage to cope with the normal stresses of life, to study or work productively and fruitfully, and contribute to their community.

---

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

Mr. Speaker, Sir it is estimated that mental health illnesses cost USD2.5 trillion globally in 2010. This cost will rise to over USD6 trillion in 2030. Most of these costs are indirect and are due to productivity losses associated with mental illness. These losses include absenteeism and presenteeism which refers to reduced productivity while physically present at work.

Adverse working conditions that involve poor communication and management practices, low autonomy, effort-reward imbalance, unclear tasks or organizational objectives, occupational uncertainty and lack of value and respect in the work place are particularly associated with mental health problems.

Mr. Speaker, Sir, despite the massive economic cost of mental illness, African countries historically under-invested in mental health. Most African countries spent less than one per cent of their health budgets on mental health when a minimum of five per cent is recommended for low income countries.

Investing in mental health will benefit African governments and employers in several ways. Work place mental health programmes do not only lead to improved mental health and wellbeing, but they also improve productivity.

People have the right to gain access to mental health care that can improve their wellbeing. It is, therefore, vital that African governments proceed to implement the WHO Global Mental Health Action Plan 2013-2020 which has been endorsed by most African United Nations (UN) member States and provide a roadmap for national investments in mental health as well as being included in national health insurance schemes as part of the Universal Health Coverage (UHC).

At the same time, there is need to consider stimulus packages and improve the regulatory environment to incentivize employers to protect and promote the mental health of their work force.

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. I wish to support this Statement. It has come at an appropriate time after we have gone through the COVID-19 pandemic putting in mind that our social systems, for example, medical, family or cultural have not supported issues of mental health. Most people with mental health issues are left to their own devices.

Recently, the issue of mental health is being addressed more. Our own Sen. Kasanga has come up with a Bill and she is a champion in this area. We all support her, as Senators.

The World Health Organisation (WHO) plans and roadmap are clear. We need to have a good time plan for the Statement and whatever Committee that it will go to rather than leaving it open-ended. This is because we are part of many global initiatives. Therefore, it is important to give ourselves timeliness given that in the past a lot of emphasis has not been put into it.

We also need to come up with a clear policy position as Kenyans on this matter and mainstream issues of mental health across the various Ministries, so that it can be addressed across the board. This is because we know how much we suffer when we lose the abilities of people who have a deteriorated situation because of mental health both economically, socially and in all ways.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir. This is an important Statement that our colleague, Sen. (Dr.) Michael Mbitio, Senator for Trans Nzoia is inviting the attention of the House to.

Some of the difficult and harsh conditions that Kenyans have to put up with currently due to the ravaging effects of COVID-19 include difficult economic times. This has resulted in a situation where mental health has become among the leading health conditions that affect people.

Mr. Speaker, Sir, the unfortunate thing is that many people do not appreciate what mental health is and the kind of challenges that exist. That is why we must appreciate the good work that is being done by our colleagues, led by Sen. Sylvia Kasanga, who has distinguished herself as a champion for this course in this House. We are duty-bound as her colleagues and fellow leaders in this country to join her in this campaign.

Mr. Speaker, Sir, I do not know how many of our leaders know that this country has very little capacity for mental health facilities. Save for the few public health facilities that take care of our mental health patients, many other institutions, of course, I have imagined our counties, but they are not properly staffed where you would benchmark with the global standards in terms of being a proper medical facility.

Mental health, as we have been reminded very often, is a health challenge just like any other. Therefore, the Government, and we that are in leadership positions, need to appreciate and challenge ourselves to ensure that as a country, there is a strategic intervention in this sector.

We should ensure that each time we do budgets, each time our county assemblies get the chance to budget for health, that at least we should start at the very bare minimum to ensure that each county has a facility dedicated, perhaps in their Level 4 or those that have Level 5 hospitals, that treat mental health patients. They should be well maintained, properly groomed and not to the status of what we know.

I do not know how many of our colleagues have visited Mathari Mental Hospital a couple of times because I have a friend who has battled mental illness for a number of years. If you see the conditions that the patients in that particular facility live under, it will break your heart. However, the unfortunate thing is because of subsequent under-investment in that facility, doctors there have to make do with very little capititation.

The challenging and unfortunate thing is that even the Ministry of Health does not seem to understand what this challenge is. They continue to treat that particular hospital as a dumping institution.

Mr. Speaker, Sir, unfortunately, if you recall a few months ago, when the Cabinet Secretary and the leadership at the Ministry of Health fell out with certain officers at the Ministry of Health, they were transferred to Mathari Mental Hospital. It is considered as if it is a form of punishment. This is unfortunate.

If the people in charge of health sector in our country are doing such things, then it tells you that we still have a long journey to go. People have not appreciated the challenges of the mental health sector in our Republic.

Therefore, we must begin first with the sensitization followed very closely by directing resources; being purposeful about it to ensure that we begin at the county level

and perhaps even consider at the national level a well-equipped facility and properly facilitated with staff and whatever machines they will need to carry out the treatment. Therefore, we can be able to rescue our patients.

This is something important. I hope Sen. (Dr.) Mbiti, being the Chairperson of the Standing Committee on Health, shall be able to follow through and ensure that when Government responds to this Statement, they are put to task and give the country a roadmap on how we can ensure that we have good mental health facilities in our country to take care of patients.

Thank you, Mr. Speaker, Sir.

**Sen. Kasanga:** Thank you, Mr. Speaker, Sir. I want to thank Sen. (Dr.) Mbiti for the Statement and all the other Senators who have spoken. Indeed, it is wonderful that mental health can now be discussed more openly.

Mr. Speaker, Sir, I want to let you know that we have several ambassadors of mental health right here who were trained and continue breaking down the stigma of mental health. I really appreciate them for what they did and for coming to participate in the forum that we had.

I will keep encouraging Senators because these forums are going to be several that you can join us so that we start breaking the stigma because the first way to heal with mental health is to fight the stigma.

Mental health is multi-sectoral. It has to be approached from different points of view. Although the law has not yet seen the light of day, which is sad because it was covering most of these issues that are being raised, it is correct that we approach it in piecemeal in a way to put pressure on the Government.

I like what Sen. (Dr.) Mbiti is pushing for that we need to adopt a policy for the workplace so that it can cover mental health issues in small bits and we shall get there as we wait for the overarching Bill to see the light of day.

I thank Sen. (Dr.) Mbiti and I encourage us to continue talking about mental health. Once we have destigmatized and understood it, then we will all understand that we are all victims and it is just a matter of time if we do not handle it ourselves here as legislators, that then we will be all affected as Kenyans.

Thank you, Mr. Speaker, Sir.

**Sen. Murkomen:** Thank you, Mr. Speaker, Sir. I would like to support this Statement by Sen. (Dr.) Mbiti. Since most of the things that I wanted to say have been said, I will just say only one thing.

As leaders, we must be at the forefront fighting the stigma that is associated with mental health. Many people are suffering in silence because when people get flu, they rush to hospital. When they are injured, they go and see an orthopaedic surgeon. When they have any other kind of disease, they can confidently say to the public that I had flu. However, when someone has mental problems, they keep it to themselves. In most cases, it is because of the fear of the stigma that is associated with it.

In fact, we need to desist, as politicians, from this behavior where when we disagree with someone, you say “This one belongs to Mathari” because it has become a

social stigma. To be taken to Mathari Mental Hospital is meant to indicate that you are weak, useless or you do not deserve to be part and parcel of the society.

I think we need to be the ones who are in the forefront preaching the possibility of having mental health facilities, at least to start with, in the seven or eight regions of the country, then move slowly to having them in every county.

We should also push, and the Committee on Health chaired by Sen. (Dr.) Mbito should move quickly to establish how many mental health officers have been employed as part of the county staff because health is a highly devolved function. If we can do this kind of audit, we will be able to push for enough resource allocation for counsellors and doctors that are dealing with mental health issues.

Some of the mental health issues come from withdrawal symptoms from alcohol. We know many of our colleagues and friends who are in that situation. I know a number of people who have gone through that. We need to put in place rehabilitation centres that can deal with the underlying issues that cause mental health.

It is also about the well-being of society. Nowadays, children are committing suicide because of the fear of exams among other reasons or parenting skills that are now lacking in the current generation. In addition, matters of marital challenges that people go through create mental challenges in families. These things must be dealt with holistically.

I want to congratulate Sen. Kasanga for sponsoring the Bill that deals with mental health issues. I hope that Bill will be expedited and implemented in good time to deal with this very serious menace.

Thank you, Mr. Speaker, Sir.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. I rise to support this Statement and at the onset say that I am happy that it has been raised by none other than the Chairperson of the Committee on Health, Sen. (Dr.) Mbito.

I read an article yesterday or the day before yesterday about suicides in Japan and all over the world post-COVID-19. It is actually a very serious issue that should be given priority and attention.

Mr. Speaker, Sir, I have an entry point to suggest. I am aware that a report and an audit on the use of COVID-19 funds has been tabled here. I have read the report, particularly on my county of Makeni. Generally, the Auditor-General has no kind words for the use of COVID-19 funds by county governments.

Mr. Speaker, Sir, would I be in order to suggest that Sen. (Dr.) Mbito moves a Motion to table and discuss the report on the use of COVID-19 funds so that the question of post-COVID-19 recovery and mental health can be addressed within the recommendations of the Committee on COVID-19? This is because the funds on COVID-19 are still coming and counties are using still them. This matter cannot be treated in isolation; from masks, protective gear and mental health or post recovery.

My suggestion and proposal to the Committee is that a Motion be tabled on the Floor to discuss the use of COVID-19 pandemic funds. A recommendation on this use, mental health be incorporated in it, so that we can leave the Committee to continue dealing with this issue that will be handled for a long time to come.

Thank you, Mr. Speaker, Sir.

**Sen. Sakaja:** Thank you, Mr. Speaker, Sir. First, I want to congratulate Sen. (Dr.) Mbitio for bringing this Statement, and I urge that you would direct it to him as the Chairperson of the Committee on Health.

The issues that he is talking about are very important. Mental health has had stigma for a long time. I am glad that when Sen. Kassanga was doing her publication, she titled it the phrase that I had said on the Floor that “It is okay not to be okay”.

Hon. Members may not know that in the last Parliament when I was in the National Assembly, a colleague of ours, who I will not name, had mental issues. At some point, he went and asked the Parliamentary Service Commission (PSC) where Sen. Cheruiyot sits, why her healthcare professional is not on the panel. In the panel, there are always dentists and other fields such as ophthalmologists and surgeons. However, you do not find psychosocial help or psychiatrists at that time.

What we realized when they added that field to the list, the PSC will tell you that one of the most used medical professions from our own health insurance is mental health by staff and hon. Members.

We are privileged enough to have insurance and to be able to get any kind of healthcare yet millions of Kenyans cannot get it. Sen. Cheruiyot has talked about Mathari National Teaching and Referral Hospital. I know many facilities. Our children do not have special schools for those with autism. I have very few public schools in Nairobi. However, many parents who have children with autism and such mental conditions cannot find a place to take them. We must address that and a substantive report by the Committee on Health proposing whether it is both in the Mental Health Task Force the President brought up and other interventions need to be passed in this House.

Thank you, Sen. (Dr.) Mbitio. On top of that, I said it last week, please look at the state of our children’s mental health after this COVID-19 pandemic. Our children are not doing well in their schools.

I talked about the feeding programme. If you go to schools, and I have been touring my schools, when you ask children what they would like, they would normally tell you that they want balls or sweets. However, nowadays they will tell you that they want food because the economic situation at home is so bad. That shows you the state of mind that they are in. If they have nothing in their tummies, nothing will go in to their minds.

Let us think more about the state of our children and many sectors in society after this COVID-19 pandemic, so that it is not just the post-corona economic recovery strategy that they are looking at, but also issues of health.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Thank you so much. The Chairperson of the Committee on Health who brought this Statement, just like it has been suggested by the Whip of the Minority side; you brought a Report, which you read and went. It is good to come up with a Motion that can discuss it. The use of COVID-19 pandemic funds is a big issue in the counties. The Motion can then be tabled; you adopt the Report and include mental health. That will do a good service to this House.

*(Applause)*

Before I call the next Statement, I have a Communication to make.

*(Interruption of Statements)*

### COMMUNICATION FROM THE CHAIR

#### MEETING OF SENATORS WITH THE COG TO DISCUSS STATE OF DEVOLUTION

**The Speaker** (Hon. Lusaka): Hon. Senators, as you are aware, devolution is the cornerstone of our Constitution and hence we should make concerted effort to protect it and make it flourish. Resultantly, I cannot underscore the important and strategic role that the Senate has in this framework of devolution as espoused in Article 96 of the Constitution.

As a Senate, therefore, we must shape and influence the discourse on devolution across all levels, and ensure that our counties are adequately resourced and that we judiciously oversight counties, to deliver services to “*Wanjiku*”.

The Constitution of Kenya 2010 in Article 6(2) recognizes that governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation. Consequently, our linkage with devolved institutions is critical to enable us to deliver on our mandate of safeguarding counties and their governments.

Hon. Senators, one such institution which we have continued to make efforts to work with closely is the Council of Governors (CoG). As you may be aware, the CoG recently elected its leadership and is now chaired by the Governor of Embu County, Hon. Martin Wambora.

This is to inform you that the Standing Committee on Devolution and Inter-governmental Relations has organized a meeting with the newly appointed leadership of the CoG to discuss the state of devolution. The meeting is scheduled to take place next week on Tuesday, 2<sup>nd</sup> March, 2021, at 9.00 a.m. in the Senate Chamber, Main Parliament Buildings.

The purpose of this Communication is to extend an invitation to all Senators and to urge you to attend this important meeting.

I thank you.

Sen. Murkomen, you have an intervention?

**Sen. Murkomen:** Mr. Speaker, Sir, I am part of the Committee on Devolution and Inter-governmental Relations. We really need some good time with this CoG because we have so many questions to ask and to audit their performance as an institution or entity.



There are many devolution related issues that we want to audit between us and governors, being the last one year and to see the new leadership present to us their blueprint and manifesto on what they want to do in the next one year.

I hope that the time will be enough and that as many Senators as possible will be present on Thursday. I hope that your office will---

**The Speaker** (Hon. Lusaka): Sorry, I said Tuesday, 2<sup>nd</sup> March, at 9.00 a.m., not Thursday.

**Sen. Murkomen:** Okay, Mr. Speaker, Sir. Knowing also that on Tuesday we will have a sitting in the afternoon, the same still applies. I wish it was Monday or Friday; a day that we are not going back to a sitting.

Mr. Speaker, Sir, we also want them to come with a clear presentation on their performance and plans for the next one year, so that we can put them to account and see how we can work together.

**The Speaker** (Hon. Lusaka): Since you are in that Devolution and Inter-governmental Relations, the Chairperson should set the agenda. As you invite them, you can whisper to your Chairperson, set the agenda on what will to be discussed and what is expected of them. If you do not complete, then we can still have another day.

We really need to audit devolution. We have just been talking about it, we go celebrate, we look at ourselves and think that we are doing very well. However, there is serious need to do a serious audit of how we are performing in devolution.

Next Statement by Sen. Khaniri.

*(Resumption of Statements)*

## STATEMENTS

### ELECTROCUTION OF WILD ANIMALS WITHIN SOYSAMBU CONSERVANCY

**Sen. Khaniri:** Mr. Speaker, Sir, I thank you for the opportunity. I rise pursuant to the provisions of a Standing Order and in particular Standing Order No.47 (1) to make a statement on an issue of general topical concern regarding the electrocution of wild animals, most recently in the Soysambu Conservancy.

Kenya, as a country, is renowned as one of the best tourist destination in the world where one is assured to experience almost all the wildlife on one visit. A tour in Kenya includes sighting of the big five to birds and marine life, and experiencing sandy beaches and great safari drives.

Tourism is one of the pride and high income earner in the country. To this end, there is a full Ministry of Tourism and Wildlife which I have had the privilege to serve in as an Assistant Minister in the past.

To continue enjoying nature and its abundance, we demand that we make deliberate efforts of protection and conservation of both flora and fauna. Human development projects should always be designed to ensure that they do not endanger or encroach on wildlife, plants and aquatic life.

---

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

Mr. Speaker Sir, recent reports that three of the endangered distinct giraffe species, the Rothschild's Giraffe, were electrocuted in Soysambu Conservancy within Nakuru County as a result of low hanging power lines is disheartening to say the least. This is not the first time that such an incident is happening. According to the conservatists, in the last two years, at least 11 giraffes and dozens of birds have been electrocuted at the conservancy by sagging Kenya Power cables. These are too many wild animals to die of negligence.

