

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Tuesday, 26th November, 2019***The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.**[The Deputy Speaker (Sen. (Prof.) Kindiki) in the Chair]*

PRAYER

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

The Deputy Speaker (Sen. (Prof.) Kindiki): Since Sen. Poghiso is not present, that Paper is stood down.

(Laying of the Paper deferred)

Let us move on to the next one.

Is the Chairperson of the Committee on National Security, Defence and Foreign Relations around?

An hon. Senator: No.

The Deputy Speaker (Sen. (Prof.) Kindiki): Since the Vice Chairperson is also not in, do we have any Member of the Committee? Sen. Dullo, you used to be the Vice Chairperson of that Committee at some point.

REPORT ON THE REGISTRATION OF PERSONS
(AMENDMENT) BILL (SENATE BILLS NO.14 OF 2018)

Sen. Dullo: Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, Tuesday, 26th November, 2019-

Report of the Standing Committee on National Security, Defence and Foreign Relations on its consideration of the Registration of Persons (Amendment) Bill (Senate Bills No.14 of 2018).

I thank you.

(Sen. Dullo laid the document on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Let us move on to the next Order.

The Deputy Speaker (Sen. (Prof.) Kindiki): Do we have the Chairperson of the Standing Committee on Roads and Transportation? If not, is the Vice Chairperson here?

Sen. Cherargei: On a point of order, Mr. Deputy Speaker, Sir. I had placed an intervention when the Order on Papers was called out.

The Deputy Speaker (Sen. (Prof.) Kindiki): You did not. You should have tried other methods of attracting the Chair's attention within the Standing Orders.

Sen. Cherargei: With the digital age, I could not shout.

The Deputy Speaker (Sen. (Prof.) Kindiki): You should have gestured.

Sen. Cherargei: I gestured but you did not see.

The Deputy Speaker (Sen. (Prof.) Kindiki): I direct that we go back to the previous Order. Please call out the previous Order because we need to dispense with the point of order by Sen. Cherargei.

(Sen. Seneta consulted loudly)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Seneta. You can do that without doing what you are doing.

Proceed, Sen. Cherargei.

POINT OF ORDER

WITHDRAWAL OF REPORT ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO.16 OF 2019) TO ALLOW FOR STAKEHOLDER CONSULTATIONS

Sen. Cherargei: Mr. Deputy Speaker, Sir, I rise on point of order to seek leave to withdraw the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its Consideration of Kenya (Amendment) Bill (Senate Bills No.16 of 2019), laid on the Table of the Senate---

(Sen. Kasanga and Sen. Wambua consulted loudly)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Kasanga and Sen. Wambua.

Proceed, Sen. Cherargei.

Sen. Cherargei: Mr. Deputy Speaker, Sir, I do not know why Members are excited.

The Report was laid on the Table of the Senate, on Thursday, 21st November, 2019. Following the tabling of the said Report, a number of stakeholders have come forth seeking to submit their views and comments on the Bill.

The reason for withdrawing the Report is, therefore, to allow the Committee to receive and consider additional views and table a more comprehensive report taking into account all submissions received by the Committee.

The women have a reason to smile considering they requested that we withdraw the report---

The Deputy Speaker (Sen. (Prof.) Kindiki): Which women had requested?

Sen. Cherargei: Women Senators.

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

Sen. Cherargei: I apologize.

The Deputy Speaker (Sen. (Prof.) Kindiki): And withdraw.

Sen. Cherargei: I also withdraw.

Mr. Deputy Speaker, Sir, through a press conference and using other means, my colleague Senators and other stakeholders requested that we consider their views.

I urge them not to use the media to communicate their agenda on this issue. I request them to bring their submissions on the Bill by Sen. Mutula Kilonzo Jnr., and Sen. Farhiya before 4th December, 2019, so that we have a comprehensive discussion on this issue which is a constitutional requirement.

I urge the women---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Cherargei. You must be sensitive to what you say when you address this House or rise on a point of order. Twice you have referred to them as women.

Sen. Cherargei: Mr. Deputy Speaker, Sir, I withdraw and apologise.

The Deputy Speaker (Sen. (Prof.) Kindiki): In reference to Members of this House, that is not a small matter. You know the Standing Orders and you should not take them lightly. If you do it one more time, I will rule you out of order and consequently you will be attended to.

Sen. Cherargei: Thank you, Mr. Deputy Speaker, Sir, for that indulgence---

The Deputy Speaker (Sen. (Prof.) Kindiki): You are a lawyer. You should know that we have Senators.

Sen. Cherargei: Thank you for that indulgence. Generally speaking, my colleague Senators had reservations on this Report. As a Committee, we have considered their pleas and comments and we are ready to listen to them. As Members of the Committee on Justice, Legal Affairs and Human Rights, we take into consideration constitutional matters. We want affirmative measures put in place so that the issue of gender parity is given the attention it deserves.

Therefore, Members of Parliament who have expressed concerns, especially my colleague Senators, are free to share their comments, concerns and proposals on how to achieve the two-thirds gender rule.

I want to assure them that we hold them in high regard. We do not under-value the role of colleague Senators especially in terms of leadership in this country. I assure the House that we value them in everything that they do.

Thank you.

(Loud consultations)

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

Order, Sen. Cherargei. Resume your seat.

What is it Sen. Shiyonga?

Sen. Shiyonga: Thank you, Mr. Deputy Speaker, Sir. We were waiting to hear what the Senator for Nandi, Sen. Cherargei, has just said. However, we are still on his neck because he has annoyed us.

The Deputy Speaker (Sen. (Prof.) Kindiki): Why so?

Sen. Shiyonga: Mr. Deputy Speaker, Sir, he has really damaged us, as women Senators. Even if he is withdrawing, we will still bring a Statement to discuss Sen. Cherargei in this House.

(Laughter)

Thank you.

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

Sen. (Eng.) Maina: Thank you, Mr. Deputy Speaker, Sir. I want to say that we should be careful in this House. Let us not try to add salt to injury.

In this House, there are hon. Senators who happen to be ladies; there are also hon. Senators who happen to be male. Somehow, in the course of learning linguistics, because we went to different schools and we learnt different forms of English, something came out that seems to offend---

The Deputy Speaker (Sen. (Prof.) Kindiki): Which form of English is that, Sen. (Eng.) Maina that says you refer to a colleague in any other form other than Senator so and so?

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, I have not reached the end of my conclusion or my thinking. However, in our school, we had Scottish teachers, English teachers and teachers from Wales; they all spoke English. There were also a few African teachers who spoke English.

Therefore, we need not dwell so much into linguistics but look at the substance.

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

Can you clarify to me whether it is Scottish, Welsh English or African English that allows Sen. Cherargei to violate the Standing Orders?

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, violating Standing Orders is within your powers and you should order---

The Deputy Speaker (Sen. (Prof.) Kindiki): Are you aware of how a Senator should refer to other Senators according to the Standing Orders?

As hon. Senators. Period!

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, I so agree. All that I am saying is that as you are aware, in the Committee where you even have outsiders attending, you will have people speaking all forms of linguistics. All what I am saying is that, this House should downplay this matter.

I want to tell the hon. Senators who happen to be ladies in this House that we admire your output, either in Committees or in this House. Therefore, you have little to worry about.