Mr. Speaker Sir, this is definitely just a tip of the iceberg in the conservation of wildlife in the country. After the above report was aired in the media, there has been a reactionary response that is too late, when the damage has already been done. One obvious question that comes to mind is: When Kenya Power Company was doing the survey, designs and installation of the power lines, were they aware that the live power lines were passing through a wildlife habitat, posing a great danger to the animals?

Mr. Speaker, Sir, the wildlife we enjoy today is a heritage that we inherited freely from those before us, and we have to protect it for the generations that will come after us. With the advancement in technology and information currently available, such incidents should not occur. It will be unfortunate for this negligence to go unpunished. In addition, all the concerned Ministries should jointly undertake an audit of the safety of all the conservancies and wildlife corridors.

Mr. Speaker, Sir, in conclusion, the Ministry of Tourism and Wildlife should also strive to find solutions to the human wildlife conflicts across the country, and prompt compensation of affected residents in case of damage of property or injuries to human by wild animals. The Ministry of Interior and Coordination of National Government and the Kenya Wildlife Service should also bring to an end the poaching menace.

I thank you, Mr. Speaker Sir.

**Sen. Sakaja:** Mr. Speaker, Sir, very briefly. Thank you, Sen. (Dr.) Khaniri; sorry, Sen. Khaniri. You can also be Dr. Khaniri. Soon, you will be getting your Doctor of Philosophy (PhD). Thank you, for bringing that Statement.

Our heritage is not just what we have inherited from those before us, but what we have borrowed from generations coming. The Rothschild's giraffes are only 1,600 in the world, and 38 per cent are in Kenya. That is equivalent to 600 giraffes. By losing three, it is something extremely--- I heard Sen. Murkomen say that there are no giraffes in Vihiga, and he was wondering why Sen. Khaniri is asking about them. However, it is our national heritage.

*(Sen. Murkomen spoke off record)*

I just heard him saying that there are no giraffes in Vihiga---

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Murkomen?

**Sen. Murkomen:** Mr. Speaker, Sir, is it in order for the Senator of Nairobi to bring rumours to the Chamber?

*(Laughter)*

Those are rumours or hearsay; things that are not in the HANSARD of the Senate. Is he in order?

**The Speaker** (Hon. Lusaka): He is actually out of order.

**Sen. Sakaja:** Mr. Speaker, Sir, there are witnesses. Some of these witnesses are children of Sunday school teachers. If they are to say the truth, such a statement came from around there; that there are no giraffes in Vihiga.

Mr. Speaker, Sir, importantly, 38 per cent of these giraffes are in our country. Our country prides itself by having the widest selection of animals and butterflies in Kakamega. I am proud as the Senator of Nairobi City County, the only capital in the world where you can be looking at animals in their natural and spoilt habitat, and in the background, is a skyline of a capital city.

Mr. Speaker, Sir, I know that it is a Statement under Standing Order No. 47(1). I saw that there was a commitment by Kenya Power that they will adjust the height of the lines, but we need to oversight that. If you just direct that to the Committee on Energy, Roads and Transportation to make sure that it is not just something piecemeal at Soysambu, but in all of these areas where we have giraffes. Birds and vultures have been affected in certain areas of large concentration. Kenya Power should put their power lines at the correct height because there is a specific height at which they must be. It is something that can be implemented. Our Committee on Energy, Roads and Transportation should be able to tell us when that has been done, despite the commitment by Kenya Power.

Thank you, Mr. Speaker, Sir.

**Sen. Pareno:** Thank you, Mr. Speaker, Sir. I was reading a statement that I was signing on how much we are suffering because of these wild animals. As they suffer because of electrocution, we are suffering because of a lot trespass by these animals. Our animals and people are suffering.

As I speak now, I do not want - I can see you are laughing - to look like I do not care about wild animals. We live daily with these animals. I have repeated it severally that we live with these animals. We have giraffes and other animals all over, and they have become a problem to us as pastoralists.

As I speak, children are not going to school around the Sultan Hamud area, Najile area in Kajiado West and Kenyawapoka area in Kajiado East because the wild animals are too wild that children are not even going to school.

Mr. Speaker, Sir, this issue has to be looked at differently. We do not only have value for animals, but also for human beings and crops. In Njukini area, between the border Taita/Taveta and Kajiado counties, we have tge Kenya Wildlife Services (KWS) rounding up thousands of animals that belong to the Maasai people around that area. They lock them up for weeks allegedly because they have trespassed into the national parks, until we have animals dying of hunger because of the way they are handling them.

Mr. Speaker, Sir, this is an issue that needs to be looked into. The animals are important, but the human beings are more important than those animals. When they are electrocuted or killed ---

**The Speaker** (Hon. Lusaka): There is an intervention from Sen. Rose Nyamunga.

**Sen. Nyamunga:** Mr. Speaker, Sir, it is not an intervention; I wanted to say something after Sen. Pareno on the same.

**Sen. Pareno:** As I finish, Mr. Speaker, Sir, the moment there is harm on animals like elephants, rhinos or giraffes, the KWS come in numbers to intervene. However, the moment a Maasai or Kamba is killed somewhere along the border between Taita-Taveta and Kajiado or Sultan Hamud, there is no response.

Mr. Speaker, Sir, we need an all-round solution for this.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir. Coming from areas where these animals are still found in their natural habitats, there have been efforts to conserve some of these endangered species like the Grevy's Zebras. However, there is need to balance. This is because, for example, right now in Marsabit, the park is being fenced to keep out the locals who have been used to watering the animals in the park. When it is done that way, there is a lot of preferential treatment to the animals than the human beings.

The animals can come out because they have corridors to get out, but you cannot get in even during the dry season to water your animals there. I will still go the same way Sen. Pareno said. Let us balance when we are doing these things. Let us take into account that there are also human beings, whose livelihood depends on how they access these sites.

Thank you.

**Sen. Nyamunga:** Mr. Speaker, Sir, I would like add my voice to the concerns of my colleagues. It is very important that wildlife is conserved. All of us know the benefits that accrue from that, more so with the tourism industry. However, much as we want to conserve our animals, they are harmful to the people, just like it has been alluded to by Sen. Pareno. Along the Lake Region, we have many hippos coming from the lake and affecting our people. For instance, in the last rainy season, many people suffered because most of the plants were destroyed by the hippos from Lake Victoria.

I just want to add my voice that it should be holistic. We benefit from the animals, but they should not be harmful to the people and the crops.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir. Sen. Khaniri, this afternoon has brought an important issue before this House. He has requested the Statement under Standing Order No. 47(1).

The beauty of our new Standing Orders is that it gives you the liberty to direct it to a particular Committee to handle. In your consideration, I agree with those who have said that this is not just an issue to do with wildlife but Kenya Power and Lighting Company (KPLC), which is the main culprit that should be invited to whatever Committee it shall be referred to. Then the managing director can give a commitment in writing before the Senate on the duration of time he needs before he can repair the loosely hanging wires.

Losing 11 giraffes, I do not know, but Sen. Mutula Kilonzo Jnr., will know better, hustlers like us would not know the cost of a giraffe. Sen. Mutula Kilonzo Jnr., who keeps lions will be better placed to know the cost of such animals. For people like Sen. Murkomen, the best you can ask them is material things like phones and cars. However,

for natural heritage; the most expensive and the best of God's creation, you ask princes like Sen. Mutula Kilonzo Jnr. That is beside the point.

As a country, we have not been fair to our animals. Each year, this country rakes in billions of Kenya Shillings, which is taxpayers' money that we use to pay our doctors, teachers, Members of Parliament and run our Government. It is out of people who come to this this country to visit the wildlife in Maasai Mara and our national parks, yet we cannot do the simplest of duties that the animals would expect of us, that we will give them a decent and safe environment, where they can live peacefully and enjoy their life. This is unfair.

As a House, we must treat this matter with the seriousness it deserves when you invite the Cabinet Secretary for Tourism and Wildlife, who I believe is equally responsible. Part of the reason some of these private conservancies can be this reckless is because they see how Government treats wildlife.

You remember the experiment that went wrong. When he is invited here, one of the things he needs to do is shed light on what was the eventual finding. He promised Kenyans that out of the incident where we lost 10 rhinos, he will furnish the country with a report explaining what went wrong, since that is within the same theme of protection of our wildlife. He should come with that report, so that the country can understand who was reckless. If people are found complicit of the act, then they need to face consequences.

This is under animal protection laws. However, it is only that as a country we are not keen to follow some of the laws that we pass in this House. The line manager, supervisor or the person in charge should have seen the danger that was lurking. I am sure somebody for the last two months observed as the wires continued to hang loose and was negligent about their duties.

They need to be brought to book so that people know that the right to life does not end with human life. Even animal life needs to be protected. I believe that the Committee you will task with the responsibility will do a good job and give this country a final finding that will ensure the private conservancies do not just mint money out of our wildlife and fail to give proper returns in ensuring they take good care.

If it was in other countries where they are keen on protection of wildlife, the license of this conservancy would have already been suspended. They would have been told to return the license until such a time they can satisfy that they are capable of taking care of the animals. Many questions need to be responded to in this particular Statement. I hope the Committee will do a thorough job to protect our wildlife.

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

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. I could speak about wildlife for a long time. For the benefit of Sen. Cheruiyot, you do not need to be a prince, a princess or a hustler; you just need to take a keen interest in wildlife. If you spend time with me, I will explain many things about wildlife, which you do not know. It is not the cost of the giraffe. The one we saw on the newspaper is possibly---

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Murkomen?

**Sen. Murkomen:** Mr. Speaker, Sir, Sen. Mutula Kilonzo Jnr., is making it so easy to take care of wild animals. How can a hustler feed a lion when they cannot feed themselves?

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I will answer him. The giraffes we saw in the newspapers and on the news are possibly about seven or eight years old. It is a rare species. I want to advise Sen. Cheruiyot that one weekend instead of running around with a wheel barrow somewhere in Rift Valley, he should go to the Giraffe Center in Karen, next to where Murkomen lives.

All the hustlers live in Karen while poor people live in suburbs. If he does not know where Karen is, he can go to the chief hustler, Sen. Murkomen. At the Giraffe Center, you will feed the giraffe yourself as you learn the importance of the giraffes.

I am surprised that somebody would say - which was mentioned by Sen. Sakaja - that Kenya Power said they will put the wires higher, which is not what you do. For purposes of wildlife at Konza, they have made sure that the power lines are underground. A modern person would put the power lines underground and not overhead and then you have an opportunity of protecting the giraffes like these ones.

In the construction of the Standard Gauge Railway (SGR), the most controversial project Kenya has ever done, the Chinese in their most ingenious ways created even migration corridors for elephants. In Laikipia, they have created an animal migration corridor for elephants.

What Sen. Pareno is referring to is a problem we are having in Makueni and Kajiado counties. The wildlife in Taita/Taveta County and in Tsavo have come to visit, they are now touring the habitats of Makueni and Kajiado residents to see people, and in the process, they are killing people and destroying crops.

It is my suggestion that while we are considering our species, wildlife in Kenya is contributing to nine per cent of our Gross Domestic Product (GDP). I had an opportunity to visit many parks in this Republic and for 10 years, I had never seen a cheetah feeding its cub, but I saw one in Maasai Mara in December.

We must protect this wildlife. There are people coming to this country and spending millions of shillings and do not ordinarily spend to come and see our wildlife. It is gross negligence on the part of KWS and Kenya Power to have overhead wires when they know there are giraffes crossing. At Maanzoni where my father breathed his last, we have giraffes that come to rest and take water. The wires are so high up that they do not affect the giraffes. It is negligence, which can be attributed to the conservancy. We cannot lose wildlife based on negligence. For the benefit of Sen. Murkomen, it is cheap to keep lions if you know what you want to do. You spend less feeding a lion than buying a helicopter that flies at night.

*(Laughter)*

**The Speaker** (Hon. Lusaka): Finally, Sen. (Prof.) Onger. Today, the House is very lively.

---

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

**Sen. (Prof.) Onger:** Thank you, Mr. Speaker, Sir. Wildlife conservation is one of the most important elements in our society, since it is the generator of resources. Not only as the generator of resources, but it also has a ripple effect. The tourists who come to visit the area will spend money on various items. Therefore, the local communities will have access to resources as a result of the tourists that come around.

Mr. Speaker, Sir, one of the things that the relevant committee should be looking at through the Statement by Sen. Khaniri should be what is the criteria and specification of the registration of private conservancy?

Is there a standard that has been set up so that every one of them will be checked against that standard? If they go against that standard, then, obviously, that would attract some sanctions or punitive measures that would be at place.

Mr. Speaker, Sir, we need to know during the registration of private conservancy whether was there a check list on the quotations and checking on the standards that were required to be attained and maintained, so that we can say this was an accident or it was something which was deliberately done and therefore will attract sanctions.

Secondly, I want to know that the Kenya Power staff go to the conservancy obviously that is a dangerous zone. Therefore, we require some security elements and carry them along. Were the power line people and the owners of the conservancy not able to have a site meeting to appreciate the height of some of these animals?

Mr. Speaker, Sir, sometimes even the communities around there, in the event that they are charged by an animal, they may find their way in the sanctuary by climbing up the tree. Unknown to them, there is this wire line passing and they could also be electrocuted. We need to really appreciate this element of it because sometimes it gets very nasty for both losses of human and animal lives.

Finally, there is one thing I really want to appreciate. I was involved in the negotiations on the Convention on Biological Diversity when I was the ambassador for United Nations Environment Programme (UNEP). One of the elements of the Convention on Biological Diversity was that we must be able to keep our species in place because they are for posterity.

Mr. Speaker, Sir, losing ten giraffes, I do not think we have protected our posterity. It is important that when the committee looks at it, they should look at it with a background of the Convention on Biological Diversity. What was stipulated in that convention that would help them do a better conservancy rather than this *ad hoc* way of handling a conservancy.

Otherwise, I thank you, Sen. Khaniri for this Statement. The relevant committee should now look at those areas that I have mentioned out so that we can realign them with any provisions whether legal or regulations that may be put in place for any private conservancy to thrive in this county.

Mr. Speaker, Sir, I thank you.

**The Speaker** (Hon. Lusaka): Thank you so much. I think we are discussing a very important Statement. Like it has been raised by both sides of those who have spoken, I have had an opportunity also to serve in Kajiado County. I witnessed a situation

where lions killed very many goats and the Maasai Community came out with spears to kill all lions. Of course, the Kenya Wildlife Service (KWS) came very fast.

I think it is a matter depending on where you are that needs to be looked at very seriously and come up with a way forward on both sides. I therefore commit this Statement to two committees; the Committee on Lands, Environment and Natural Resources and Committee on Energy to look at it and come up with a way forward.

Next Statement is by Sen. (Dr.) Milgo.

#### IMPORTANCE OF ENCOURAGING GIRLS TO PURSUE STEM SUBJECTS

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir. This is a Statement regarding the importance of encouraging girls to pursue Science, Technology, Engineering and Mathematics (STEM) education.

I rise pursuant to Standing Order No. 47 (1), to make a Statement on an issue of general topical concern, namely, the importance of encouraging girls to pursue STEM education.

Mr. Speaker, Sir, according to a United Nations Educational, Scientific and Cultural Organization (UNESCO) report titled, “Cracking the Code: Girls and Women Education in STEM”, there are only 35 per cent of STEM students in higher education globally are women.

This gender gap is concerning, considering that STEM careers are referred to as the jobs of the future. The report notes that a strong gender imbalance exists globally in regard to women’s representation in STEM fields, particularly in sub-Saharan Africa.

Mr. Speaker, Sir, according to the United Nations Institute of Statistics, less than 30 per cent of the world’s researchers are women. Numerous studies have found that women in STEM fields publish less, are paid less for their research and do not progress as far as men in their careers.

There are many complex reasons why girls and women are under-represented in STEM subjects and fields. Conscious and unconscious biases, social norms and cultural expectations frequently influence the type and quality of education girl learners receive and the choices offered to them.

Mr. Speaker, Sir, it is important to have diversity represented in STEM, and not just for the sake of numbers. When women are pushed out of careers in STEM by systems of bias, this influences the products and services that STEM organizations create hence Artificial Intelligence (AI) or machine learning bias is a recognized concern for organizations developing products and services using this technology.

Only about 26 per cent of AI professionals globally are female, according to the 2020 World Economic Forum report on the Global Gender Gap, which also found that current trajectories mean sub-Saharan Africa will only close its gender gap in 95 years; another reason we must pay attention to investing in women’s STEM development.

Mr. Speaker, Sir, it is vital that we engage with girls at primary and secondary school levels to raise the visibility of STEM subjects as a potential career trajectory. One



such collaboration is the DigiGirlz programme, which inspires high school girls to pursue STEM subjects by providing them with the opportunity to interact with Microsoft employees and receive computer and technology training.

Each year, Microsoft hosts DigiGirlz Day across the world, including in the Middle East and Africa. During this pandemic, these events will be virtual, allowing girls from Kenya, Rwanda, Canada and the US to engage in the first International Virtual Microsoft DigiGirlz Panel and Bootcamp. We must, therefore, encourage Kenyan parents to register their girls to participate in such events so as to motivate our girls regarding this very important subject.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): We have so many Statements, so I will just allow two comments from Sen. (Dr.) Zani and Sen. (Dr.) Musuruve.

**Sen. (Dr.) Zani:** Thank you very much, Mr. Speaker, Sir. I beg to support this very important Statement especially that deals with gender imbalance that is created through the subjects that we take at various levels be it primary or secondary and encouraging more students to be more involved in STEM.

The data shows that involvement in this sort of background increases certain skills such as problem solving, creativity, critical analysis, team work, independent thinking, initiative communication and digital. In fact, more occupations that are growing are from STEM at almost 17 per cent while other growth is taking place at 9.8 per cent. Therefore, this immediately equates to increased income. This training for girls is important because it will increase their science literacy and enable the new generation to be innovators. The world is moving towards innovation and better ways of solving problems. The world is moving towards environmental challenges and climate change that need to be solved in different ways.

The basis of how to assess all this is in Science, Technology, Engineering and Mathematics (STEM). When we think about the world moving towards Artificial Intelligence (A.I), these are all backgrounds that require somebody to be well equipped in STEM. This is very critical and I support it.

A lot of work has gone into this over time. We have been talking about STEM for the last 10 years, but we have cultural inhibitions and background issues that prevent girls from doing this. We need to encourage even within the Ministry that the girls who show potential for these subjects are allowed to do this. I remember one of the youngest girls who excelled some time back was a young girl from Makini. She was a pilot.

We should have programmes that encourage the girls get back to their communities and encourage other girls to move that direction. Let us not think that there is a barrier. That glass ceiling can be broken.

Thank you.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me an opportunity support this Statement from Sen. (Dr.) Milgo. It is a very important Statement. We have to look for ways of encouraging girls to get into STEM subjects. Some years back, there were some subjects that were predominantly meant for girls and others for males because

of perception. It is possible for us to change this perception so that girls are also encouraged to pursue STEM courses.

One of the ways of doing this is for the Government to encourage and even come up with scholarships for girls who excel in STEM then they can get scholarships. Even after getting scholarships, they can have an exit after training so that they get employment. This can encourage girls to pursue STEM subjects. Those who are sponsored can even become mentors of others.

It is possible for the narrative to change so that girls take subjects that were predominantly not meant for them. When girls are educated and are working, they eventually benefit not only their families, but the society and the entire world.

The figure of 35 per cent of women who are taking STEM globally is very low. It is possible for us as a society and the world to go higher than 35 per cent. We can get to even 50 per cent and above.

I support this Statement.

**The Speaker** (Hon. Lusaka): Let us move on to the next Statement.

#### THE ANNUAL INTERNATIONAL MOTHER LANGUAGE DAY

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to make a Statement of general topical concern on the celebration of the International Mother Language Day.

Mr. Speaker, Sir, I rise, pursuant to Standing Order No.47(1), to make a Statement of general topical concern on the Annual International Mother Language Day celebrated globally every 21<sup>st</sup> of February.

International Mother Language Day is celebrated every year to promote linguistic and cultural diversity and multilingualism around the world. Linguistic diversity has always been one of the foundational pillars of our civilization.

Mr. Speaker, Sir, the idea to celebrate International Mother Language Day first came from Bangladesh, after which the General Conference of the United Nations Educational Scientific and Cultural Organization (UNESCO) decided to celebrate February 21<sup>st</sup> as International Mother Language Day from November, 1999.

On 16<sup>th</sup> May, 2007, UNESCO, through a general resolution, called upon member states to promote the preservation and protection of all languages used by people of the world. By the same resolution, the General Assembly proclaimed 2008 as the International Year of Languages to promote unity in diversity and international understanding through multilingualism and multiculturalism.

Mr. Speaker, the theme of this year's International Mother Language Day is "Fostering Multilingualism for Inclusion in Education and Society". It recognizes that languages and multilingualism can advance inclusion and the Sustainable Development Goals (SDGs) focusing on leaving no one behind. This year, special attention was paid to multilingual education from early childhood, so that for children their mother tongue will always be an asset.

---

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

Mr. Speaker, Sir, this year's theme encourages us to support multilingualism and the use of mother tongue both at school and in everyday life. This is essential because when 40 per cent of the world's inhabitants do not have access to education in the language they speak or understand best, it hinders their learning as well as their access to heritage and cultural expressions.

A socio-linguist will agree with the fact that every human being has an innate capacity of learning a language. The age below seven years is the best-suited for language acquisition. As we commemorate this day, I would like to encourage both levels of government in Kenya to leverage on the asset that is mother tongue by deliberately allocating more resources to early childhood education as well as to universities and colleges.

I would also like to encourage a public-private partnership in allocating more resources to media stations, both print and electronic, to ensure that mother tongue is cascaded to people at their doorsteps.

Mr. Speaker, it is worrying that there are quite a number of mother tongues that are threatened with extinction. The *Olusuba* language, for instance, which is spoken by Basuba of Nyanza Region, is one such language. Mainstream languages are equally facing extinction among the youth who are mainly embracing English and Kiswahili.

There is not a doubt that English and Kiswahili languages are important as official and national languages respectively. There is also no doubt that Kiswahili plays a major role as a *lingua franca*. However, mother language is vital in framing the thinking and emotions of people. Learning to speak mother tongue is very necessary for a child's comprehensive development. Being fluent in mother tongue benefits a child in various ways.

Mr. Speaker, Sir, as a country, we need to encourage multilingualism, so that our vernacular languages do not disappear in thin air among the young generation. We must embrace new strategies of salvaging our vernacular languages. I want to encourage universities and colleges, through their linguistics departments, to offer courses in vernacular languages.

Further, as they offer the courses, it would be desirable for learners to find a safe landing in the world of work, including in media houses, diverse organizations that deal with humanities and social sciences, the teaching profession and so on.

Mr. Speaker, when students go to study in countries like Germany and China, they are obligated to take up the local languages before embarking on their core studies. As a country, we could borrow such a strategy to ensure local languages do not become extinct.

Mr. Speaker, finally, I would like to wish everyone a belated happy International Mother Language Day.

Thank you.

**The Speaker** (Hon. Lusaka): Sen. Were. I will limit the time because we have many Statements.

**Sen. Were:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. (Dr.) Musuruve on the annual International Mother Language Day that is normally

celebrated on 21<sup>st</sup> February every year. I support the recognition of what we usually call mother tongue, because it is important for the cognitive development of the child.

That is why we have more smarter older people than the young people we have now and we call them millennials. This is simply because they missed out on their mother tongue. When we were growing up in lower primary school, mother tongue was compulsory. I remember that there was a story book called “*Mukolwe ni Ingara Yiye*,” and those books have disappeared now. We do not hear about them. The writers of those books are not there, so languages are disappearing. For example, in my language of Marachi from Busia County most young people now have replaced letter ‘b’ with letters ‘vu’ and we have no idea how the ‘b’ became overtaken by ‘vu’.

If there was an appreciation of mother tongue the way it used to be for lower primary school, we would not be looking at languages facing extinction such as the Abasuba that Sen. (Dr.) Musuruve talked about.

There is more emphasis now on having our children speak more English, but it does not help them develop their intelligence. English is taught in Kenya as a second language. It is not a first language. Therefore, what we are now learning in English is not original, but has been adulterated over the years. We can never be able to speak the first English Language because even the teachers are taught how to teach English as a second language.

I call upon the Government through the Ministry of Education to look back at the use of mother tongue in our schools, especially at the lower primary.

I support.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir. I thank Sen. (Dr.) Musuruve for bringing up this issue. I unfortunately come from a community, which is at a risk of losing its language. The Rendile language is being lost because of mixing with the Samburu culturally. It is very important that children are taught their mother tongue at an early age, especially at the ECDE level so that they can easily know their culture.

It is important that such a day be celebrated, especially within the counties. For example, my county where this kind of a situation exists this could be a good way of creating that awareness. We have been trying on our own. I thank organizations such the Bible Translation Literacy, which in their effort to translate the Bible into the Rendile language had to first develop the written language that can easily be taught in school. That way at least the language can be preserved.

I also urge the county governments to take interest in such days so that they can be used to sensitize the local communities not to lose their mother tongue, but to instead invest in teaching children their mother tongue at the ECDE level so that the languages can be preserved.

I support.

**Sen. Nyamunga:** Mr. Speaker, Sir, I support this Statement on the celebration of mother tongue that has been brought by Sen. (Dr.) Musuruve. A language is a means to an end, but it not an end in itself. We pride ourselves in the knowledge of a language such as English or Kiswahili more than our own local languages, yet we know that for us,

especially children, to get our culture very well it is important that we nurture our different languages. This is because we get unity in diversity.

If I know *Dholuo* language very well and I understand the culture of the Luo community, it adds more value to me than if I knew English or Kiswahili better. I think we are losing out in developing our own language. If I was to make an expression in *dholuo* language as compared to the English language one gets the sweetness of a joke or a culture and understands it more if understood it in the language you acquired first.

We are losing out more so our children who are living in town set-ups and cities as opposed to those in the villages. It should be very clear to our education system that we should develop the local language in the rural setups. This is because in a rural set-up one will not find multi-languages living together. It is one community, it is just that. It is not therefore, difficult to let the children there learn in their local languages or mother tongues.

Even in some of our counties for most of our Members to understand the debates and what is going on at the national and county governments, it would add more value if some of it is even done in the local languages. The idea is to make people understand. They should understand where they are, what they are doing and what is good for their county or nation in future.

For us to get a proper comprehension of the issues we are dealing with even in our county assemblies, I urge the education system or even Parliament as such, to develop some of these and allow our people to speak in the languages they understand. It will help to understand the Bills and other business of county assemblies.

There are many people who are Members of the county assembly, but do not understand many things because of the nature of their counties. It should be developed and encouraged for the greater good of this nation. Knowing a local language does not make one less or mean that one does not understand or is not well educated to understand others. The most important thing is what one can do with that local language to make better decisions and better things for the people.

I support.

**The Speaker** (Hon. Lusaka): We now go to the next Statement under Standing Order No.48(1). I now call Sen. (Rev.) Waqo.

#### INSECURITY IN MARSABIT COUNTY

**Sen. (Rev.) Waqo:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.48(1) to seek a Statement from the Senate Committee on National Security, Defense and Foreign Relations regarding the state of insecurity in Marsabit county.

In the Statement, the Committee should-

(1) Explain measures being taken by the Government to address cases of attacks on civilians and disappearance of commuters along the Marsabit-Moyale Highway given that such cases have increased in the last two years. The recent case is that of two young men who were attacked in Turbi along the highway on 15<sup>th</sup> February, 2021 where one was rescued by police and the other abducted by attackers.

---

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

(2) Give data on cases of attacks and disappearance of commuters along the Marsabit-Moyale Highway reported to local police and state how many of the reported cases have been dealt with conclusively.

(3) Outline measures put in place by the national Government to mitigate the rampant cases of ethnic clashes and livestock theft in Marsabit County.

(4) State immediate measures put in place to address cases of insecurity and ensure the security and safety of the residents of Marsabit County.

**The Speaker** (Hon. Lusaka): Next Statement if from Sen. Faki. He is not here. Therefore, it is deferred.

UBORESHAJI WA BARABARA YA  
MSHOMORONI-MWAKIRUNGE

*(Statement deferred)*

Next Statement is by Sen. Madzayo.

UKATILI WA MAAFISA WA POLISI NA KUPIGWA  
KWA MAMA KADZO KARISA KALU

**Sen. Madzayo:** Shukrani, Bw. Spika. Nimesimama kuambatana na Kanuni ya Kudumu No.48(1), kuomba Kauli kutoka kwa Kamati ya Usalama wa Taifa, Ulinzi na Mahusiano ya Kimataifa kuhusu ukatili wa maofisa wa kituo cha polisi cha Bamba kilichomo eneo Bunge la Ganze.

Kauli inahusu kupigwa kwa mfanyibiashara maarufu Mama Kadzo Karisa Kalu mbele ya wafanyikazi wake na mali yake kuharibiwa.

Bw. Spika, katika Kauli hiyo, Kamati ya Usalama wa Ndani inapaswa kueleza:

(1) Sababu za ukatili wa polisi wa Kituo cha Bamba katika eneo Bunge la Ganze, ambao ulisababisha kupigwa kwa mama Kadzo Karisa Kalu na kuharibiwa kwa mali yake.

(2) Ni lini mama Kadzo Karisa Kalu ataregeshewa mali yake ambayo ilishikwa na hao polisi, ili kuruhusiwa kuendelea na biashara hiyo.

(3) Ni kwa nini au ni hatua gani zimechukuliwa na Serikali kuadhibu hao polisi waliofanya kitendo hicho cha ukatili ama unyama kwa kuharibu mali ya mama Kadzo Karisa Kalu.

(4) Hiyo Kamati iweze kufafanua kimasomaso, ni kwa nini polisi wa Kituo cha Bamba wamezembea kazini wakinyanyasa wakaazi wa eneo la Bamba kwa kuwashika ovyo na kuomba hongo, badala ya kudumisha hali ya usalama wa Bamba?

(5) Ni kwa nini waliohudumu kwenye Kituo hicho zaidi ya miaka mitatu au mitano, huo ni muda mrefu na mpaka sasa hawajapewa *transfer* au kuhamishwa kutoka Kituo cha Bamba?

(6) Ikiwa wamezembea kazini, ni kwa nini Serikali haijachukuwa hatua ya kuwafurusha kutoka kwa hiyo kazi.

Asante.

**Sen. (Dr.) Zani:** Asante, Bw. Spika. Kwanza ningependa kushukuru kwamba sasa katika Seneti tunampangilio wa orodha ambao umeandikwa kwa lugha ya Kiswahili. Nafikiri vile ambavyo tunaendelea na Kanuni za Kudumu za Seneti, pia tutaendelea kutumia Kiswahili zaidi tukizungumza katika Seneti.

Kwa wakaaji wa Kilifi, kwanza ni kusema pole na kumshukuru Sen. Madzayo kwa kuleta mambo haya, ili Seneti ijue ya kwamba katika eneo la Bamba, mwanamke ambaye ni mfanya biashara, ambaye anafanya kazi yake wakati huu ambao pia biashara ni duni ameng'ang'ana na amepigwa, na bidhaa zake kuchukuliwa. Mali yake imechukuliwa na haijarejeshwa kwake.

Hili ni jambo la kutatanisha sana. Nafikiri yale maombi ambayo Sen. Madzayo ameyasema hapa yanafaa kuangaliwa. Kwanza katika kituo cha polisi ambacho kiko Bamba, mambo kama hayo yaweza kuendelea vipi na mtu yeyote asiseme chochote na wale polisi wasiulizwe jambo lolote ?

Kwa hivyo, Kamati ya Usalama wa Taifa, Ulinzi na Mahusiano ya Kimataifa lazima iangalie jambo hili. Pengine hata ni ukora umefanywa, kwa sababu, ukichukuwa bidhaa ya mwenzako halafu humrejeshei, utaulizwa mahali umepeleka bidhaa hiyo. Inapaswa iwekwee mahali fulani ili mwenye bidhaa hiyo aweze kupewa baadaye.

Nashukuru kwamba Sen. Madzayo amelileta jambo hili hapa. Nina hakika kwamba huyu mama Kadzo Karisa Kalu, si yeye pekee ambaye ameathirika. Pengine pia kuna wengine ambao wamepata shida kama hizi.

Kwa hivyo, hizi shida ziangaliwe kwa urefu na mapana ili mambo kama haya yasiregelewe kiholelaholela, hapa na pale, wakati wowote ambapo watu wengine wangependa ifanyike.

Asante.

**The Speaker** (Hon. Lusaka): Sen. Makori, unataka kuendeleza Kiswahili ama vipi?

**Sen. Kwamboka:** Asante Bw. Spika. Ningependa kuunga mkono Sen. Madzayo kwa kuleta Taarifa hii katika Seneti. Kwa hakika, ni aibu sana kuona askari wakimpiga mama. Hiyo ni aibu kubwa sana kwa sababu akina mama wanafaa waheshimiwe. Hakuna mama ambaye anatarajiwa kupigwa na polisi.