The Deputy Speaker (Sen. (Prof.) Kindiki): I hope you admire both their input and output.

Sen. (Eng.) Maina: Well, I admire many things.

(Laughter)

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

It is a matter of English.

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, I admire their output in this House and in the committees for national interest. Therefore, I think we should depart from this matter in the best way and conclusively.

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

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

Be quick.

Sen. Linturi: Mr. Deputy Speaker, Sir, I seek your indulgence on this matter because whatever I am likely to say may not go down very well with some of the Senators around here, bearing in mind that I am the Vice-Chairperson of the Committee on Legal Affairs and Human Rights.

I am surprised because I have just come in when the Chairman is seeking leave of this House to withdraw a Report that was properly tabled before this House last week by me.

Secondly, I want to state very clearly and categorically that this was a unanimous Report of the Committee on Justice, Legal Affairs and Human Rights. Those who did not sign or those who did not come---

An hon. Senator: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): He is on a point of order. Hold your thought.

Sen. Linturi: Mr. Deputy Speaker, Sir, when we were discussing this matter, I remember that when I made a request to my leader, Sen. Dullo to come to the meeting, she appeared so busy for another meeting and for that matter, she did not attend.

Madam Speaker, the reason why---

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

Did you say Madam Speaker?

Sen. Linturi: No.

(Laughter)

Mr. Deputy Speaker, Sir, I had decided---

The Deputy Speaker (Sen. (Prof.) Kindiki): What is this confusion in the House today? What is happening?

Sen. Linturi: Mr. Deputy Speaker, Sir, so many things are being done to create confusion as if we are being set to fail, either as a House or as a country.

I must be able to make it clear, even if I am left alone, I must say that---

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

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

(Sen. Dullo Spoke off the record)

Sen. Linturi: Mr. Deputy Speaker, Sir, I must say that the boy child is under siege. I cannot understand how such an important Report or how such an important issue can just be brought here without putting it for debate in the Committee.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Linturi.

There are governance structures in committees. This is not the place to transact committee business.

Hon. Senators: Ooh, yes!

(Sen. Linturi stood up in his place)

Order, Sen. Linturi.

Therefore, pursue your Chairman in the Committee.

What is it, Sen. Dullo?

(Sen. Linturi Spoke off the record)

Sen. Dullo: Mr. Deputy Speaker, Sir. I am the one on the Floor.

The Deputy Speaker (Sen. (Prof.) Kindiki): It is fine. Let us hear him. Sen. Linturi, I heard you trying to say that a Report has been brought here without having passed through the Committee.

Sen. Linturi: Mr. Deputy Speaker, Sir, I was trying to gauge the ground on the basis of withdrawal.

The Deputy Speaker (Sen. (Prof.) Kindiki): So, what is your point of order or what do you want the Chair to guide you on?

An hon. Senator: Withdraw!

Sen. Linturi: I cannot withdraw; over my dead body.

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

Sen. Linturi: Mr. Deputy Speaker, Sir, I really understand the structures on how it has to be done. However, we should not allow pressure from some quarters that the Chairperson of the Committee is not able to mention here, pressurising him to come here and withdraw a Report.

This pressure is coming from other Senators because when I got here, the distinguished female Senators were yelling at me. We are under siege!

The reason why we said that women must go and seek elective positions is because of their strength; the strength that Sen. Dullo, Sen. Kihika, Sen. (Prof.) Kamar and anybody else have.

The Deputy Speaker (Sen. (Prof.) Kindiki): Are you under siege from women Senators?

Sen. Linturi: Yes, Mr. Deputy Speaker, Sir, and this is one of the reasons why this Report is being withdrawn.

(Laughter)

Their power has extended---

The Deputy Speaker (Sen. (Prof.) Kindiki): You can seek the Chair to direct that your security be enhanced.

(Laughter)

Order, Sen. Linturi. What is it Sen. Dullo?

Sen. Dullo: On a point of order, Mr. Deputy Speaker, Sir. I think the matter is very hot, in the sense that, the way this matter was handled by the Committee was not fair. I would like to tell Sen. Linturi, who mentioned my name on the Floor of the House, that it is not true that I was not ready to come and discuss the Report.

There are procedures within which the Committee should carry out its activities; whether I am there or not, they need to carry out due diligence in terms of ensuring that the report is handled properly.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is out of order?

Sen. Dullo: Mr. Deputy Speaker, Sir, he is actually challenging his Chair---

The Deputy Speaker (Sen. (Prof.) Kindiki): Who?

Sen. Dullo: Sen. Linturi.

The Deputy Speaker (Sen. (Prof.) Kindiki): I overruled him. That is a mute issue. It is *res judicata*. It has been dealt with and it is over.

Sen. Dullo: Mr. Deputy Speaker, Sir, let me finish.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Dullo, it is finished. Let us not waste serious precious parliamentary time. That matter has been resolved.

What is it Sen. M. Kajwang'? I hope it is different and it has to do with procedure.

Sen. M. Kajwang': Mr. Deputy Speaker, Sir, yes, it has to do with procedure. Allow me to first reveal that I am one of the greatest supporters of women, not just in this House but in this Republic---

The Deputy Speaker (Sen. (Prof.) Kindiki): Including women Senators?

Sen. M. Kajwang': Yes, including women Senators. Indeed my grandfather had seven wives. I believe that I am what I am because of that multiplicity of grandmothers.

However, as a matter of procedure and as a Chairperson of a Committee, I have been told before and you will have to guide us for the future; once a report has been adopted by Members of a Committee and laid on the table of the House, it becomes property of the House, such that its withdrawal, therefore, becomes a matter---

The Deputy Speaker (Sen. (Prof.) Kindiki): A matter for the House also.

Sen. M. Kajwang': Mr. Deputy Speaker, Sir, yes, a matter for the House. It should not even be contemplated since the Committee has gone through a vote process and certain steps; there has been quality assurance that has been carried on that document by no less than a secretariat of the Senate.

The right way to deal with a report of that nature is to bring it here, move the Notice of Motion, bring it, let us articulate the issues and let us defeat such a retrogressive report on the Floor of this House so that we make a strong Statement that this House and Senators stand with women Senators in this Republic.

(Applause)

Mr. Deputy Speaker, Sir, I beg that you declare it out of order for the Chairperson to attempt to withdraw this Report since he has sensed defeat.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well, Sen. M. Kajwang'.

Sen. (Prof.) Kamar, proceed.

Sen. (Prof.) Kamar: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I would like to contribute to this Statement, but on procedure. I think the Senator who has just spoken before me has said it.

What I wanted to bring forward is with regard to what the Chairman said about the statements made yesterday as women leaders. As women Senators, what we did in that meeting was to bring the House into proper reputation. Already, we were being ridiculed that we were trying to go against what the Constitution has said.

Whatever statement was made - I want the Chairperson of the Committee to know - it was not because Senators wanted to communicate through the press, it is because they were trying to save face for the sake of this House. We are saving face because according to Article 27(8) that has been raised by the Report, we are mandated as a legislative arm to take measures to implement the principle of two-thirds, it will be a ridiculous thing for those of us who are supposed to label the implementation to be the ones who are running against it.