Ni tabia mbaya sana kuona askari wakiomba hongo kutoka kwa raia. Hiyo ni tabia mbaya sana na wanafaa wafunzwe adabu na sheria inafaa ichukuliwe. Ninashukuru kwa sababu niko kwenye Kamati ya Usalama wa Kitaifa, Ulinzi na Mahusiano ya Kigeni. Kwa kweli, tutachangia vilivyo na tutahakikisha kuwa mama Karisa amepata haki yake.

**The Speaker** (Hon. Lusaka): Unastahili kupongezwa. Umejaribu sana. Wa mwisho ni Sen. Farhiya.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. Apologies, I cannot contribute in Kiswahili, although I would like to try. I want to congratulate Sen. Madzayo for bringing to the attention of this House the plight of that mother.

During this COVID-19 period, it is hard enough that people cannot earn livelihoods. With that kind of struggle, somebody's life is being made difficult. This people are earning their livelihood and looking into the welfare of their children. All they want is to put food on the table.

Mr. Speaker, Sir, it is unacceptable for somebody who is on the Government's payroll to harass citizens of this country. That is unacceptable. The Senator also deliberated on the issue of police officers not being transferred for too long. Maybe there is complacency that is setting in because there is too much familiarity. We need to find out why this is happening in Ganze. We need justice for the mother. This must be achieved through our Committee.

**The Speaker** (Hon. Lusaka): The next Statement is from Sen. Shiyonga.

DEATH OF MS. JACKLYN MUGURE  
ALLEGEDLY FROM STRAY BULLET

**Sen. Shiyonga:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the death of Ms. Jacklyn Mugure who was killed by a stray bullet from a police officer.

In the Statement, the Committee should –

(1) State the circumstances leading to the death of Ms. Jacklyn Mugure who was shot and killed at the OTC Stage in Nairobi by a bullet from a police officer attached to the Kamukunji Police Station.

(2) Spell out the immediate disciplinary measures taken against the police officer responsible for the fatal shooting of Ms. Mugure.

(3) Find out whether the Police Service has a register for cases of reckless handling of arms by the police and how many of such cases have been conclusively dealt with and the culprits punished.

(4) Explain actions taken by the relevant authorities to ensure the family of the deceased gets justice expeditiously.

(5) State the safeguards that have been put in place against such cases of reckless handling of arms by the police.

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

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

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. Shiyonga.  
Sen. Nyamunga.

**Sen. Nyamunga:** Thank you, Madam Deputy Speaker, for giving me this opportunity to make a comment on this Statement.

First, we see this very common occurrence from time to time from our uniformed police officers. It is not the first time that this is happening.

Secondly, we may not know the circumstances under which this happened because the Statements reads that it was a stray bullet. Therefore, by now, we may not know the circumstances. However, it is important for us to get to the root cause of this



matter so that we understand why there was a stray bullet and under what circumstances it happened. During politics, it is a very common occurrence. We know very well that our police officers do their best to protect lives. However, much as they do that, at the same time, many mistakes have been made from time to time.

Madam Deputy Speaker, it is good that we get proper attention on the Statement and we come to a clear understanding on what may have happened and bring to a conclusion such unnecessary deaths of our citizens. We should be able to trust our uniformed officers. Any time we see them around us, we should have confidence in their presence. We should not get scared that anything could happen.

Therefore, I want to support the Statement by Sen. Shiyonga and ask that the Statement be committed to the right Committee. It is a very common occurrence and it is very unfortunate. Many people have lost lives unnecessarily bringing a lot of pain to many families because this has happened many times.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. Nyamunga.

**Sen. Madzayo:** Asante Bi. Naibu Spika. Ni jambo la kusikitisha kuona mama anayeitwa Jacklyn Mugure akipoteza maisha yake kwa risasi. Mambo ya risasi au bastola kutolewa na askari mara moja, askari walio na furaha ya kupiga watu risasi, *trigger happy police officers*, ni jambo ambalo linatendeka kila siku.

Hivi majuzi, tafakari zetu hazijatulia, sehemu ya Eastleigh, mama alikua ameketi na watoto wake vizuri sebuleni katika nyumba yake iliyo *floor* ya tatu au ya nne. Lakini askari aliyekua anatembea chini alitoa bastola akapiga risasi juu kisha ikamuua mtoto wa miaka sita au saba aliyekua anaendea shule alipokua akicheza na ndugu zake katika *balcony*.

Bi. Naibu Spika, jambo kama hili limetendeka tena kwa upande wa Jacklyn Mugure. Hii ni tabia ya kuzembea kazini kwa askari wetu. Sasa imefika wakati Wizara ya Bw. Matiang'I, ambayo inahusika na mambo ya polisi na jinsi wanavyoweka bunduki zao, ingekua vyema kama mtu hajaelewa kutumia bastola asipewe bastola ya kuenda kwa wananchi kisha anawaumiza.

Jambo kama hili linatokea sana katika Kaunti ya Kilifi. Kila siku kule Kilifi hakukosi vijana, wazee au watu ambao wanafukuzwa na polisi. Ikifika usiku, watu wanashika roho zao ndani ya mikono kwa sababu hawaezi kutembea bila kuwa *free* ilhali hii Kenya ni nchi yetu.

Tunasema kwamba wakati umefika sasa hususan huyu Jacklyn Mugure uchunguzi wa kutosha ufanywe na askari aliyepiga risasi huyu mama na kumuua achukuliwe hatua kali.

Asante.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you.

Sen. Kwamboka.

**Sen. Kwamboka:** Thank you, Madam Deputy Speaker. Let me thank Sen. Shiyonga for coming up with this Statement. It is very sad that a police officer can just shoot a woman. I am sure this woman was unarmed. It is very sad that the officers go for

training, come back, and join the forces when they are slim, but after three months, they add weight and cannot even run.

I think it is high time that the Ministry concerned thought about this issue. These officers should be going back for training even if it is after six months. They should be reminded how to take care of the citizens. We have lost many lives because of those bullets. The statement that we always hear is that, it was by bad luck. It is so wrong to lose such a life. Life is very important.

Madam Deputy Speaker, I thank Sen. Shiyonga for coming up with that Statement. Justice should be done to Mrs. Jackeline.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. The next Statement is by the Senator for Nandi County, Sen. Samson Cherargei. He is not in the House. Therefore, we defer Statements No.5 and No.6

The next Statements are by Sen. (Dr.) Isaac Mwaura. I do not see him either. I will defer Statement Nos. 7 and 8.

OPERATIONALIZATION OF THE PROPOSED LEGAL AID  
FUND IN THE LEGAL AID ACT, 2016

*(Statement deferred)*

IMPLEMENTATION OF THE GUIDELINES ON RETIREMENT  
AGE OF PUBLIC SERVANTS WITH DISABILITIES

*(Statement deferred)*

With that, I would like to ask the Chairperson of the Committee on Finance and Budget to table the Budget Policy Statement.

**PAPER LAID**

REPORT OF THE 2021 BUDGET POLICY STATEMENT AND  
MEDIUM TERM DEBT MANAGEMENT STRATEGY

**Sen. Kibiru:** Thank you, Madam Deputy Speaker. Mine is not in Kiswahili although I am good in Kiswahili.

I beg to lay the following Paper on the Table of the House, today, Wednesday, 24<sup>th</sup> February, 2021-

The Report of the Standing Committee on Finance and Budget on the 2021 Budget Policy Statement (BPS) and Medium Term Debt Management Strategy.

*(Sen. Kibiru laid the documents on the Table of the Senate)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. I would like to use my discretion to go back to Order No.6, to enable you give Notice.

### NOTICE OF MOTION

#### ADOPTION OF REPORT ON THE 2021 BUDGET POLICY STATEMENT AND MEDIUM TERM DEBT MANAGEMENT STRATEGY

**Sen. Kiburi:** Thank you, Madam Deputy Speaker. I beg to give Notice of the following Motion-

THAT, pursuant to Section 25 (7) of the Public Finance Management (PFM) Act and Standing Order No. 187 of the Senate Standing Orders, this House adopts the Report of the Standing Committee On Finance and Budget on the 2021 Budget Policy Statement (BPS) and Medium Term Debt Management Strategy, laid on the Table of the Senate, today, Wednesday, 24<sup>th</sup> February, 2021.

**Sen. Mutula Kilonzo Jnr.:** On a point of order.

**The Deputy Speaker** (Sen. (Prof.) Kamar): What is your point of order, Sen. Mutula Kilonzo Jnr.?

**Sen. Mutula Kilonzo Jnr.:** Thank you, Madam Deputy Speaker. The Speaker issued a directive yesterday that in view of the very important business tabled by our good Chairman, Sen. Kibiru, that Committees should not travel, and Senators should not travel, but I have the impression that Senators are travelling.

Would I be in order to propose that the directive of the Speaker in the form of the Communication be circulated to our platform? It is important. This is because there is going to be a violation and tomorrow, we might have a problem, which we cannot solve.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. Well noted. We will relook at that.

Senator for Kirinyaga, do you have an intervention?

**Sen. Kiburi:** Yes. On a point of order, Madam Deputy Speaker. The Senate Minority Whip would have requested that tomorrow we allow both methods of voting, so that for those who will not be in, they can also vote through the Zoom platform.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. That is good addition. We have noted that. I order that the same Communication that was done yesterday be circulated, so that all Members get to know that there is no travelling until we finish voting tomorrow.

I can see another point of intervention from Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Madam Deputy Speaker, in addition, I request that you make a further polite order that the directorate set up a Zoom platform to enable those who might have travelled like the Senator for Mombasa who was attending a trade fair and was there by chance, votes from Mombasa.

Thank you.

---

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

**The Deputy Speaker** (Sen. (Prof.) Kamar): That is administrative because we are still in the session when we are using both systems. That is well noted, but it is administrative. We will employ everything possible to make sure the vote takes place tomorrow.

Next Order.

## BILL

*Second reading*

THE COOPERATIVE SOCIETIES (AMENDMENT) BILL  
(SENATE BILLS NO. 11 OF 2020)

*(Sen. (Dr.) Zani 11.2.2021)*

*(Resumption of debate interrupted on 17.2.2021)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, Order No.8 is deferred to tomorrow for Division. Order No.9 is also deferred to tomorrow for Division. Both orders under the same cluster to be voted for tomorrow.

*(Bill deferred)*

## MOTION

ADOPTION OF CPAIC REPORTS ON THE AUDIT OF  
VARIOUS COUNTY EXECUTIVES FOR  
FYs 2015/2016 – 2017/2018

*(Sen. (Prof.) Ongeru on 18.02.2021)*

*(Resumption of debate interrupted on 23.2.2021)*

THAT, this House adopts the Reports of the Sessional Committee on County Public Accounts and Investments on the consideration of the Audit Reports of the following County Executives for the Financial Years 2015/2016, 2016/2017 and 2017/2018, laid on the Table of the Senate on Thursday, 11<sup>th</sup> February, 2021-

- (i) **Volume I-**
  - a) Baringo
  - b) Elgeyo Marakwet
  - c) Homa Bay
  - d) Kakamega

---

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

- e) Kiambu
- (ii) **Volume II-**
  - a) Kisii
  - b) Mandera
  - c) Mombasa
  - d) Taita/Taveta
  - e) Kilifi
- (iii) **Volume III**
  - a) Garissa
  - b) Wajir
  - c) Narok
  - d) Kericho
  - e) Lamu

*(Motion deferred)*

Next Order.

### MOTION

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE  
ON THE EARLY CHILDHOOD DEVELOPMENT EDUCATION  
BILL (SENATE BILLS NO.26 OF 2018)

THAT this House adopts the Report of the Mediation Committee on the consideration of the Early Childhood Education Bill (Senate Bills No.26 of 2018), laid on the Table of the Senate on Thursday, 18<sup>th</sup> February, 2021, and pursuant to Article 113 of the Constitution and Standing Order No.161(3) of the Senate Standing Orders, the House approves the mediated version of the Bill.

*(Sen. Omogeni 23.02.2021)*

*(Resumption of debate interrupted on 23.02.2021)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you Senators. The Motion had just been moved. The moving had not been completed. The Mover only used eight minutes and he has an entitlement of one hour. You are still entitled to 52 minutes, but you will use your discretion to allow the Members to share more.

The Chairperson of the Mediation Committee, Sen. Omogeni, kindly, proceed.

**Sen. Omogeni:** Thank you, Madam Deputy Speaker. I will proceed from where I had reached yesterday. As I was reporting to the House yesterday, we resolved all the issues that were referred to mediation. These were just my notes to the House to enable the House make an informed voting.

---

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

Madam Deputy Speaker, on Clause 28 of the Bill, there was a proposal that Clause 28(4) be substituted with the following new sub-Clause. In Clause 28 (4) to read-

“Notwithstanding the generality of Subsection (2), the role of the sponsor under subsection (1) shall be to-

(a) participate and make proposal for the review of syllabus, curriculum, books and other teaching aids.

(b) offer financial, infrastructural and spiritual support to the Education Committee.”

Madam Deputy Speaker, what was in confusion was the use of the word "recommendation" instead of the word "proposal". The inclusion of the word spiritual support.

Madam Deputy Speaker, having deliberated, the Mediation Committee concurred that using the word "recommendation" is similar with the word "proposal" for the review of the curriculum books and other teaching aids and therefore, that does not conflict with the mandate of the Kenya Institute of Curriculum Development (KICD).

Secondly, the definition of the word “sponsor” as contained in the Bill relates to the meaning of “sponsor” as contained in the Basic Education Act, No.14 of 2013, hence the need to include the word “spiritual support” as part of the role of the sponsor.

This was fairly contentious because we thought that including the words, “spiritual support” may conflict with the faiths of students. However, having deliberated, the Mediation Committee resolved to retain Clause 4(a) as proposed by the Senate, adopt the National Assembly’s amendments in 4(b), and include the words “spiritual support”. This was a give and take situation by the Mediation Committee and all the Members were magnanimous that we take position “A” as proposed by the Senate and position “B” as proposed by the National Assembly.

Madam Deputy Speaker, in Clause 13 the Senate’s Bill had included a provision on the membership and functions of the Parents Teachers Association (PTA), which the National Assembly proposed it be deleted altogether. The Mediation Committee resolved after long deliberations, to retain Clause 33 as proposed by the Senate the justification being that the roles and functions of the PTA and the board of management are distinct.

It was also the position of the Mediation Committee Members that there are some ECDE centers that are stand-alone, which are not domiciled in any primary school. Therefore, the role of PTA at an ECDE center is specifically to address the unique and dynamic needs of ECDE learners. This is when I am sure that Senators must have seen that there are some ECDEs that are not domiciled in primary schools, therefore, you cannot say a PTA of a primary school can necessarily serve the needs of an ECDE centre.

The Committee further noted that the provisions of Section 55(2) and (3) of the Basic Education Act, No.14 of 2013 provides that every school shall have a parent’s association and further that private schools shall establish a PTA. Therefore, the proposal that was contained in the version of the Bill as proposed by the Senate was retained by the Mediation Committee.

On Clause 36, there was a proposal that paragraph 36(a) be deleted together with Clause 36(c) of the Bill. In this Clause, the Senate Bill had sought to enhance the qualifications of the ECD teachers.

If you may recall, there is a team that had travelled to Germany. When they came back, they reported to the Education Committee the qualifications of ECDE teachers in Europe. In some countries you require a degree to be a teacher in an ECDE center. After deliberations, the Mediation Committee resolved to adopt the position as proposed by the National Assembly, which is to give the idea of putting in place standards of qualifications for ECDE teachers in the realm of the Teachers Service Commission (TSC).

This was informed by the fact that under Article 237(2) (a) of the Constitution, it is the mandate of the TSC to register trained teachers. Further, Article 237(3)(a) gives the sole mandate to the TSC to review the standards of education and the training of persons entering the teaching service. By implication, it was the view of the Mediation Committee that that includes the ECDE teachers.

In line with the provisions of the Constitution, it was agreed by the Mediation Committee that role should be left in the hands of the TSC. Any other different position would have been unconstitutional.

Further, the amendment was seeking to avoid duplication of the provisions of the TSC Act on the mandate of the TSC, specifically, on the issue of registration of teachers. The prevailing position is that the TSC requires any ECDE teacher currently to have a qualification of a diploma in Early Childhood Education before being registered. It was the view of the Committee that for now, that requirement of a diploma for an ECDE teacher would suffice.

On Clause 37 of the Bill, there was a proposal that that Clause be amended by inserting a new sub-clause immediately after Sub-clause 3, so that Clause 37 was to have another Clause being 37(3).

That Clause was to read:

“In the performance of the functions under these Sections, the County Education Board shall establish a County Early Childhood Education Committee as a Committee of the County Education Board to oversee the implementation of early childhood education in each county”.

We deliberated at length on this particular provision *vis-a-vis* the provisions of the Basic Education Act. The Mediation Committee resolved to retain Clause 37 as proposed by the Senate without incorporating the new clause as proposed by the National Assembly.

The justification behind this decision by the Mediation Committee is that already in each county there is established a County Education Board which has been given a mandate to create committees to deal with the implementation of early childhood education in each county. It was the view of the Mediation Committee that the new Sub clause 3 would have been superfluous in view of the prevailing legal position that is in place.

Madam Deputy Speaker, further, under Sub clause 2 as contained in the Bill, there is provision for consultation between the County Executive Committee Member (CECM) and the County Education Board in determination of early childhood education resource and infrastructure requirements within the county. In the view of the mediation committee, there was no justification on why Sub clause 3 should be included as a new sub clause in Clause 37.

On Clause 44 of the Bill, there was a proposal that the same be deleted and be substituted with the new Clause, which should read:

“A private education center shall comply with and follow the curriculum approved by the Kenya Institute of Curriculum Development (KICD)”.

If I may give a background, the Senate Bill had provided that the education administered in a private education center shall be of a suitable standard. After deliberations, the mediation committee resolved to adopt the proposal by the National Assembly because it was the view of the Mediation Committee that the amendment merely seeks to have certainty with regard to the standard of education that will be offered by any private education center.

Another justification is that the amendment aligns the Bill to the provisions on standards of education of a private basic education institution as contained in the current Basic Education Act of 2013. It provides that a private institution shall comply with and follow the curriculum approved by the KICD. On this one, the Mediation Committee agreed with the amendments as proposed by the National Assembly.

On Clause 68 of the Bill, there was a proposal that it be amended in subclause 3(a) by inserting a new paragraph (c). Here, what was being added was the word “one” immediately after the expression “registration certificate of”. It was just a matter of correcting some grammar on the Bill.

Madam Deputy Speaker, secondly, there was a proposal that Clause (h) of the Bill be deleted. The Committee on Mediation after deliberations resolved to once more adopt the position of the National Assembly in paragraph (c). As I have said, this was merely to correct some grammatical error. We also agreed that Clause (h) be deleted.

Madam Deputy Speaker, this is because it was proposing to give the Cabinet Secretary (CS) powers to regulate ECDE in line with Article 237(3) of the Constitution, which is the function of the Teachers Service Commission (TSC). If we had allowed Clause (h) to remain, the CS would have taken powers that under the Constitution are the preserve of the TSC. Again here, the Committee on Mediation was merely respecting the mandate of the TSC as provided in Article 237(3) of the Constitution.

In conclusion, I am pleased to report that in one of those very rare occasions, the mediation process went on seamlessly. We were able to develop a give and take position both from the National Assembly and the Senate. Hon. Members of the Committee on Mediation can confirm. I think Sen. (Dr.) Zani is in the House and she can confirm that on this one. Maybe there were no shouting matches because the Committee was chaired by Senior Counsel. The process was very honourable and respectful. At the end of the day, we shook hands and had a cup of tea together. If the BBI proposal arrives in the House and we are to do a joint sitting, I hope that this spirit can continue.



Madam Deputy Speaker, having received a very good judgment from the High Court that really affirms the legislative mandate of this House, it is good to see that Bills that are referred to a Committee on Mediation can have input from both Houses. Then we come back to the House with a version that is agreed by both Houses.

I really hope that these should bring to an end the fights that have always been there between the National Assembly and the Senate. We get elected by votes that in often times could be three times what a Member of the National Assembly receives. We also enjoy direct mandate from the people we represent. We are not here by accident. We are here because the Constitution recognizes that there is a House called the Senate. Our brothers in the National Assembly should accept that we should have a harmonious coexistence of the two Houses.

In conclusion, it is now my pleasant duty on behalf of the Committee on Mediation and pursuant to Standing Order No.161(1) of the Senate Standing Orders to present the Report of the Committee on Mediation on its consideration of The Early Childhood Education Bill 2018.

Madam Deputy Speaker, I beg to move and invite Sen. (Dr.) Zani to second.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you Senator. We congratulate you for having a seamless mediation. It is actually expected of a Senior Counsel to do that. We did not expect less.

Sen. (Dr.) Zani, proceed.

**Sen. (Dr.) Zani:** Thank you very much, Madam Deputy Speaker. I beg to second that this House adopts the report of the Committee on Mediation on the Early Childhood Education Bill (Senate Bills No. 26 of 2018).

This is really an exciting moment for the Members who are currently serving in Senate Standing Committee on Education and those who served the 2013 to 2017 Senate. This Bill was conceptualized in 2014.

The ECDE is a devolved function to the counties. On the other hand, we have the Basic Education Act No.14 of 2014. After the Committee on Education had gone to the various counties to see how the setting up of these ECE centres was being done, we felt there was a need to understand how they were being embraced. This is because some of these centres were stand-alone in both private and public schools. For example, some of them were within schools that already had primary section.

Madam Deputy Speaker, it was very exciting to hear, for example, some of the head teachers say that some of the children who had gone through ECE centres conceptualized as per the Bill were so intended and they did not want to go to standard one. How did we conceptualize ECDE? We conceptualized that this is really the begging of a child's education so that he or she gets the best foundation.

The Early Childhood Education Bill at that time as it was put forward conceptualized, for example, the best classroom model. That is where a child would have toys and a desk that is commensurate with their height and they can sit comfortably. That is where they could have playing equipment, material and swings; not forgetting also children who are PwDs.

Madam Deputy Speaker, I remember in that Committee on Education which I happened to be a Member in the 2013 to 2017 Senate, went round to see what was happening and we enriched the Bill. At that time Sen. Karaba was the Chairperson of the Committee. Unfortunately just towards the end of 2017 when this Bill would have been enacted, our time was up. Therefore, we started again the process in 2017 moving on to now 2021.

Madam Deputy Speaker, I would really like to congratulate Sen. (Dr.) Langat who was the Chairperson at that moment when this Bill was coming up. Also, more intently Sen. (Dr.) Milgo, the Chairperson of the Committee on Education, who has pushed and made this dream a reality.

When we got to the point where we were almost coming to do the mediation, we were a little bit worried because we did not know what would happen. We wondered whether all of us would be able to conceptualize and come up with a version of the Bill that will be agreeable. What really would happen in terms of the process and also the time that it takes from one process to another.

Madam Deputy Speaker, finally, it happened and the Senate was represented by five Members. I will not repeat because I heard Sen. Omogeni mention them. However, I want to acknowledge our Members from the National Assembly who were part and parcel of this process. They were very dedicated.

This is one of the Bills that towards the end was mediated at Christmas time on Zoom. The first time we met we elected the leaders of the Committee. In the second meeting, we realized it was very difficult to mediate on some specific clauses through a Zoom meeting because they really needed a lot of insight. So, we agreed and were able to meet at County Hall. We had an extensive discussion.

Madam Deputy Speaker, there were two specific clauses, especially the one on spiritual and the role of the director or the owner of the school would have in spiritual guidance. That became problematic and Members said no and we had to seek legal advice on how to proceed. In between moving from one county to another, we managed to have a Zoom meeting in December.

Sen. Omogeni, thank you for chairing this Committee. He did exercise his senior counsellorship skills very well. There were heated moments. Everybody was sticking to their particular points of reference. However, somehow one way or another we were able to just go on certain decisions and make certain conclusions that were very key.

Madam Deputy Speaker, the Members in the National Assembly who were also part of this mediation process were Hon. Wambugu Ngunjiri, Hon. Daniel Tuitoek, Hon. John Paul Mwirigi, Hon. Eve Akinyi Obara and Hon. Pamela Ochieng'. As a team, we decided that it was important for us to deliver the Early Childhood Education Bill, 2018.

Madam Deputy Speaker, sometimes it was really difficult for us to end up with the version of the Bill that we wanted because there were certain technicalities. I want to give the general approach to the mediation because what exactly happened in the Committee has already been covered by Sen. Omogeni when he was moving it.

There were times when, for example, one House had a specific position, but the technicality of the mother Bill, which is the Basic Education Act and the provisions that

had been put there, meant that if there were certain changes that had to be made, they would have to be made from the original Act itself. We decided to go into this mediation, complete it, and maybe some of these technicalities could be done as amendments to the Basic Education Act on various components that are very important. We proceeded to do that.

Madam Deputy Speaker, when this Bill was introduced in the Senate for the first time, we had a situation. It started from the Senate and went to the National Assembly. The National Assembly passed various provisions from this Bill. In Chapter two of this Report, we have that provision of some the arguments that we had at that time.

Going through it, on page three, there are various clauses. When this came to the Senate, the Senate already agreed on certain provisions. For example, Clause two, eight, running through the various clauses that are there and moving on to the page right up to the various clauses that have been presented.

Madam Deputy Speaker, when we come to Page 16 of this Report, after the Bill had come back to the Senate from the National Assembly, the Senate also agreed to certain clauses. From the Senate to the National Assembly, they made their amendments. When these amendments came back to the Senate, there are certain provisions that were not problematic. For example, Clause 2 was agreed to. This basically had to do with the issue of aligning our language. Some of the issues were technicalities of aligning our languages. The Senate was using the word “pupil” and the Basic Education Act was using the word “learner.” That is the sort of amendment we made.

In Clause 8, there was the replacement of the word “pupil” to “learner” made. In Clause 9, the relevant County Executive Committee Member (CECM) with regard to children with special needs, and their role that was meant to be put into place in was also agreed to.

Madam Deputy Speaker, there are certain numbers like from Clauses 16, 20, 23, and 24, which were agreed to by the Senate. We had about six clauses where there was a dispute. The first clause where there were differences in how we were looking at things was Clause 27.

Clause 27 looks at the issue of whether a public institution can be converted into a private one. The Senate took the position that once a public institution has been put into place, it should not be converted into a private one. The National Assembly also took the same position, but they added that the County Education Board must make an approval for the same.

The Senate wanted a situation where nobody else can ever turn a private institution into a public one. We debated at length because we wanted the Senate position to be very clear. If an ECDE centre is a public institution, let it remain public. If it is private one, let it remain private. Let us not have that specific change.

We went through the discussion, but the provision for such a change is in the Basic Education Act. The Act suggests that there should not be any change without consultation with the County Education Board. Seeing that, that provision is already in the Basic Education Act of 2013, the difference was not big enough for us to maintain.

Madam Deputy Speaker, both of us agreed that it should not change, only that we needed approval to have it done by the County Education Board. Therefore, the amendment by the National Assembly held on the basis of that technicality. That is how it is formed in the Act.

Madam Deputy Speaker, again we had difference in Clause 28. This is one of the clauses we needed to refer to later on because it gave powers to the owner of an ECDE centre to also have a say in spiritual support. The Senate felt like this might have implications. For example, if I am the owner of an ECDE centre, and because of this I indicate that I want someone to perform a particular ritual, that can be dangerous. The Senate said no; we did not want spirituality mentioned there. The contention was on Clause 28 that says that notwithstanding the role of the sponsor, should offer financial, infrastructural and spiritual support. We fought very hard as the Senate and objected to this.

With the advice that we had from our Directorate of Legal Services, we realized that in the main Act, the sponsor is already defined with very specific roles. The actual wording is that the sponsor has a say in the infrastructural, spiritual and educational development of an ECDE centre. Unless we went back to the Basic Education Act to change the definition of the sponsor, we could not leave out the word “spiritual,” because it would mean that we are now contravening the Basic Education Act.

Madam Deputy Speaker, these are the issues that the Committee on Education could think about when we came to the regulations and implementation, so that we could not have the particular aspect of a sponsor having excessive power. The argument was to and fro because some people said that it is important to have a spiritual input on the child. This was debated, we went with what we had in the Act.

Madam Deputy Speaker, Clause 33 was another one we had issues with. The National Assembly said that the Parents Teachers Association (PTA) should not be a critical part of the process. They said that we should just stick with the board of management. We said no. Since these institutions have been well entrenched, and the PTA must have a say within ECDE centres, we finally resolved and the Senate’s position was upheld.

Sen. Omogeni had already gone through this, but I will mention Clause 36 in summary. We had the role and responsibilities of the TSC. It meant that we delete a particular clause, because that role had already been allocated. The National Assembly suggested that the role of the TSC and the requirements for qualification had already been put as a separate part of the Act. Putting it in again as (a) and (b) of defining those same qualifications, would be problematic. We, therefore, went with the position from the National Assembly.

Madam Deputy Speaker, in Clause 37, the Senate was upheld in the amendment that it had in terms of the functions and establishing a county childhood education as a committee for the education board. The role of the County Education Board that the Senate felt was important was upheld.

We had Clause 44, which I will not go into detail, because I have just given the gist of the issues that came to and fro through the clauses that I have gone through. What

we generally realized in the Mediation Committee is that we did not differ ideologically or in terms of infrastructural set up. We differed in terms of the language that the Senate was using verses the language of the National Assembly, the technicality of the Basic Education Act and what we were trying to do.

The Early Childhood Development Bill is one of the Bills that will help to streamline the sector, especially in the counties. This Bill gives the provision for everything that an ECDE centre should have.

It also states how the registration and employment should be done and what teachers' qualifications should be, how teachers can get disciplinary action, classrooms details, the measurements and the best model classrooms. It outlines the role of the Parents Teachers Associations (PTA). More recently as a Committee, we are advocating for feeding programmes within these centres because our children matter.

This was one of the Bills that sought to ensure that all these issues were addressed appropriately. We ended up with a lot of joy in a version of the Bill that is acceptable to both the Senate and the National Assembly. We beg for the progression of this Bill early enough before this term ends and possibility of it being an Act.

In many of the schools and ECDE centres, already aspects of what we discussed are being practiced, but they do not have the legislative framework to be able to do so. That legislative framework has taken the Senate nearly four years in the last Senate and two years in this Senate, which is a total of about six years. It has been a lot of work, but is very fulfilling.

*Hoiyee* to ECDE and to the Senate Committee on Education. Congratulations Sen. (Dr.) Milgo for taking us this far. Congratulations Sen. Omogeni. I was a Member of this Committee as others were. Together I think we changed the landscape for our children under ECDE.

I second.

*(Applause)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you Senator and congratulations to the Mediation Committee.

*(Question proposed)*

**Sen. Were:** Thank you, Madam Deputy Speaker. I rise to support this Motion by the Mediation Committee on the Early Childhood Education Bill, which was a Senate Bill.

A law on ECDE is long overdue. For a long time, especially after we have devolved, ECDE teachers have been groping in the darkness without proper guidance. The Basic Education Act seems mostly to focus on the Primary schools; Grade One to Eight, but left out the pre-primary, nursery and baby class.

For a long time, early childhood education was mainly left to churches such that even the teacher who was teaching these lower classes in the schools was usually a

Sunday school teacher. If the school was sponsored by the Anglican Church, it was the local Sunday school teacher who would be the nursery school teacher as well.

This Bill has clarified even the classrooms that these children are supposed to learn from. Initially, most of these ECDE classes were under trees. It was as if it was by law that all ECDE classes be under trees. They did not have writing material. We have defined the learning materials and the outcomes that are expected from and ECDE teachers.

Madam Deputy Speaker, the Bill has taken long. We have been informed that it has taken six years and has had to go through mediation for it to reach here. However, better late than never.

I thank the Members of the Mediation Committee led by Senior Counsel Omogeni. They have told us that it was one of the smoothest sailing mediation sessions maybe because it was led by him. Maybe all Mediation Committees should be led by Senior Counsel so that we can achieve. It is also important to note that the Senior Counsel, who is the Chairperson, was also the one who won the case for the Senate when we had an issue with our relationship with the National Assembly. This was also a feather to his cap for steering this Committee properly and coming up with a law that is long overdue and will help our children.

Earlier on, we were talking about mother tongue and its importance in the development of the child, especially in the formative classes. Maybe what we need to have included is the issue of mother tongue at this lower classes. It should be taught at that level when the child's mind is receptive enough and open with less attitude.

This Bill has also aligned itself with the TSC regulations because these ECDE teachers are going to be diploma teachers that are registered with the TSC. It has also aligned itself with the Kenya Institute of Curriculum Development (KICD), so that the curriculum taught to our children in ECDE classes is regulated and recognized. A teacher does not just wake up and say: "Today we are going to do A, B, C up to Z and tomorrow we can start from Z to A and today we are going to do 1-10." It has listed areas not just the academic learning, but focused more on skills development, especially life skills that these children will need to cope as they move to upper classes.