Mr. Deputy Speaker, Sir, yesterday's statement was also to correct the anomaly and I thank Sen.(Eng.) Maina for feeling the correction; that actually in this House, there is very clear evidence that our nominated Members have performed very well.

(Applause)

Mr. Deputy Speaker, Sir, you know, as much as I know, that we have closed this House with a quorum that has had the majority Members being female and nominated. Those are the corrections that we were giving yesterday---

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Prof.) Kamar, you are making a speech. If you have a point of order, you rise and in 30 seconds, you say what is out of order, then the Speaker gives direction. Now you are making an address. It is like a key note speech in an international conference.

(Laughter)

Sen. (Prof.) Kamar: Mr. Deputy Speaker, Sir, I did not rise on a point of order; I had requested to contribute to a statement that had been made.

The Deputy Speaker (Sen. (Prof.) Kindiki): Even that, you can make two or three observations, but not a speech. I encourage Senators to learn the act of brevity.

What is it Sen. (Prof.) Ongeru?

Sen. (Prof.) Ongeru: Mr. Deputy Speaker, Sir, now that the issue before-hand has left a bad taste on both sides and now that the Report has been tabled before this House, and knowing fully that we cannot proceed in this manner when temperatures on both sides are high, would I be in order to move that we seize the moment of the constitutional process before us that, indeed, this is a moment for the Building Bridges Initiative (BBI) that every side ceases to bring forth the kind of vitriol I am seeing and come back to sobriety? We should accommodate each other in the spirit of the Constitution; in terms of equity and equality in all aspects.

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

Sen. Seneta: Mr. Deputy Speaker, Sir, I wish to seek your indulgence on the procedure of the Statement by the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, whether the withdrawal is procedural or the Chairperson is just merely trying to save his image?

I am saying this because when we spoke with the Chairperson in the morning, he did not indicate that he was withdrawing the Report, although yesterday many stakeholders requested him to give them more time and attention for stakeholders' consultation and---

The Deputy Speaker (Sen. (Prof.) Kindiki): How else will the Chairperson give the opportunity for that consultation?

Sen. Seneta: Mr. Deputy Speaker, Sir, that is why I am seeking your direction; whether we are making our comments on the statements as being illegal or we are making our comments on a statement that has been sought in a procedural manner so that we can know where we stand.

The Deputy Speaker (Sen. (Prof.) Kindiki): I do not get you, Sen. Seneta. The Chairperson of the Committee on Justice, Legal Affairs and Human Rights has asked to stand down this Report for stakeholder consultation. Period! That is the way I understood it.

Sen. Kinyua, proceed.

Sen. Kinyua: Asante, Bw. Naibu Spika, kwa kunipa nafasi hii. Kwanza kabisa, mimi sio Mwanakamati wa Kamati inayoongozwa na Sen. Cherargei. Katika vyombo vya habari, wameangazia na kunionyesha kama mhusika mmoja wa wale ambao---

The Deputy Speaker (Sen. (Prof.) Kindiki): That is okay. Concentrate on this one.

Sen. Kinyua: Bw. Naibu Wa Spika, mimi sio mmoja wao. Jambo lingine ni kwamba, nimekuwa nikishambuliwa na mithili ya nyuki na Maseneta akina mama. Wamekuwa wakitumia picha za maktaba. Nitawashtaki wanahabari kwa kusema yale ambayo sikusema. Wacha niseme vizuri na ijulikane wazi kwamba mimi sio Mwanakamati.

The Deputy Speaker (Sen. (Prof.) Kindiki): The Floor of the House is not where you transact that business. If you have been intimidated, there is a police station across the road which exclusively serves parliamentarians. Make a report there.

(Laughter)

What is it Sen. Lelegwe?

Sen. (Dr.) Lelegwe: On a point of order, Mr. Deputy Speaker, Sir. I think we are totally being unfair to the Chairperson because in the middle of moving his statement to withdraw the Report, he was interrupted and---

The Deputy Speaker (Sen. (Prof.) Kindiki): He was not interrupted. Members are making observations. It means you have not been following. You are the one who is interrupting the process.

(Laughter)

Very well. Unless it is very urgent, what is it Senator for Kitui County?

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I am rising on a matter of procedure because as it were, the Report by the Committee chaired by Sen. Cherargei is no longer a Report belonging to Sen. Cherargei, but to this House.

If we take the route that Sen. Cherargei wants to plead this House to take, then any time we table a report and there are issues, it will be coming back to us using precedence, to withdraw it for more consultations.

Mr. Deputy Speaker, Sir, I wonder whether it would be in order for that report to be tabled for debate and then a ruling is made whether it should go back to the Committee, adopted or rejected by this House.

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

Sen. Farhiya, proceed.

(Sen. Farhiya walked to the Dispatch Box)

Sen. Farhiya: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. As you can see, even getting the microphone is a problem. It is already sabotage on this process.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Farhiya! Who is sabotaging you and why?

Sen. Farhiya: Mr. Deputy Speaker, Sir, the Bill that is purportedly being rejected by the Committee happens to have my name. That is why I am being sabotaged.

It is my view that the Committee on Justice, Legal Affairs and Human Rights should be disbanded. That is my take.

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

Sen. Farhiya: Yes.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Farhiya! That ground you are covering is slippery. That is not how to do it even if that is what you think. Restrict yourself to your observations on the request by Sen. Cherargei to withdraw the Report.

Sen. Farhiya: Mr. Deputy Speaker, Sir, it is just that the two-thirds gender rule is in the Constitution and people whose mandate is to look after the laws of this country are recommending that a Bill that is seeking to enhance this be rejected without stakeholders' input.

Even I, the person who sponsored the Bill together with Sen. Mutula Kilonzo Jnr., have never been called to the Committee to give our views. Is that the---

The Deputy Speaker (Sen. (Prof.) Kindiki): So, what is your recommendation? How should we deal with it?

Sen. Farhiya: Mr. Deputy Speaker, Sir, we should withdraw that Report and treat it with the contempt it deserves.

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

That is how to debate now. That is the direction you should have taken *ab initio*. You cannot come and start demanding disbandment of committees, it is disrespectful. The same way you want to be respected, we must also respect our own institutions, including committees. If there is something untoward, the procedures of doing that are there. Let us not attack committees or individuals. We will not allow that.

(Sen. Shiyonga spoke off the record)

Order, Sen. Shiyonga. You are out of order.

Finally, sen. (Eng.) Hargura.

Sen. (Eng.) Hargura: Mr. Deputy Speaker, Sir, thank you for this opportunity. For the purpose of the procedures of this House, because it will occur at another time, a committee may table a report and then because of the reactions, they might develop a second thought.

It is better for you to give clear directions so that it can be a procedure that we can follow in future and---

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

Sen. (Eng.) Hargura: Mr. Deputy Speaker, Sir, now that the Report is the property of the House, I recommend that it is better if it is debated. Much as the Committee has developed second thought, maybe it will be enriched by debate in this House. We can then have a position of the House instead of the Committee going to belabor the same issues again.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Dr.) Ali, proceed.

Sen. (Dr.) Ali: Mr. Deputy Speaker, Sir, I totally agree with what Sen. (Eng.) Hargura said. This Report was brought to the House and it belongs to the House. Let us debate it and reject or accept it. The issue of the Chairperson withdrawing it is neither here nor there.

(Loud consultations)

CONSIDERED RULING

WITHDRAWAL OF REPORT ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO.16 OF 2019) TO ALLOW FOR STAKEHOLDER CONSULTATIONS

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Members, I have listened to the request of the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, as well as the comments and observations made by other Senators who have intervened following the request by the said Chairperson.

The Chairperson wishes that the Committee Report be stood down for further stakeholder consultations. I would like to ask you to avoid the politics around the subject matter and go straight to the substance and the merits of the issue.

The matter of this Report is about an amendment to the Constitution with regard to fully respecting one of the most fundamental paradigm shifts in our legal system, namely; respecting the equality of representation between men and women in our country.

This is not a matter that has been brought to the attention of the country today. It is a matter which we have struggled with. It took years and decades and a lot of effort by women and men leaders who believe in equality between men and women. It is not even a Kenyan issue; it is an international one. Further, it is not a light matter.

In fact, I dare say that Kenya is one of the countries that have made significant progress towards making it easier for women to participate. I am not saying that Kenya

has done enough; in fact, on the contrary, we have a lot of ground to cover. I just wanted to bring out to you, hon. Senators, how contentious, difficult and complex this matter is.

Secondly, I also want to bring to your attention, hon. colleagues, that one of the important principles in our new constitutional order is, as much as possible, the principle of consultation and public participation in legislative making. This is so that we carry the country or those who are affected by that legislation on board, unlike in the past when a few people would sit in Parliament, men in those days, and make a legislative enactment without caring about the views of the public.

Therefore, once again, we must celebrate our Constitution for making it possible for the process of legislation to be as consultative so that you carry the society along.

Finally, I also want to bring to our attention that, although I am cognizant that some of the observations made by some of the colleagues are valid, these observations are to the effect that the train has already left the station and, therefore, the Report is now beyond the Committee and that it should, therefore, come here and face its fate, one way or the other---

(Applause)

Remember, I said: “Although I am convinced,” you should wait for what I will say. You know when you start with although---

Nevertheless, I believe that Parliament should never waste its time. Therefore, it is never too late to recall an item of legislation where there have been serious interventions from stakeholders that there needs to be improvement on that item. Otherwise, it will defeat the purpose of the doctrine of public participation.

This issue of gender equity and equality has been with us for a very long time, and it will not be solved through technicalities and trying to manoeuvre and---

I would rather, in my view, we give the Committee a little more time to listen to everybody. In any case, as you are aware – I think Sen. (Prof.) Ongeru mentioned it – the country is going through reforms, generally, and discussions around possible areas of reforms, including inclusivity, which includes gender inclusivity.

Therefore, I think that this is a good opportunity for us to listen a little more. I do not think it will do a lot of harm if we allow the Chairperson to do the kind of consultations and further stakeholder consultations that they require.

I therefore, grant leave for withdrawal of this Report to allow the Committee to undertake further stakeholder engagements on the Bill.

It is so ordered.

(Applause)

*(Report on the Constitution of Kenya (Amendment) Bill
(Senate Bills No.16 of 2019) withdrawn)*

Next Order.

NOTICE OF MOTION**ADOPTION OF REPORT ON INQUIRES ON PROJECTS UNDERTAKEN BY
KENYA MARITIME AUTHORITY, KENYA FERRY SERVICES AND
NATIONAL SOCIAL SECURITY FUND**

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed, Sen. Wamatangi, the Chairperson Committee on Roads and Transportation.

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

THAT the Senate adopts the Report of the Standing Committee on Roads and Transportation on its inquiry into the projects undertaken by the Kenya Maritime Authority, Kenya Ferry Services, and the National Social Security Fund laid on the Table of the Senate on Thursday, 21st November, 2019.

The Deputy Speaker (Sen. (Prof.) Kindiki): You need the support of at least five Senators. Do you have them? I cannot see them. Did they hear what you have--- Anyway, I am sorry; that was not for you. I am on another item. Are you giving a Notice of Motion?

Sen. Wamatangi: Yes, I am giving a Notice of Motion---

The Deputy Speaker (Sen. (Prof.) Kindiki): Or an adoption of a report?

Sen. Wamatangi: Mr. Deputy Speaker, Sir, I already tabled the Report. Nonetheless, if I need any support of any Senators, I can get it.

The Deputy Speaker (Sen. (Prof.) Kindiki): Not now. Even now?

(Laughter)

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

The Deputy Speaker (Sen. (Prof.) Kindiki): We are done with that particular order.

Next Order.

**NOTICE OF MOTION OF ADJOURNMENT
UNDER STANDING ORDER 34****LANDSLIDE DISASTER IN WEST POKOT COUNTY**

Sen. (Dr.) Langat: Thank you, Mr. Deputy Speaker, Sir. Pursuant to Standing Order No.34(1), I seek leave to move that the House adjourns to discuss a definite matter of urgent national importance regarding the disaster in West Pokot County, occasioned by the landslide that has claimed over 50 lives following days of heavy rains in this country.

(Several hon. Members stood up in their places)

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. I can see that you have met the threshold.

I, therefore, appoint today at 5.00 p.m., for that Motion of Adjournment.

It is so ordered.

Sen. (Dr.) Lang'at: Thank you, Mr. Deputy Speaker, Sir.

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

STATEMENTS

APPOINTMENT OF SEN. (PROF.) KAMAR AS TRUSTEE OF NATIONAL FUND FOR THE DISABLED OF KENYA

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

Hon. Senators, I am told that Sen. Kasanga is the acting Sen. (Dr.) Musuruve.

Sen. Kasanga: Thank you, Mr. Deputy Speaker, Sir. Yes, today I am acting as Sen. (Dr.) Musuruve.

Mr. Deputy Speaker, Sir, pursuant to Standing Order No.47(1), I rise to make a Statement on the appointment of Sen. (Prof.) Margaret Kamar, MP, as a trustee of the National Fund for the Disabled of Kenya.

Mr. Deputy Speaker, Sir, I take this opportunity to congratulate Sen. (Prof.) Margaret Kamar, MP, on her appointment as one of the Trustees for the National Fund of the Disabled of Kenya.

His Excellency President, Uhuru Muigai Kenyatta, who is the Patron of the Fund, via Gazette Notice No.10746, appointed Sen. (Prof.) Kamar, amongst other Kenyans, as a Trustee of the Fund.

Mr. Deputy Speaker, Sir, the Fund was registered in 1981 with a core mandate of enhancing the social and economic empowerment of Persons with Disabilities (PwDs). The Fund has been instrumental in provision of start-up capital for businesses owned by PwDs. I have known Sen. (Prof.) Kamar as a fellow Senator and Member of the Standing Committee on Education, where I sit.

Ever since I joined Parliament, Sen. (Prof.) Kamar has been a close companion regarding issues of disability. When we were very new in Parliament, I invited her to my office and we had a lengthy chat on real issues that pertain to disability support. One of the issues we discussed was the lack of support for PwDs, who had organizations and initiatives that would make a positive change in this country.