I support.

**Sen. Farhiya:** Thank you, Madam Deputy Speaker, for giving me this opportunity. I thank the Mediation Committee for doing an amazing job. This now takes the Bill to the next level and it is going to be assented to.

There are very few Bills from the Senate that end up at the National Assembly that proceed to the next level. This is a very big win for Senate.

I join my colleagues in congratulating the Senior Counsel and the Members of this Committee for doing a brilliant job. If we have a professor there and a senior counsel, things cannot go wrong. That is why we need people who are committed in what they do and can deliver. The Chairperson of the Committee on Education is also a seasoned educationist. We had the right people in place.

The fact that Bills and mediations are concluded shows that the change in leadership has worked in favour of the Senate in terms of the relationship between the

National Assembly and Senate. That means at least there is goodwill from both sides to ensure the Bill moves to the next level.

As Sen. (Dr.) Zani has ably put it, we can differ on principles, but we do not need to differ completely. We can still have a headway in ensuring that the right results come to fore. As this Bill is assented to, I think now ECDEs will be prioritized by the counties. This Bill will now bring uniformity across counties in terms of what needs to be done as opposed to how it is now.

Another issue that came to our Committee on Finance and Budget is that the ECDE not properly funded by counties. That is tragic because the foundation is the beginning of everything. How that child progresses in life and how the brain develops all depends on their basic education.

Madam Deputy Speaker, I urge our governors to be more serious with ECDE and allocate more funding to it. More so now that we are hoping that the Building Bridges Initiative (BBI) will pass and that there will be 35 per cent more allocation to the counties, I think they should take advantage of that additional funding to ensure that ECDE is funded and is commensurate to its requirement and importance.

Madam Deputy Speaker, since there is a Bill harmonizing ECDE throughout counties and a basis for all the decisions that the governors need to make, I think this is a right step in the right direction.

This Committee has shown us that if you provide leadership and do give and take, the work of the Senate will move to the next level because there is a lot of wisdom in this House. Truth be told; the most senior counsel and many professors are in this House. It is a House with very few Members, but with a lot of knowledge and wisdom.

The other issue that I wanted to speak about is that we, as the Senate, now know that given this kind of Bills that are going through, if we continue with this process, devolution will go to the next level and it can never be the same.

There are many Bills that were returned the other time because of the court ruling, which was led by our able senior counsel, Sen. Omogeni. We should make sure that we prioritise them, so that we do not have Senators who have brought four or five Bills to this House, none of it passes, and then in the end, it is like we have done nothing to show off for our work of five years in this House.

As our House, we need to prioritise Bills so that we are able to make a difference and support devolution given that there is more money. There is a lot that needs to be done now in counties so that they can make a difference to the people who belong to those counties, those who really wanted the devolution, and those who passed the Constitution of Kenya 2010 overwhelmingly and have benefited immensely from that process.

Thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru:** Thank you, Madam Deputy Speaker.

First and foremost, let me put it on record that you, Madam Deputy Speaker and I, were in the Standing Committee on Education and we were able to shepherd through this Bill. We saw it as an important Bill because at the establishment of the Fourth Schedule

of the county governments, the early childhood education was totally neglected under the Basic Education Act. I speak with knowledge because I was the then Minister for Education and I knew what was happening at that time. It was just an *ad hoc* business. Therefore, it was important.

I thank the Mediation Committee led by senior counsel, Sen. Omogeni, and the Committee, which is present here. They went through various basic threads of the law that was incongruent with the other basic law of education that was in place. Sometimes, some of the clauses were totally irrelevant and inapplicable to the ECDE model.

What this Bill and Mediation Committee has done is to put in order the procedure for registration of ECDE centres. It is important that you do not operate systems that have no regulations and legal framework. Therefore, that mediation has been a very important piece of legislation and medication to help us to put to order the early child education. For me, that is the foundational centre for our education.

Without proper early childhood education, even the Competency-Based Curriculum (CBC) will not be able to take off very effectively. Therefore, this is a very important piece of legislation. This mediation was important so that we could iron out some of these areas in respect to registration and establishment of operations and boards of management.

When we were seated there, we did not know how to fit in, whether you should have a separate body for a board of education at the county level or they should be merged together with the other County Education Board, which is in existence.

I am glad that you found a mediation that marries the two centres saying that there should be a mediation committee, which is recognized at the county level within the County Education Board. To me, that is fundamental. It eliminates points of friction and sources of friction in terms of governance structures of educational system at the County Education Board level. I am happy that this has been taken into account.

One area that I think all of us must be alive to it and must accept is that ECDEs have largely been run by Church Based Organizations (CBOs). There is very little to be seen in the public domain, the public schools. They did not even have time for ECDE.

Even when the county governments built some of the ECDE centres, one of the things I have noted sitting at the County Public Accounts and Investments Committee (CPAIC) is that, unfortunately, the primary sector took over the buildings and the facilities from the ECDE centres. They used them when they were expanding the primary station enrolment numbers and when they came in with the 100 per cent transition. That created a lot of difficulties and problems because they wanted extra space to bring in more children to school who were already at the primary entry level, not at the ECDE, the PP1 and PP2.

I think it is good that this mediation has brought some form of order. Why do I say so? These centres have a specification, the environment must be right, the height of the desk must be right and the kind of graphics within the room must be right. These are the features that you cannot run away from because the nature of the ECDE is such that they need that kind of environment to be conducive for proper learning.



Without that kind of environment, you can hardly have a conducive learning environment. You can hardly expect these children to pick up anything useful from that kind of setting. As a specialist, I know children's attention span is very short. They will just shift from one point of element to another. At the end of the day, they will just be rolling moss that gathers nothing.

Therefore, what you have done through this mediation is to bring some order and some level of how the system should flow. Obviously, at the centre of this is the question of curriculum. I have always believed and continue believing that curriculum must be a centred system because you cannot allow people to set up their curriculum because you do not know and cannot control the type of materials that are being taught in any of these institutions, whether it is a private institution or public institution.

Madam Deputy Speaker, the mediation you have carried out brings about what I call order and sense into the kind of curriculum that must be taught at the PP1 and PP2 levels. The basic education as it were, all the way to the primary and secondary education, transition to the universities and vocational technical training centres.

That is why the current CBC curriculum fits in. The basic foundation must be obviously ECDE. Therefore, the curriculum must be run by the Kenya Institute of Curriculum Development (KICD) because they know education policy both at the national and county level. Thus, they are able to match in those interests and bring out a curriculum which is composed and solid; a curriculum that will deliver the interests of the country in the educational sector.

I am happy that curriculum has been left to be the centre piece and centre stage of the KICD. We have very fine minds there; very good people who have been properly trained to carry out the curriculum properly. That was the correct thing to do.

One of the things I noticed when I was the Minister for Education was there was establishment and mushrooming of the ECDE teacher training colleges. You did know what were their specifications. They did not have any order on the type of people who were being employed and their qualification framework. I am glad one of the negotiations you have carried out is to let the TSC be the centre stage for ensuring that the qualification framework is in place. They can run and supervise the qualification framework, so that this thing is carried out.

Obviously, there is a transition from the existing education system to the next level. I do not know how you have made provisions for that transition from the current mixed bag of events. How does the law treat this? I have not had the opportunity to sample the final legal setting that you have put in place. It is important that we pay attention to transitional elements and provisions relating to the existing education centres and the early investments.

In any system that is set up, you must put what you call quality assurance in terms of running a system, create structures and generate policy guidelines. However, under those policy guidelines, there must be a policy framework or quality assurance that what you have set as a standard is actually achievable. If it is not achievable, let us ask why is it not achievable. How you must move to the next level to achieve it?

You have already negotiated and said, yes, quality assurance is applicable to the basic education level. There are already very robust structures in place. We must mirror back to the ECDE and set up these quality standards. I am glad that these elements have been captured in the Bill.

The only issue I have is that these regulations have been left with the national Government. There should be consultations with the county governments. I do not know how you treated this when the regulations were formulated by the national Education Secretary, whoever who is the Cabinet Secretary or Cabinet Minister depending on which Constitution you are applying. Were those regulations formulated in consultation with the county governments? There should be a provision, because the early childhood element is purely a county affair.

Normally, when the regulations are being created, the Ministry has the tendency of ignoring that there is a segment, which they are not running. That segment in those national regulations which are being set, there must be a clear input by county governments, either through the CoG Committee on Education or some format of some level. That would be maybe for future amendments of the Act.

The first thing that we should do now is to shepherd this Act through, so that it can come as one of the first amendments to the Act to cater for the transition.

Madam Deputy Speaker, this is a wonderful job, which has been done. I am glad that it is already on the table. If you can put it to Division tomorrow, we will be too happy to pass it because it has taken too long.

Congratulations Mediation Team and the committees that have served both from 2013 to 2017 and up to now.

Madam Deputy Speaker, you were the Vice-Chairperson and I was a Member. We enjoyed serving in that Committee.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. For sure we enjoyed serving in the Education Committee.

Sen. (Dr.) Musuruve was also a Member, kindly, proceed.

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker, for giving me an opportunity to support the adoption of this Bill that has come before the Floor of the House.

I want to thank Sen. Omogeni's team for doing the mediation work. However, it must be on record that the issue of ECDE started when we joined Parliament and the Senate formed the committees. I want to commend you because I remember very well, you being the Vice-Chairperson of the Senate Committee on Education. Under the leadership of Sen. (Dr.) Langat, you initiated this process and you were very aggressive on it. I remember very well we met severally and we did not tire.

The entire Committee did a commendable job. When you left the Committee, Sen. (Dr.) Milgo took over the baton and she pursued the entire Committee to give intellectual and moral support to this Bill. We gave a lot of input as a Committee. I am happy that when it went to the National Assembly and there were issues, the Mediation

Committee chaired by Sen. Omogeni came in to solve them. This is something very commendable.

Madam Deputy Speaker, we must commend all of us for the efforts we put into this Bill because of the importance of early childhood education. As a nation, if we decide to invest in education and miss out the step in early childhood education, then we are not doing very well. This is because investment in education must start all the way from early childhood.

If we invest a lot in primary education, universities and colleges and we skip early childhood education, then we are not doing very well because early childhood is the foundation to education. It is actually the cornerstone of education. We cannot claim to be doing very well if we have forgotten this.

Madam Deputy Speaker, I remember in a committee under the leadership of Sen. (Dr.) Milgo, we invited a number of governors to our Committee to come and speak on issues of ECDE. It was very clear that there was no uniformity with regard to it. Some counties had feeding programmes. Others had put aside mechanisms of ensuring that children with disabilities were included in education. Others had no clear idea about ECDE and some were planning to start it.

Madam Deputy Speaker, this mediation process is good because there will be a standard way of looking at things when it comes to ECDE. There will be a mandatory feeding programme in all schools.

It was sad when we spoke to county executives who told us that some ECDE teachers were being paid the salary of a house girl, while others were getting salary ranging from Kshs10,000, Kshs14,000. It was a sorry state because most of them had not been paid for quite a number of years.

It is very painful because the first encounter a child gets when he or she gets out of the parents' house, is the school. The first encounter of school is ECDE. The environment needs to be a good transition from a parent's home to the world of schooling. Therefore, the world of schooling ought to be friendly, giving an environment that will aid in holistic development of children. When we talk of holistic development of children, we are looking at cognitive development of children.

From the house environment, children are taught by their parents, siblings and their significant others. When the child goes to ECDE centres, this should continue so that he develops cognitive.

Apart from cognitive development, there is intellectual development, which starts from the house when children are taught by their parents then it is enhanced in the school. Physical development starts from home when parents walk their children to the shop and play with them in the compound. It is supposed to be enhanced when they go to ECDE centres. The environment should be enabling for them to develop holistically.

Madam Deputy Speaker, I am happy with the results of the mediation process because there will be a standard way of registering ECDE centres. There are ECDE centres that mushroom anywhere; some on top of an eatery in an estate. With the mediated version of the Bill, before registering an ECDE centre, the officers will ensure they go to the ground to make sure the premise is conducive for early childhood learning.

This Bill brings in equality and uniformity in early childhood learning. It should be taken seriously so that what happens in Makeni is replicated in all the 47 counties. This is the kind of equality and standardization we want to see in this country. When children transition from home, we let them to the outside world where our desire as parents is that they are molded to become reliable adults who can give back to the society. The foundation has to be right.

With the mediated version of the Bill, county governments will allocate adequate resources to ECDE. If a county says that it has allocated Kshs5 billion to ECDE, it should be specific on the allocation of money, for instance, feeding programme, stationery and for children with disability.

It is a sorrow state when you do an impromptu visit to counties to see what happens in ECDE centres. You will see abandoned centres which the county executive is not aware of. You look at the children and sympathize with them. We want to mold our children so that in future we pass the baton of leadership to them. However, if we do not do it from the early stages, we will end up messing up when it comes to the yonder years.

We must look at ECDE with an eye to the future. This means that we have to confirm that we are not compromising early childhood in any way. I commend the Committee on Education in the Senate for giving this Bill a good thought and enriching it.

I commend the Mediation Committee for the work they did. Since, when it becomes law, it will serve everyone. We are looking at our children as future leaders. As time goes by, we must ensure that we are passing on the baton to the right people. We can only do it right when we begin early enough.

I talked about celebrating mother tongue language this morning. It is celebrated on 21<sup>st</sup> February. It is an annual event. It is important that even at the ECDE centres children are taught mother tongue. We are talking about the catchment language. In some areas, it will be Kiswahili for children in Nairobi. In the rural areas, they should be taught vernacular. At an early age, children build confidence. At early age, bloomers are identified.

We can also identify children with disabilities and mitigate at an early age. We have to ensure that we are doing it right for our children. We cannot skip early childhood learning then imagine we will put resources in primary school. Primary schools can never make up for early childhood learning.

A social linguist will tell us clearly that when it comes to ECDE, children are easy to learn and acquire language. If a child is born and after three months is taken to Japan, the child will speak the Japanese language simply because they had the mechanism of learning any language. We have to ensure that we mold our children cognitively, socially, intellectually and they will be our pride.

I support the report. If it is fast-tracked to become law, it will help all of us. I am happy about uniformity in curriculum so that there is standardization in curriculum. We need one body for approving the curriculum that will be taught in all 47 counties. I believe there will be equality among all our children.

The Bill also speaks about private ECDE centres. If there are issues about registration of ECDE centres among private stakeholders, then the Bill offers a solution.

I commend all of us for the spirited effort put into this Bill to ensure that eventually it comes from the National Assembly. There is concurrence of both Houses.

I support the report.

**The Deputy Speaker** (Sen (Prof.) Kamar): Thank you Senator. The Chairperson of the Committee Sen. (Dr.) Milgo, please proceed.

**Sen. (Dr.) Milgo:** Thank you, Madam Deputy Speaker, for giving me this chance to support the adoption of the report of the Mediation Committee on the Early Childhood Education Bill. I thank this Committee led by senior counsel Sen. Omogeni; a man of no mean standing, together with Members of the National Assembly and my able Committee Members, Sen. (Dr.) Zani, Sen. Seneta, Sen. Iman who were members of the Committee who managed to mediated and come up with this important Bill. I congratulate them for the job well done.

I am excited that out of the mediation, we will enact this Bill. In addition to this, let me congratulate my predecessors, the former Member of Parliament who started this Bill, Hon. Karaba who did not manage to bring it to conclusion.

I also congratulate Sen. (Dr.) Lang'at, who was deputized by the Madam Deputy Speaker of this House, Sen. (Prof.) Kamar. There were great minds in that Committee just like now. Sen. (Prof.) Ongeru was a member with a lot of input having served as the Cabinet Minister for Education. I had my colleagues Sen. (Dr.) Musuruve and Sen. (Dr.) Zani who were Members of the first Committee before the current one.

I also commend my current Committee members who were excited and ensured that the Bill was brought to conclusion.

I must say that the Early Childhood and Development Education (ECDE) plays a very important role as a foundation of learning to our children. Therefore, it is important to get it right the first time. This afternoon, we even got a Statement from Sen. (Dr.) Musuruve, talking about language. This majorly affects even ECDE centers. We learnt that children grasp issues at an early age and this affects their latter years.