Mr. Deputy Speaker, Sir, through our scholarly and legislative deliberations with Sen. (Prof.) Kamar, we identified lacunas in special needs education. We then agreed on scholarly and legislative interventions in filling the gaps. The discussions with Sen. (Prof.) Kamar saw the completion of resource documents that I authored through Living Beyond Cancer Disability (LIBCAD). The resource documents include *Signing Made Easy*, *Learners Book 1*, *Signing Made Easy*, *Teachers Guide*; and an anthology; *I speak for the Deaf and Hard of Hearing*.

With the encouragement of Sen. (Prof.) Kamar, these resource documents were submitted to the Kenya Institute of Curriculum Development (KICD) for the normal procedures. They underwent vetting, corrections and are in the orange book as support

materials. These books were launched in Kapsoya School for the Deaf in Uasin Gishu County during the first Senate *Mashinani*.

Further, through the Senate Standing Committee on Education, the books were distributed for free to schools in Kitui County when we went for the second Senate *Mashinani*.

Mr. Deputy Speaker, Sir, Sen. (Prof.) Kamar's passion in improving the lives of PwDs cannot go unnoticed. Sen. (Prof.) Kamar employed a secretary who was deaf. Not many people have this kind of confidence in PwDs. Affording PwDs some form of employment does not only help them have an income, but also helps them in being productive members of our society.

Mr. Deputy Speaker, Sir, PwDs have a sincere friend in Sen. (Prof.) Kamar who does not only talk about disability, but walks the journey with them.

I wish to bring to the attention of this honourable House and all Kenyans that Sen. (Prof.) Kamar and I are co-sponsors of the Kenyan Sign Language Bill, 2019. This Bill has gone through the First Reading, public participation and is at the Second Reading Stage in this House. This is the first Bill on sign language.

It is anticipated that when the Bill becomes law, it will address the glaring lacuna in this area. As a scholar and legislator, Sen. (Prof.) Kamar stands out as an all inclusive transformative leader that we need to emulate.

I would like to state that in this August House, persons with disabilities have many friends. Although Sen. Mwaura and I represent PwDs, there are many legislators who help in amplifying our voice legislatively.

I thank all legislators in this House for supporting the agenda of PwDs. Inclusion of PwDs can never be achieved without the support of the wider society.

Mr. Deputy Speaker, Sir, I would like to state that PwDs in Kenya are very innovative and creative. However, they lack support to translate their innovation to economic gain. Countries all over the world look for various ways of tapping the unique talents of PwDs, so that-

- (a) They are acknowledged for their talent;
- (b) Their talent is nurtured;
- (c) Their talent is translated to economic gain for their country; and,
- (d) They are honoured and remembered for their contributions.

Mr. Deputy Speaker, Sir, there are many PwDs in this country who are illustrious, ready to work and be productive. However, they lack meaningful start-up capital because banks cannot give them loans as they lack the collateral and evidence to demonstrate that they are not risky borrowers.

There are also many PwDs groups in this country that are desirous to be productive, but they lack the funds to start up a meaningful project. It is my hope and belief that Sen. (Prof.) Kamar's entry into the scene will be more triumphant for PwDs in this nation.

I believe that Sen. (Prof.) Kamar will work with her other colleagues in identifying genuine PwDs across the 47 counties and ensure that there is fair and impartial financial support for all the PwD groups and individuals.

It is, therefore, my onus to congratulate Sen. (Prof.) Kamar and her colleagues on their new appointment. I wish them all the best as they endeavour to make a socio-economic contribution to the lives of PwDs in this country.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you. Next, the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations is to issue a Statement on the activities of the Committee.

(Sen. (Prof.) Kamar consulted loudly)

What is it, Sen. (Prof.) Kamar? We have run out of time. However, because you were mentioned in the Statement, I will allow you and Sen. Seneta two minutes each to make some observations

Sen. Seneta: Mr. Deputy Speaker, Sir, I thank Sen. (Dr.) Musuruve for the Statement. I also congratulate Sen. (Prof.) Kamar for her appointment. She is not only a Senator, but one of the many experienced women leaders who add value to the country. Therefore, she will advise the Government on issues to do with PWDs across all the Ministries.

I congratulate and wish her well.

Sen. (Prof.) Kamar: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity, despite the limited time.

I thank Sen. (Dr.) Musuruve for bringing this Statement here. I also thank the Senator for Taita Taveta County who woke up all of us with the news of the appointment while I was in Paris. I acknowledge and appreciate it because it was the surprise of the year. I also register my appreciation to His Excellency the President for giving me this opportunity.

Mr. Deputy Speaker, Sir, my involvement with the disabled has been a long journey. However, I did not know that I will be a member of the trustee. It starts from when I was a principal in campus. We had a professor for the deaf called Mr. Ndurumo. He is a deaf person and a specialist in the area. A few weeks ago, we looked at a Bill that Sen. (Dr) Musuruve has talked about.

I would like to inform this House that the most amazing thing about PWDS is that they are able in many ways. When we had our public hearing on the Bill, some parents came out strongly and said that it is good to prepare the country well. The most important area of preparation is for a child to learn sign language.

We were encouraged when some parents said that we need to teach every child the language that we have in our Constitution, called the Sign Language. This is because deaf children are normal in all ways, except that they cannot express themselves in other languages that we have.

The Constitution has Sign Language as one of the official languages. Therefore, we need to teach it to our children. That is the plea that they gave. Otherwise, I thank Senators who sent congratulatory messages through the social media. I thank Sen. (Dr.) Musuruve, in particular, for bringing this Statement and His Excellency the President for giving me the opportunity.

(Sen. Kasanga stood up in her place)

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Kasanga, I thought you had the honour---

Sen. Kasanga: Mr. Deputy Speaker, Sir, that time I was Sen. (Dr.) Musuruve.

The Deputy Speaker (Sen. (Prof.) Kindiki): Now, let us hear you.

Sen. Kasanga: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I congratulate Sen. (Prof.) Kamar for this appointment. I thank her for adding her voice to the PWDs.

The fight for marginalized people and their rights cannot only be fought by themselves; they need other people away from that circle to fight. I thank her for that and for walking with them all these years. It is really commendable.

Sen. (Prof.) Kamar's biography in Wikipedia is absolutely impressive. She has achieved and accomplished quite a lot. She is one of those we should look up to and follow every day.

Mr. Deputy Speaker, Sir, I would like to add my voice to the earlier debate. We are celebrating the achievements of women in the Senate. There is no doubt that Sen. (Prof.) Kamar is one of the most brilliant women. When she sits on the Speaker's seat and in the way she conducts herself, we can see her brilliance. I must say that this House is well represented by women.

Sen. Farhiya: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to congratulate Sen. (Prof.) Kamar for her appointment. It shows that she is among the top *crème de la crème* of this country. There is no doubt about that. She has not only achieved what other people have not, but also managed to be the pioneer woman Senator to be elected by the great people of Uasin Gishu whom I thank for giving her the opportunity.

Mr. Deputy Speaker, Sir, due to her integrity, passion and hard work, I request the people of Uasin Gishu to elect her as their next governor---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Farhiya. This is not a campaign platform for your colleague or any other person for that matter. That notwithstanding, we know that Sen. (Prof.) Kamar is a distinguished Senator and a Member of this House.

Sen. Shiyonga: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to join my colleagues in congratulating Sen. (Prof.) Kamar.

Madam Speaker---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Is today International Women's Day?

Sen. Shiyonga: Mr. Deputy Speaker, Sir, I apologise and withdraw that reference.

I join my colleagues in congratulating Sen. (Prof.) Kamar. I thank her for achieving this spectacular appointment to be a Trustee. Sen. (Prof.) Kamar has not only stood out, as a Senator, but as a role model to the upcoming Senators. She is a patron of the Kenya Women Senators Association (KEWOSA). Most of us would like to follow her footsteps in championing for the empowerment of women and growing youth talent. I urge her to continue working for the society, because many of us would like to emulate her.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Kindly proceed, Sen. Iman.

Sen. Iman: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to congratulate Sen. (Prof.) Kamar. I thank Sen. (Dr.) Musuruve for bringing this congratulatory statement to the Floor of the House. Sen. (Prof.) Kamar is a strong woman

who is teaching younger women on how to multitask. She is my mentor, and I aspire to follow in her footsteps.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, we are running out of time. Let us move to the next Statement.

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

I cannot see the Chairperson of the Committee on National Security, Defence and Foreign Relations in the House. I, therefore, stand down that Statement.

(Statement deferred)

The next Statement is by the Chairperson of the Committee on Roads and Transportation. Are you ready to report on the activities of your Committee?

Sen. Wamatangi: Mr. Deputy Speaker, Sir, I have already tabled the Statement on the activities of my Committee.

The Deputy Speaker (Sen. (Prof.) Kindiki): Chairperson of the Committee on County Public Accounts and Investments, Sen. Kajwang, whose grandfather had seven wives, kindly proceed.

ACTIVITIES OF THE COMMITTEE ON COUNTY
PUBLIC ACCOUNTS AND INVESTMENTS

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.51(1)(b) to make a Statement on the activities of the Sessional Committee on County Public Accounts and Investments for the period commencing 1st July to 30th September, 2019. This report is restricted to three months.

Mr. Deputy Speaker, Sir, I wish to provide details of Committee activities as follows-

During the period under review, the Committee held a total of 31 sittings. The Committee held one retreat; a report-writing retreat in the month of August, 2019.

The Committee also held a consultative meeting with the Office of the Auditor-General. During the consideration of the Report of the Auditor-General on the Financial Statements for Nyamira and Makueni County Executives for the FY 2017/2018, the Committee observed that the audit findings were not commensurate with the audit issues identified by the Committee at the county level. Consequently the Committee resolved to have a meeting with the Office of the Auditor-General to discuss the audit findings around these counties and have a way forward.

However, Ms. Joyce Mbaabu, the Deputy Auditor-General, responsible for Corporate Services, informed the Committee that without the substantive Auditor-General, there was no acting person in the position following the expiry of the tenure of Dr. Edward Ouko as per the law.

(Loud consultations)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, hon. Senators, we must maintain the dignity of our House at all times without exception.

Kindly proceed, Sen. M. Kajwang’.

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, the Deputy Auditor-General, responsible for Corporate Services informed the Committee that without the substantive auditor, there was no acting person in the position of the Auditor-General, following the expiry of the tenure of Dr. Edward Ouko, as per the law. Hence the officer could not make any commitment on behalf of the Office of the Auditor-General, and the meeting was adjourned without any discussion on the matter.

The Committee took note of the matter and recommends an amendment to the Public Audit Act, 2015, to provide for acting capacity in the event a vacancy arises in the Office of the Auditor-General. It is a crisis in that before a new Auditor-General is appointed, the interpretation is that there is no substantive Auditor-General. The amendment to the Public Audit Act, 2015, was struck off at the High Court.

Mr. Deputy Speaker, Sir, the Committee undertook county visits to the following counties. Kwale County from 3rd to 4th September, 2019; Mombasa County on 5th September 2019 and Makueni County on 1st October 2019. During the visits, the Committee did the following-

- (1) Held capacity building meetings with the Public Accounts and Investments Committees (PAICs) of the assemblies in the respective counties;
- (2) Held meetings with the county executives on audit matters;
- (3) Undertook inspection visits to key projects implemented by the county governments;
- (4) Engaged with local residents to ascertain the level of public participation in project identification and implementation.

In these engagements, the Committee noted that-

- (1) Public Accounts and Investments Committees (PAICs) of county assemblies lacked capacity to carry out their mandates effectively, especially interrogation of audit queries;
- (2) Most of the recommendations given in the reports of PAICs were mostly advisory. They were not specific, realistic or time-bound. They tended to be broad statements that could not be implemented easily;
- (3) Most PAICs face non-cooperation from the county executives in submission of responses to audit queries, despite formal requests. I dare say that most PAICs at the counties are muzzled. The question arose as to why the county executives prefer to appear before the Senate, and do not want to cooperate with the Members of the County Assemblies (MCAs). The only conclusion is that the Senate has a helicopter view and it does not get into details of issues. Therefore, the County Executive Committee (CEC) Members prefer to deal with the Senate rather than respond to specific issues that would be raised at the county assembly level;
- (4) The PAICs did not receive the requisite technical support necessary from the Office of the Auditor-General or the clerks of the various assemblies to carry out their mandate;
- (5) Most of the projects inspected had no public participation and did not respond to the local needs. One example is in Kwale County, where we went to a village called

‘Nyumba Sita,’ where the county government had put up a project on land belonging to the Kwale Sugar Company. Another project was the Kalamba Fruit Factory in Makueni County; which is a wonderful project that has gobbled up millions of shillings, but it has not been put to its intended use.

(6) There was poor project conceptualization, design, budgeting and implementation across counties. This was evidenced by stalling of projects, suspicious contract variations and poor supervision of projects, inadequate budget allocations and abandonment of projects by contractors. An example is in Kwale County, where the Kwale County Headquarters has been under construction for the last four years. The county assembly has also been under construction and it is not complete, yet they are seen to have gone to the limit of the variances allowed under the Public Procurement and Disposal Act (PPDA).

(7) We also observed that there are issues to do with royalties, particularly in Kwale County where Titanium is mined. It was reported that the national Government was yet to remit royalties from minerals to county governments, in line with the Mining Act, 2016.

(8) We went round a few of the hospitals to see the state of implementation of the Medical Equipment Scheme (MES). It was clear that some counties felt that they had been conned by the national Government to this particular project. I wish to congratulate the Select Committee of the Senate that is considering the issue of the MES, for giving it the prominence that it deserves.

Mr. Deputy Speaker, Sir, on the consideration of Auditor-General’s reports, during the period under review, the Committee held meetings with 15 governors to consider the Auditor-General’s Reports for Financial Years 2015/16, 2016/17 and 2017/18 of the respective counties.

Mr. Deputy Speaker, Sir, I wish to report that were had a few noteworthy incidences. The governors of Machakos and Makueni counties were invited by the Committee during the sittings of the Senate in Kitui County, but both failed to honour the invitations. Consequently, the Committee, in exercise of the powers conferred on it under Article 125 of the Constitution and section 18 of the Parliamentary Powers and Privileges Act, 2017, issued summons to Hon. Alfred Mutua, the Governor of Machakos County and Hon. Kivutha Kibwana, the Governor of Makueni County. The summons required them to appear before the Committee on Monday, 30th September, 2019 and on 1st October, 2019, respectively. The meetings were scheduled in the precincts of the respective county assemblies.