I am happy that this Bill will go a long way to be in line with the Basic Education Act No.14 of 2013, so that issues of ECDE will be streamlined. There were six contentious issues, and the way the Committee on Mediation agreed, I am also in agreement. For example, Clause 28 was actually speaking to issues of sponsor. As a person who has been in education for a long time, a sponsor plays a critical role not only in terms of infrastructure, financing and other management issues, but also in terms of feeding the soul, which goes a long way in enhancing discipline. In addition to that, when a child is disciplined, we also breed better ethical values out of these sponsors. I am happy that the spiritual function was accepted to be part of this.

Madam Deputy Speaker, in addition to this, the one other clause that was also very critical is Clause 36 that was talking about the qualifications of teachers, first of all, the degree. I am happy that this teacher management was left to the Teachers Service Commission (TSC) to ensure that there is standardization of the teachers right across the country and at all levels of education institutions.

---

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

I am sure that since this function was left to the TSC, it will standardize the type of qualification that is applicable to ECDE centers. In some marginalized areas where there are shortages of teachers, they will be able to carry out affirmative action, to ensure that no region is left behind without teachers.

Madam Deputy Speaker, there were issues surrounding Clause 2 on the management right at the counties, where one House was imagining that there should be a different board. I agree that we should have one board, but then have consultation with the County Executive Committee (CEC) Member, who will be the link person to the ECDE section. This is because in the county we have a committee that is charged with ensuring that ECDE centers are well managed and run in line with education matters.

Under Clause 44, in terms of management and looking at both private and public ECDE centers, I am happy also that these various centers are let to be run. The various entities will be allowed to run independently, in the sense that private institutions play a critical role when it comes to 100 per cent transition.

Madam Deputy Speaker, I am sure that the Government will not be able to provide all the facilities, to ensure that all children are brought on board. When we have private ECDE centres, this will ensure that no child is left behind.

One very critical role that the private sector plays is to ensure that they put up ECDE centres. In most cases, you will realize that because these are investment enterprises, they are normally the best ECDE centres. It is, therefore, important that they are allowed to run those institutions.

Madam Deputy Speaker, I love the fact that this Bill will ensure that the curriculum used in all these ECDE centres comes from the Kenya Institute of Curriculum Development (KICD). This is so that we ensure standardization and then we know that whether a child goes to private or public schools, all of them will go through a similar curriculum. Come the future, they will all be at the same level.

This Bill is coming at a time when my Committee has met and interrogated up to 40 counties on ECDE learning centres. We were able to unearth very many issues right across those counties. There were issues of registration challenges and management. Wash materials is a major challenge. We did realize that even the design of the classrooms is not in line with the expectations as per the Ministry of Education.

Madam Deputy Speaker, it is supposed to be designed to be applicable to very young children, like even based on colours, size of tables, play materials and the orientation of that particular classroom. We found that they were missing. However, this Bill ensures that there is now a legal framework that can be followed in terms of ensuring that there are standardised ECDE centres.

In one or two weeks, in our final conference, I am sure we shall invite you, Sen. (Prof.) Ongeru and Sen. (Dr.) Langat, having been the champions of this Bill in the recent past. We are bringing it to a close; what we found out at the course of interrogating ECDE centres right across the country. I hope you will avail yourselves because you will have an input. This is so that we standardize what is going on in all ECDE centres.

Madam Deputy Speaker, this is a big plus more specifically because, as I said, looking at ECDE centers, the landscape is a very rugged one. Every county is doing it

their own way. We found out that there are counties that have gone much ahead; others are still fine, while others are very good in terms of learning and teachers. Some are good in terms of infrastructure, but the learning facilities are not in place. Others are good in terms of wash materials, while some are very poor in everything.

This Bill has come at the right time, to ensure that we shall solve this issue once and for all. I am sure that this Bill will speak to the gap that the Competency Based Curriculum (CBC) has left in terms of leaving some children behind.

Madam Deputy Speaker, recently, I had a Motion that was speaking to the playgroup that the CBC left behind. As Sen. (Prof.) Ongeru said, that is why we keep on talking about amendments; amending the Constitution, Bills and Acts.

The reason we keep on amending is to add the most current issues. Education and the curriculum is not stagnant, but all the time very dynamic. We have to align our Constitution and the Bills, to be brought up to speed in terms of what is happening right now.

Madam Deputy Speaker, I am very excited more specifically because this Bill has taken almost seven years since it was introduced in Parliament. Many stakeholders have been calling me in the recent past.

When the Committee on Mediation took up this challenge, it was during that Coronavirus disease (COVID-19) period when it was so much of a challenge. They were able to brave this because their first meeting was supposed to be physical. At that time, we were not allowed to meet physically. We had to seek permission to allow this group to meet. The stakeholders have been writing and sending many messages to me all the time. Once this Bill passes, or rather maybe from today, I will be able to inform them that we are now a step closer to concluding this Bill. If it goes through to be assented, I will stand up and be counted as having been the Chairperson of the Committee on Education at the time. Notwithstanding, this Bill was started by my predecessors.

Madam Deputy Speaker, this Bill is very important for education because education spurs the economy in our country. It provides the skills that are critical in spurring the economy that cannot be developed better. Today, I presented a Statement where I was talking about Science, Technology, Engineering and Science (STEM) courses for girls. We realized that without such exposure, girls might not be able to achieve in that area.

In the same way, when we look at this Early Childhood Development Bill, it speaks to the issues of very young children, who are starting their foundation in education. As I said earlier, we have to ensure that we align them to get the right kind of education, so that in future, our country shall have the best kind of education.

Madam Deputy Speaker, once again, let me thank the Mediation Committee for a job well done. It is my prayer that this Bill is brought up to speed. I think we still have very few Bills. If we do not bring it up this week, then, it should be next week, so that we conclude on it. We shall be very excited for this.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Omogeni.

**Sen. Omogeni:** Thank you, Madam Deputy Speaker, I rise to reply. First of all, I wholeheartedly thank the speakers who have contributed to this Motion. I begin with our current Vice-Chair of the Committee on Education, Sen. (Dr.) Zani, Sen. Were, Sen. Farhiya, Sen. (Prof.) Onger, the current Chairperson of the Committee on Education, Sen. (Dr.) Milgo, and Sen. (Dr.) Musuruve, who is very passionate on any business that is on the Floor of the House. We have listened very carefully to the overwhelming support that this Motion has received from Senators, and we thank them.

Before I say anything, it would be in order if I begin my remarks by thanking Sen. Langat, the then Chair of the Committee on Education that midwived this Bill. I know that he fell on the way because he did not know how to handle the handshake. I, however, acknowledge his contribution when he was the Chairperson of the Committee on Education.

Madam Deputy Speaker, you also ably served as our Vice-Chairperson. I was a Member of that Committee, and we were privileged. I do not know whether there was any Committee that was as privileged as the Committee on Education, to have you, a former Cabinet Secretary (CS) for Education, as the Vice-Chairperson. It also had Sen. (Prof.) Onger, who was also a former Minister for Education.

I remember it was like dealing with a walking encyclopedia on education issues when it came to you and Sen. (Prof.) Onger's contributions. It really enriched and made the work of the Committee easier. We had very experienced Senators. It is with a heavy heart that I say that Sen. Haji is now late. You will remember that Sen. Haji brought a lot of wisdom and experience to the deliberations of the Committee. May God rest his soul in eternal peace.

That was a very wonderful team. I remember Sen. Kinyua and Sen. (Dr.) Musuruve were Members. As a House, we must thank the contributions that were made by that Committee in ensuring that this Bill is fast-tracked to the House, processed, and then sent to the National Assembly.

Madam Deputy Speaker, that does not mean that the current Committee does not deserve the praise of the Mediation Committee. The baton was handed over to another very able and passionate Senator on issues education, that is, Sen. (Dr.) Milgo. What men can do, ladies can do even better. We really thank Sen. (Dr.) Milgo for the good work that she is doing.

Her Vice-Chair is Sen. (Dr.) Zani. I have no hesitation in stating that when it comes to Bills, in Sen. (Dr.) Zani, you find a lady of significant brain and energy. I hope I am not wrong. I do not think there is anybody who has sponsored as many Bills as Sen. (Dr.) Zani. There is no Senator who is as serious and as committed as she is when it comes to contributions to Bills before the House. We must thank the people from the coast region, and our party, the Orange Democratic Movement (ODM), for nominating her.

I know that there are other Members of the Committee. We have Sen. Farhiya, Sen. (Dr.) Musuruve, Sen. Outa, Sen. Mwangi and Sen. Seneta, who contributed to this Bill. Those are the Members of the current Committee. The only gift that we can give to this current Committee is to ensure that this Bill is fast-tracked, sent to the President and



enacted into law. This current Senate can then take credit as one that processed the Bill to fruition.

Madam Deputy Speaker, I have listened to the contributions that have been made by Senators. Let us not take for granted what Sen. (Dr.) Zani has said. At times, mediation is never easy, especially when you are dealing with Members of two Houses. This is not just in Kenya, but also in the United States of America (USA). Just choosing the venue of the meeting for Mediation Committee was problem.

In the United States, for example, for a long time, the Senators insisted that there is no way they were going to walk across the road to hold a meeting with the House of Representatives. It was a big fight.

What we are going through are normal teething problems. I hope that with time and the wisdom of the Members of the Senate and National Assembly, we will find a good working relationship between the two Houses. We are here to serve Kenyans, who elected us. We cannot let them down by engaging in unnecessary fights and wars.

Madam Deputy Speaker, in terms of learning experience, I agree with Sen. (Dr.) Zani that at times, it is good to give fidelity to the Constitution and the law. We realized that the position in Article 237 of the Constitution was very clear. Certain powers were given to the Teachers Service Commission (TSC). We realized that there was very little that we could do, even if we wanted to support a certain position as the Senate.

When we realized that there was provision on the Basic Education Act that was in conflict with the position that was being proposed by the Senate, we gave in because we have to respect the rule of law. As Sen. (Dr.) Zani has proposed, what the current Chair of the Committee on Education can do is to consider where there are inadequacies and make proposals to amend the Basic Education Act, so that we can align it with the Early Childhood Education Bill.

I also pay tribute to Members of the National Assembly. For once, I sat in a Mediation Committee that took on board the spirit of give and take, and appreciating that the Senate and the National Assembly enjoy equal mandate under our Constitution, 2010. I hope that going forward, any Members of the National Assembly who will be privileged to sit in the Mediation Committee, will bring that spirit on board, so that we are able to progress.

You can imagine this Bill is to benefit, and for the best interest of our children who are attending ECDEs, not you and I. We are trying to put in place a framework that will put standards and quality on education for our early childhood learners. It is for the benefit of our future generations.

I agree with what Sen. Were has said. It is not a very good thing, even when we speak to Kenyans who are watching on television that this Bill has been with us for more than six years. The only justice we can do to this Bill is to ensure that we now progress and finalize it. We hope that the National Assembly can do the same thing, so that it is sent to His Excellency the President for assent, and then it becomes an Act. I hope that once it is in place, the concerns she has raised will be a thing of the past.

I hope we will not have a situation where Sunday school teachers will continue being teachers in our ECDE centres. As we stated, the mandate of giving guidelines on

who qualifies to be an ECDE teacher has been passed over to the TSC. I have no doubt that the TSC will put in place proper qualifications on who should serve as an ECDE teacher.

Today, we were celebrating Mother Tongue Day in the country. I hope that the Chairperson of the Committee on Education has taken on board the concerns that have been raised by Sen. Were, on how we should explore introducing mother tongue in our early childhood education learners. The Swahili say ‘*mwacha mila ni mtumwa.*’ We do not need to abandon our culture and mother tongue. That is a very good proposal that should be taken on board by the Members of the Committee on Education.

Sen. Farhiya has emphasized that this House needs to prioritize this Bill. I hope that Members of the Senate Business Committee (SBC) will ensure this Bill is given the required priority. She has raised another very fundamental issue of funding by counties. In the architecture of our Constitution of Kenya 2010, ECDE is a fully devolved function. It is shameful that in some ECDE centres, we have very deplorable infrastructure. We have situations where children as young as four years are sharing toilets with older children in Grades Three and Four. That is unacceptable.

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

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

We are making a very strong appeal, as proposed by Sen. Farhiya, that our county governments should adequately fund ECDE programmes and centres by putting in place proper infrastructure. To tie that up with what Sen. (Prof.) Ongeru has said, the infrastructure should be attractive to our children. We should give the best building---

**The Temporary Speaker** (Sen. Nyamunga): I am sorry, Senator. I do not intend to interrupt you, but I expect you to donate a few minutes to Sen. (Prof.) Kamar to wind up. She could be of some interest.

**Sen. Omogeni:** How many minutes do I have?

**The Temporary Speaker** (Sen. Nyamunga): You have 15 minutes.

**Sen. Omogeni:** I donate 10 minutes to Sen. (Prof.) Kamar. I will just sum up in the next five minutes.

Sen. (Prof.) Ongeru also raised the issue of having in place boards of management. I once visited an ECDE center in Tinderet. The building I saw was not commensurate with what was given as money spent. I hope, as Sen. (Prof.) Ongeru has properly stated, that this Bill now empowers ECDE centres to have their own boards of management. I hope that with that we will see proper utilization of resources that are sent to ECDE centres.

On the issues of regulations, yes, I agree with Professor that the CoG has an input on this. As we know, any regulations must be processed through our Committee on Delegated Legislation. I am sure when they are doing public participation, they will certainly invite the CoG to come and give an input. I assure Sen. (Prof.) Ongeru that when it comes to regulations, the CoG will be given an opportunity to make their input.

---

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

There is not much on transition because we are dealing with existing educational centres and creating a new framework on the management of ECDEs and qualification of teachers. If you look at the preamble to the Bill, it is addressing issues of management, operations of boards, admissions to the ECDE centres and quality assurance. I do not think, Professor, that there is much on transition. I do not think that will be a challenge.

With those many remarks, I beg to reply.

I will be moving that you defer putting of the question, pursuant to Standing Order No.61(3). I now donate the remainder of my minutes to Sen. (Prof.) Kamar.

**Sen. (Prof.) Kamar:** Thank you, Madam Temporary Speaker. I thank Sen. Omogeni for donating a few minutes to me. I really wanted to speak on this Bill that was extremely important to us, as a Committee.

This Bill was very dear to the Committee, basically because early childhood education had been misplaced for a very long time. As we discussed as a Committee, we discovered that the child that should have been the favorite in the education system was being put to the sideline. Infrastructure was not meant for them, but for the older children.

Even where they schooled with the older children, break time was exactly the same time and pushing for washrooms was a very serious matter to the children.

As we developed this Bill in that Committee, we were looking at the wholesome development of the child. At some point, we wanted something called Early Childhood Education and Development Bill. The Mediation Committee has rightly put it as education. I say rightfully because I want to mention something that made me realize that everything is about a child education.

This Bill has addressed the child wholesomely, from what they should be educated on, who should be educating them and how they should be handled. At that age, it is very important that the child knows that they are loved. Previously, we were dumping our children in the poorest infrastructure in schools. They were given buildings that were least cleaned and developed because we had not appreciated their importance of developing the child at that stage.

Madam Temporary Speaker, I was privileged to serve with Sen. (Prof.) Ongeru as Ministers for Education; we served at the same time. In one of the conferences of Ministers for Education, a technical expert from Japan who addressed us made it very clear that if you want to develop the brain of a human being, you must start at four years. They say between four and seven years it is done. Therefore, if there are things that you want the child to learn, they must learn that early.

It really surprised me, but then as the Mediation Committee has come up with removing the development and giving everything to education, I am now realising the importance of that. It is at that stage that we make the child to be what they will be. It is at that stage that a child goes home and tells the mother: "You are wrong, my teacher said this." It is at that stage that they actually believe everything the teacher tells them.

This is a very important stage for the development of the child, and it is important for us that we train them well. Notwithstanding the fact that at this stage in Kenya we are still talking of national values and national norms, those national values and national norms should be taught at the Early Childhood Development Education (ECDE).

It is at that point that a child learns good manners, and they will never forget. It is at that level that a child learns that they must wash their hands before eating, and they will never forget. It is at that stage that we can in-build the values that we call the Kenyan values.

For us to be able to do that, it is very important that we have the right infrastructure. Moreover, it is very important that the child feels appreciated because the ironical thing is that at home, the mother takes better care of the youngest child, but then at school, we were treating them worst because we were giving the best classroom to Class Eight, and actually giving the nursery children the worst classroom. The children were being confused in the system; that the teachers like Class Eight more than they like us.

I am very happy and proud of this Committee that has pushed this Bill to the end, so that we are able to do it. It is ridiculous that it has taken eight years to pass this Bill. This Bill should have been urgent the minute we knew that ECDE was devolved.