While the Governor of Makueni, Hon. Kivutha Kibwana, honored the summon and the session was undertaken at the Makueni County Assembly, the Governor of Machakos County chose not to honour it. He, instead, wrote a letter raising objections about the area Senator attending the meeting of the Committee and requesting that the meeting be held in Nairobi.

The Committee requested the Inspector-General of Police (IGP) to arrest Hon. Alfred Mutua and produce him before the Committee, but the Governor obtained orders barring the IGP from arresting him. The matter remains pending in court up to date.

There are other reports that we have brought before the House. During the period under review, the Committee tabled a Fiduciary Risk Report in county governments and 30 audit reports of county executives. I am glad to report that the Fiduciary Risk Report

was adopted by the House and 10 of the 30 audit reports have also been adopted by the House. The other 20 reports appear in today's Order Paper for Division.

For the months of November and December, 2019, the Committee has scheduled to meet with governors of 15 counties to consider the Auditor-General's reports for the FYs 2015/2016, 2016/2017, and 2017/2018.

(Sen. Cherargei consulted loudly)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Cherargei. You succeeded in withdrawing your report, but that does not give you the leeway to roam around the Chamber.

(Laughter)

Proceed, Sen. M. Kajwang'.

Sen. M. Kajwang': Mr. Deputy Speaker, Sir, I would like to report that the plan to meet the 15 county executives is on course. We have already met most of the counties.

I would like to make the final observations briefly on one or two issues that we feel that we need to bring to your attention, because this Report is already before the House. That is the issue of the capacity of Public Accounts Committees (PAC) of the county assemblies. County assemblies provide primary oversight. There is no way a Senate of 67 Members is going to oversight the 47 counties effectively, if more than 2,000 MCAs are sleeping on the jobs. It is in this regard that the CPAIC organised the accountability forum in October. That will come in the next report, because it is outside the period under review. I wish to inform Members that we are doing something to ensure that we empower, embolden and boost the confidence of PACs so as to take the officers at the county executive level head-on.

On the issue of court injunctions, as is with the case of Machakos County Governor, they have also interfered with the proper and normal functioning of the Committee. We do appreciate your ruling on *sub judice*, which has given us the confidence to proceed and execute our mandate. This is in line with Article 125 of the Constitution, which gives the Senate and Parliament the power to summon or invite any person for purposes of providing evidence. It has also given us the conviction and confidence that the courts of law cannot stop a process that has started in Parliament.

Mr. Deputy Speaker, Sir, a final challenge that I had alluded to earlier is the issue of the vacancy of the Office of the Auditor-General. How I wish Members conceptualized that we have not had an Auditor-General, and there has not been any person in an acting capacity. As a result, that lacuna in the law could mean that this country could stay without a substantive Auditor-General. If the President's appointee is rejected by Parliament, then the process has to start again. The minimum duration it can take is about 52 days. This is something that we need to deal with, as legislators.

Finally, there are few other matters that are of concern to county governments, that may be taken up for further consideration by Standing Committees of the Senate. During its engagement with county governments, the Committee observed the following-

One, weak human resources systems in county governments - Most county governments have gone beyond the fiscal prudence threshold of 35 per cent of total revenue which goes into emoluments and salaries. Two, we have also seen systemic

weakness in County Public Service Boards (CPSBs), which frustrate any effort to professionalize or streamline Human Resource (HR) matters and operations in the county governments.

The committee observed that since the Capacity Assessment and Rationalization in the Public Service (CARPS) Report was concluded, no county government has fully implemented it. We recommend that the Senate Standing Committee on Devolution and Intergovernmental Relations takes up the matter, with a view to ensuring that the CARPs Report is fully implemented.

There is a National Conference on the Wage Bill happening, but I doubt whether the Senate has been invited or is involved. This is because many-a-times when national conferences are held, the guns are trained on county governments. When we have a national conference on pending bills, the culprit is made to be the county governments, yet it is the national Government which withholds funds. When it comes to the wage bill, we focus on county governments and forget the national Government. I hope that the Chairperson of the Committee on Devolution and Intergovernmental Relations will find space within those deliberations and convey the concerns of the Senate.

Finally, regarding pending bills of county governments, the Committee held a meeting with the Auditor-General and the Controller of Budget (CoB) before they left office. The Committee, in its deliberations and interrogations of governors, has put the question to close to 20 governors on their level of agreement on the Special Audit Report that was tabled by the Auditor-General before this House. There is a Motion that the Committee has prepared to be brought before this House which will capture its resolutions on that particular matter. I have been made to understand that the Notice of Motion might come up tomorrow. I just want to report that the CPAIC has been seized of that matter.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. M. Kajwang', on the issue of legislative proposals regarding succession procedure in the Offices of the Auditor-General and the CoB, you need to collaborate with the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, so that these reports start making sense. It is not enough for one committee to flag the issue. We need to move further and have some collaborative engagement to ensure that a legislative proposal is initiated as soon as possible.

Proceed, Sen. Cheruiyot; you have two minutes.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, three minutes would have been enough. However, because you have given me two minutes, I am much obliged, because I am a disciplined student.

The Deputy Speaker (Sen. (Prof.) Kindiki): Now that you are disciplined, I will give you three minutes.

Sen. Cheruiyot: Thank you, Mr. Deputy Speaker, Sir. Despite this being an important report, I do not understand why Members were not giving it the kind of attention it deserves, because it is about what the Senate should be doing. That is ensuring that devolution succeeds in our various counties. I appreciate Members of the Committee.

Last week, the County Executive of the county I represent in this House appeared before the CPAIC, and we had a wonderful session of interaction. I had a firsthand

opportunity to witness Members of the Committee ask them thorough and proper questions on implementation of projects, and how they spend funds that are devolved. I, therefore, appreciate Members of the Committee chaired by Sen. M. Kajwang', and encourage them to keep up the good work, because history will be kind to them.

Secondly, the Committee has raised various issues that we need to take up or devise a strategy on how to deal with them. For example, the Governor of Machakos County has refused to appear before the Committee for close to two years. It is time we considered radical measures, including removing some of the counties whose governors do not honour summons by this House from the disbursement schedule. Why should we take it upon ourselves to send monies to a particular county, which does not give the Senate the kind of respect it deserves? Sen. M. Kajwang and Members of his Committee may lead us on what radical measures they think will make their Committee most effective, if taken up by this House.

The final one, Mr. Deputy Speaker, Sir, is the issue of the Auditor-General. I listened to the presentations that were made before that Committee, and you could get a feeling that they can do their job accurately and successfully if the Office of the Auditor-General (OAG) is properly funded to a point where a Senator can know the people carrying out the audit process in their county. If it continues to be managed regionally, as was the case when we used to have the provincial administration, it will continue to pose a challenge. I should know the auditor carrying out the audit process in my county.

On many occasions, I receive messages from residents of my county. Sometimes they ask me why a particular road is constructed in a substandard manner. At times, they require me to look into the money going to a particular bridge. It is easy to forward the same messages to the known county auditor, and demand from them to look into the issues in a specified period of time.