I want to congratulate the Committee of Sen. Omogeni for moving very fast in the mediation, reducing conflicts, and I dare say, I think they have set standards on mediation. That is because I participated in some of the mediation committees, and we always came out asking ourselves: "Do we come from the moon and the National Assembly comes from the sun, or where are we from?" That is because it was a very acrimonious mediation, which is totally unnecessary. As a country, we must lay our standards bare before ourselves and know that we all serve the same country and children.

I congratulate the Committee for doing their work with speed. In fact, their speed is amazing. The document was only approved a few days ago. It is not even 10 days now and it is passing in this House. It tells you what Senior Counsel, Sen. Omogeni, can do. We want to thank him, and beyond that, thank him for what he has done for this House *pro bono*.

We learn from one another, and as we continue to work for ourselves and to work together, we will make a difference in this country.

Thank you very much Sen. Omogeni for giving me a show time of your time of submission, so that I could also add my voice and say that we will make a difference to our children with this Bill being assented to.

Thank you, Madam Temporary Speaker, for the time.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Sen. (Prof.) Kamar and the entire Committee.

I will now invoke Standing Orders No.61(3) to defer the putting of the question---  
Sen. Omogeni, I give you two minutes to finalise.

**Sen. Omogeni:** Madam Temporary speaker, with those very good remarks from Sen. (Prof. Kamar), I now wish to conclude replying.

I beg that you invoke Standing Order No.61(3) and defer putting the question.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I invoke Standing Order No.61 (3) to defer the putting of the question to the next Sitting.

*(Putting of Question on the Motion deferred)*

Next Order.

### MOTION

#### ADOPTION OF CPAIC REPORTS ON THE AUDIT OF VARIOUS COUNTY EXECUTIVES FOR FY 2014/2015

**Sen. (Prof.) Ongeri:** Thank you, Madam Temporary speaker. I beg to move the following Motion-

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on consideration of the Audit Reports of the Bomet, Homa Bay, Isiolo, Kakamega, Kiambu, Laikipia, Kisumu, Mandera, Migori, Mombasa, Murang'a, Nandi, Nyeri, Samburu, Siaya, Tana River, Tharaka-Nithi, Trans Nzoia, Turkana and Wajir County Executives for the Financial Year 2014/2015 (1<sup>st</sup> July, 2014 to 30<sup>th</sup> June, 2015), laid on the Table of the Senate on Thursday, 18<sup>th</sup> February, 2021.

Madam Temporary Speaker, once again, let me take this earliest opportunity to say that the Sessional Committee on County Public Accounts and Investment Committee (CPAIC) is established by the Senate pursuant to Standing Order No.220 and is mandated to-

(a) Pursuant to Article 96 (3) of the Constitution to exercise oversight over national revenue allocated to the county governments;

(b) Pursuant to Article 229 (7) and (8) of the Constitution to examine the reports of the Auditor-General on the annual accounts of the county governments;

(c) To examine special reports, if any, of the Auditor-General to county government funds;

(d) To examine the reports, if any, of the Auditor-General on county government funds;

(e) To examine the reports, if any, of the Auditor-General on the county public investments; and,

(f) To exercise oversight of county public accounts and investments.

Therefore, when you look at Article 96 (1) and Article 96 (3) of the Constitution, we have to do a balance between defending the county governments and overseeing them. That is a balance that has to be taken very delicately to meet the requirements of the audit reports on this matter.

Madam Temporary Speaker, the Office of the Auditor-General forwards reports on the financial operations of the county government for specific financial years to the Senate pursuant to the provision of Article 229 (7) of the Constitution and the Office of the Auditor-General, on various dates from the month of June, 2016, forwarded reports on the financial operations of the county governments for the Financial Year 2014/2015.

---

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

The reports once tabled, stand committed to the Sessional Committee on County Public Accounts and Investments.

Madam Temporary Speaker, the Committee that considered and interrogated these reports was constituted at the commencement of the Third Session on 14<sup>th</sup> February, 2019. The membership of the Committee comprised of the following Senators-

- |   |   |               |
|---|---|---------------|
| (1) Sen. Moses Kajwang', MP                 | - | Chairman      |
| (2) Sen. Mithika Linturi, MP                | - | Vice Chairman |
| (3) Sen. (Prof.) Sam K. Onger, EBS, EGH, MP | - | Member        |
| (4) Sen. Fatuma Dullo, CBS, MP              | - | Member        |
| (5) Sen. Wamatangi Kimani, MP               | - | Member        |
| (6) Sen. Ledama Olekina, MP                 | - | Member        |
| (7) Sen. Kibiru Charles, MP                 | - | Member        |
| (8) Sen. Mohammed Faki, MP                  | - | Member        |
| (9) Sen. Omanga Millicent, MP               | - | Member        |

Madam Temporary Speaker, the Committee that considered and adopted these reports was constituted at the commencement of Fourth Session, on 4<sup>th</sup> May, 2020. This Committee comprised of the following Senators-

- |                                       |   |                  |
|---------------------------------------|---|------------------|
| (1) Sen. (Prof.) Onger EBS, EGH, MP   | - | Chairperson      |
| (2) Sen. (Eng.) Hargura Godana, MP    | - | Vice Chairperson |
| (3) Sen. Fatuma Dullo CBS, MP         | - | Member           |
| (4) Sen. Irungu Kang'ata, MP          | - | Member           |
| (5) Sen. Charles Kibiru, MP           | - | Member           |
| (6) Sen. (Dr.) Ochillo-Ayacko EGH, MP | - | Member           |
| (7) Sen. Johannes Mwaruma, MP         | - | Member           |
| (8) Sen. Ledama Olekina, MP           | - | Member           |
| (9) Sen. Samson Cherargei, MP         | - | Member           |

The Committee Secretariat comprised of the following officers-

- |                           |   |                                |
|---------------------------|---|--------------------------------|
| (1) Mr. Julius Ariwomoi   | - | Principal Clerk<br>Assistant 1 |
| (2) Mr. Joseph Mwangi     | - | Clerk Assistant I              |
| (3) Mr. Yusuf Shimoy      | - | Clerk Assistant I              |
| (4) Ms. Josephine Kusinyi | - | Principal Legal<br>counsel     |
| (5) Mr. Mitchell Otoro    | - | Legal Counsel                  |
| (6) Mr. Eric Osoi         | - | Research Officer               |
| (7) Mr. Ali Salat         | - | Fiscal Analyst                 |
| (8) Ms. Luciane Limo      | - | Media Relations<br>Officer     |
| (9) Mr. Stephen Maru      | - | Serjeant-at-Arms               |
| (10) Mr. James Ngusya     | - | Serjeant-at-Arms               |
| (11) Mr. Philip Kipkemboi | - | Audio Recording<br>Officer     |

The Committee had several sittings with the county government executives on various days during the Session, where it considered the reports of the Auditor-General. The Committee was not able to visit any of the counties due its easy schedule and backlog of business. The sittings were primarily investigatory and the Committee received evidence from the governors of the county executives as the Chief Executive Officers (CEOs) to the county government pursuant to Article 179(4) of the Constitution. The Members of the County Executive Committee and other County officials accompanied the CEO to the meetings of the Committee.

Madam Temporary Speaker, in this Motion, my Committee presents reports of 20 county executives listed as Volume II that were considered and adopted by the Committee. These include the counties of Bomet, Homa bay, Isiolo, Kakamega, Kiambu, Kisumu, Laikipia, Mandera, Migori, Mombasa, Murang'a, Nandi, Nyeri, Samburu, Siaya, Tana River, Tharaka-Nithi, Trans Nzoia, Turkana and Wajir County Executives for Financial Year 2014/2015, 1<sup>st</sup> July, 2014 to 30<sup>th</sup> June, 2015.

The Committee examined the reports of the Auditor-General on the stated financial year. In 2014/2015 the Auditor-General reported that the pending bills for all the county governments amounted to Kshs108.9 billion, being an increase of Kshs46.1 billion from the previous financial year.

I must say this has been one of our major elements of the audit query that traverses across the county governments that we have examined, not only the 20 counties listed, but also the others. You can see from the original figure pending bills went up by Kshs46.1 billion. One of the reasons the pending bills went up was because most of the bills emanated from paying huge legal fees without a clear process of procuring for legal services.

Secondly, there was the under collection of revenue noticed in some of the counties and misrepresentation of own-source revenue, which affected the budgeting and implementation of the projects.

The Committee noted that various counties irregularly procured goods and services through single sourcing methods, had poor record keeping, as well as failure to automate the accounting systems.

In addition, Madam Temporary Speaker, most counties face challenges in operationalization of various Integrated Financial Management Information System (IFMIS) modules as required by the law. I think there were many platforms that were being employed by county governments. We said that there was need to harmonise the use of IFMIS with the other available payment modules on the counter. There are various varieties like G-pay and many others.

One of the recommendations is that the National Treasury, which is the originator of IFMIS, should employ and give capacity training to county governments, so that they can synchronise and harmonise some of these platforms being used today.

Madam Temporary Speaker, the Committee further noted that during the period under review, most counties had weak human resource management. Counties recruited staff without following due recruitment procedures; failure to recruit qualified personnel;

and, irregular compensation of employees, in total disregard of the Salaries and Remuneration Commission (SRC) circulars.

There was serious non-remittance of statutory deductions to Government agencies such as the National Hospital Insurance Fund (NHIF), National Social Security Fund (NSSF), Kenya Revenue Authority (KRA), pension funds and financial institutions, where money was deducted from employees, but not remitted. This led county governments to be penalized through fines and accrued interest, resulting to loss of public funds

In addition, no county government had a staff establishment policy to determine optimal staffing levels. It was observed that most county governments had weak internal control systems arising from lack of policies, that is, internal controls, fraud prevention mechanisms, fire detection and prevention, disaster prevention, management of documents and staff pension.

Madam Temporary Speaker, you could see that some of them deliberately went out of their way, causing unnecessary fires, which targeted the Treasury, and it was very strange. They would then appear before the Committee and say that they did not have documents to present before the auditors and the Committee. It, therefore, became very difficult to interrogate them.

As a result of the highlighted inadequacies, the Auditor-General rendered different opinions. A total of 25 counties received a disclaimer opinion, 17 received adverse opinion and only five received qualified opinion. No county received unqualified opinion, except in 2017/2018 when there were only two counties that received an unqualified opinion.

Though there was a slight improvement of record keeping from the previous financial year, there is need for more capacity building. This is especially in the human resource, procurement and accounting and revenue departments, as well as establishing strong internal audit units.

The list can go on but I invite Members to look at Page 10 on the General Observations and Recommendations of the Fiduciary Risks in Volume II of the Report. The Volume runs over to 850 pages. The day before yesterday, I told you that we also had other 15 counties that we had examined for three years. That is a total of 65 reports before this House, which have been updated to 2017/2018 audit report circle.

Madam Temporary Speaker, that is tremendous work that has been put in by various elements of people who were involved in this exercise. This included the Committee, the secretariat and those who discussed the report at the end of the day.

This now puts the total number of pages you can peruse through to 3,100 pages. You can also peruse through your own county and see how they have performed. This is a commendable job.

I would like to make general observations that we picked out, which cut through the county executives and were part of the fiduciary risks contained in this Report. They are as follows:

- (1) Flagrant non-compliance to relevant laws.
- (2) Lack of remittance of statutory deductions.



- (3) Pending Bills.
- (4) Intergovernmental debts; national Government *vis-à-vis* the county governments and county Government *vis-à-vis* National Government.
- (5) Irregular procurement of goods and services.
- (6) Misrepresentation of county revenue.
- (7) Spending of revenue at source.
- (8) Under-collection of county revenue.
- (9) Irregular compensation to employees.
- (10) Incomplete and non-utilized projects.
- (11) Weak internal control systems.
- (12) Lack of assets and liabilities register.
- (13) Weak human resource management.
- (14) Irregular public participation payments.
- (15) Over expenditure or under expenditure of funds.
- (16) Poor budgeting and weak budget performance control.
- (17) Poor book keeping and record keeping.
- (18) Lack of established audit committees.
- (19) Failure to submit documents for audit to the Auditor-General.
- (20) Outstanding imprest.
- (21) Irregular funding of National Government functions by county governments.
- (22) Delayed release of equitable share to county governments.
- (23) Lack of inter-operability of technology systems in use such as IFMIS.
- (24) IFMIS challenges that I have alluded to.
- (25) Payment to the Council of Governors (CoG). This is illegal because this is a function that ought to be funded by the National Government.
- (26) Mortgage and car loan funds.
- (27) Legal fees. We have noted that exorbitant legal fees are charged sometimes out of the normal legal fees scale that is provided for under the legal framework.
- (28) Inadequacies in financial management by county governments.
- (29) Value for money for agricultural, livestock or tree planting projects.
- (30) Public Private Partnership (PPP).
- (31) Professional misconduct.

Madam Temporary Speaker, the Report also contains specific recommendations for respective audit queries to each county, hereby indicated as chapters in the body of the Report. You will see them there. All the recommendations contained in these reports were arrived at by consensus.

In conclusion, Madam Temporary Speaker, I wish to register my appreciation to the Office of the Speaker, the Clerk of the Senate and the Office of the Auditor-General for facilitating the work of the Committee and making the production of these reports possible. The Committee also appreciates the members of the secretariat for their commitment and dedication to duty.

Final appreciation goes to the distinguished and dedicated Members of the Committee who created time out of their busy schedule, to attend and actively participate in the proceedings and final production of these reports.

Madam Temporary Speaker, on behalf of the Committee on County Public Accounts and Investments (CPAIC), I now wish to urge the Senate to adopt the reports and the recommendations therein. They are very detailed and at every stage or audit query, we have been able to bring out clear and focused recommendations that have been discussed and agreed upon unanimously.

Therefore, we can end this Session by saying that we have, indeed, produced a Report that will keep this House busy for quite a bit of time. We are anxious that instead of doing postmortems or reports of the Auditor-General, we should always do up to date performance reports of county governments. That way, we will be able to keep pace with the account of money being allocated to county governments now.

There are huge resources from a very low level to now a level which is going to be Kshs370 billion to county governments. This money cannot go unnoticed; it can only be overlooked when we are current with our books of account.

Madam Temporary Speaker, I beg to move.

Since the Vice-Chairperson of the Committee, Sen. (Eng.) Hargura, is here, I will ask him to second this Motion.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Sen. (Prof.) Ongeru.

Sen. (Eng.) Hargura, proceed.

**Sen. (Eng.) Hargura:** Thank you, Madam Temporary Speaker. I rise to second this Motion on the Adoption of the Report of the Sessional Committee on County Public Accounts and Investments (CPAIC), on the audit reports for Financial Year 2014/2015 for the county executives of Bomet, Homa Bay, Isiolo, Kakamega, Kiambu, Laikipia, Kisumu, Mandera, Migori, Mombasa, Murang'a, Nandi, Nyeri, Samburu, Siaya, Tana River, Tharaka-Nithi, Trans-Nzoia, Turkana and Wajir.

I also urge the Senate to adopt the reports because it is our responsibility as the Senate to oversight the funds we allocate from the equitable share or the national funds. We do it mainly by looking at the Auditor-General's report.

Madam Temporary Speaker, devolution is a new form of governance in this country, which we gave ourselves under the Constitution, 2010. The reports we were discussing were for the second year of devolution. The first year was 2013/2014 then.

The Committee has done a commendable job going through all the reports of the 47 county executives and county assemblies. This is a bunch of the executive audit reports reviews by the Committee.

As a Member who joined the Committee in the last Session, you could say that the issues in the Report are mainly teething problems, because we were starting new systems and county governments had to learn how to run public affairs and develop systems. You could even see from the Auditor-General's report that there was no unqualified opinion that year. This means they had issues with all counties at different stages, but none of them fully satisfied the requirements of the Auditor-General.

Madam Temporary Speaker, the issues being raised still persist because most of these issues recurred after we did the following three years; 2015/2016, 2016/2017 and 2017/2018. That shows that there is still learning to be done. However, we have to insist and put in place our oversight role properly and take necessary action against county governments, so that they do not repeat these issues.

For example, you will find counties with an approved budget, but then, they spend outside that budget. That shows a case of not following the law, and somebody has to be held accountable to follow the law. Otherwise, that is why the budget has to be approved in the first place; to make sure it is in line with the law.

**The Temporary Speaker** (Sen. Nyamunga): Senator, I am sorry to interrupt. You will have a balance of 16 minutes to second the Motion next time it is listed for debate.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the Senate. The House, therefore, stands adjourned until tomorrow, Thursday, 25<sup>th</sup> February, 2021 at 2.30 p.m.

The Senate rose at 6.30 p.m.