The issues that have been raised by the Committee should not be treated casually. I took time to listen and noted them down. I hope that the rest of my colleagues in the House will give the Report the kind of attention it deserves so that we ensure that devolution succeeds, as it was intended.

Thank you, Mr. Deputy Speaker, Sir, for the opportunity.

The Deputy Speaker (Sen. (Prof.) Kindiki): We have run out of time, but thank you, Sen. Cheruiyot.

Let us now have Sen. Olekina. Please, be brief.

Sen. Olekina: Mr. Deputy Speaker, Sir, I wanted to make some comments and support the sentiments of my colleague, Sen. M. Kajwang'. I sit in the CPAIC; this House really needs to take seriously the reports that are coming up, particularly from the committee sittings. On a daily basis, we sit up to around 2.30 p.m., and sometimes, we are even not done. That tells you that there are so many challenges that are facing this country, which are caused by mismanagement of funds and lack of competency in the county governments.

Mr. Deputy Speaker, Sir, the question of pending bills, which my colleague has alluded to is, in my view, is an issue that should never arise. You have a budget, an Annual Development Plan (ADP), a County Integrated Development Plan (CIDP) for five years and the county assemblies approve money. If everyone does their job properly, it would really help us. I thank the Senator for Nandi County for taking the time to observe and also suggested that we should actually come up with radical measures.

When you have a Governor like hon. Alfred Mutua, who has refused to come in and mitigate on issues, it really sends a very bad message out there. Article 125 of this Constitution gives that Committee the powers to call for evidence and also ask the police to arrest a witness who fails to appear. When these witnesses know that they can go to court and seek conservatory orders, then it renders all our work useless.

Mr. Deputy Speaker, Sir, it is about time that this institution also engaged the Judiciary, so that we have a way that we can work and ensure fiducial responsibility. I believe that our committee will be coming up with some radical suggestions on how to deal with these rogue governors to ensure that county governments continue to receive services. This will also to ensure that if anyone has been tasked with fiduciary responsibility, they must account for every single penny.

Mr. Deputy Speaker, Sir, looking heavily on the issue of the Auditor-General, a lot of these governors are only keen on saying, "I got an unqualified opinion" or "I got a qualified opinion." It is important for them and Kenyans out there to note that the fact that a Governor has been given an unqualified opinion does not mean that he or she has spent the money well.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): The time is up.

Proceed, Sen. Farhiya and, please, be brief. We are not debating the Report.

Sen. Farhiya: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. Since I do not have a lot of time, I thank the Committee for doing their work diligently. At the same time, I understand that there is a liaison officer from the Ethics and Anti-Corruption Commission (EACC), who sits in that Committee, and who does not need a Committee resolution to take action because fraud is fraud.

Mr. Deputy Speaker, Sir, the EACC needs to take these issues more seriously, because counties have become so fraudulent to a level where there are such glaring mistakes in the audit report. If there is nothing happening year in, year out, then devolution will just die a natural death as we all watch.

The other issue is that I want to bring an amendment to ensure that the Chief Officer Finance is someone who is a member of the Institute of Certified Public Accountants of Kenya (ICPAK). That way, they can be regulated, as professionals sitting in that Committee and overseeing malpractices. For example, my own county of Wajir has been number one in the corruption index for three consecutive years.

Mr. Deputy Speaker, Sir, what is the use of EACC conducting such a survey, then when they get the results, they do nothing with them? It appears as if everybody is conspiring to kill devolution in this country. Those institutions need to stand to be counted, and do their job so that they bring these people to book.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Kibiru: Thank you, Mr. Deputy Speaker, Sir. I also rise to join my Chairman in the Statement that he has made.

As a Committee, we had presented to the Liaison Officer for EACC, who sits in that Committee, with specific cases. This include one in Kirinyaga County, where one person had taken Kshs188 million out of the Kshs200 million that was pending bills. We recommended that the EACC picks up that issue. The point I wanted to bring to the attention of the House is that the Liaison Officer should pick up specific issues. In Nandi

County, we recommended that they take the issue of the Early Childhood Education (ECDE), and many other cases.

Having said that, I want to add that probably we need to review the Public Finance Management (PFM) Act and make the County Chief Executive a signatory of the audited accounts. In the corporate world, the managing director and the chairman of the organization are the ones who sign the audited accounts. This is because they are held responsible for whatever happens in those organizations.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to support the Statement.

Thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you very much. Thank you Sen. M. Kajwang'. Your Report was good. On the issue of the Governor of Machakos County, this House is not out of options. That is a matter that your Committee would like to perhaps seek the assistance of this House to make sure that the Governor is dragged to the Committee, if at all he cannot bring himself. We cannot entertain games. We cannot be a House of Parliament entertaining theatrics, games, gimmicks and all manner of maneuvers. I believe we are not helpless.

Next Order.

Senators, under Standing Order 40, I will defer the item appearing on Order No. 8. The Mover is not here and he had wanted to reply in person.

BILL

Second Reading

THE REGISTRATION OF PERSONS (AMENDMENT) BILL (SENATE BILLS NO. 14 OF 2019)

(Bill deferred)

Similarly, because of threshold issues in terms of Division, I will defer Order Nos. 9, 10, and 11.

MOTION

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

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

(Motion deferred)

BILL

Second Reading

THE CARE AND PROTECTION OF CHILD PARENTS
BILL (SENATE BILLS NO.11 OF 2019)

(Bill deferred)

BILL

Second Reading

THE ALTERNATIVE DISPUTE RESOLUTION BILL
(SENATE BILLS NO.19 OF 2019)

(Bill deferred)

I would request that we go to Order No.12, because there is a point of order that Sen. Olekina would like to process.

Next Order.

COMMITTEE OF THE WHOLE

THE ELECTION LAWS (AMENDMENT) BILL
(SENATE BILLS NO.33 OF 2018)

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. On Order No.12, the Election Laws (Amendment) Bill (Senate Bills No. 33 of 2018), I would like to seek that the matter be held for some time. I am still seeking certain directions, and will later on give the way forward.

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

(Committee of the Whole deferred)

Next Order.

BILLS*Second Reading*THE KENYAN SIGN LANGUAGE BILL
(SENATE BILLS NO. 15 OF 2019)*(Sen. (Dr.) Musuruve on 20.11.2018)**(Resumption of Debate interrupted on 20.11.2019)*

The Deputy Speaker (Sen. (Prof.) Kindiki): I do not see any interest. Can the Mover reply?

The Mover is not here and there is no specific request for the Mover to reply. I direct that the matter proceed to division when the Senate Business Committee so directs.

(Bill deferred)

Next Order.

*Second Reading*THE COUNTY LICENSING (UNIFORM PROCEDURE) BILL
(SENATE BILLS NO. 17 OF 2019)*(Sen. Chebeni on 21.11.2018)**(Resumption of Debate interrupted on 21.11.2019)*

The Deputy Speaker (Sen. (Prof.) Kindiki): I do not see any interest. I, therefore, direct accordingly.

I cannot see the Mover. The Bill will be placed for division when the Senate Business Committee so directs.

(Bill deferred)

Next Order.

*Second Reading*THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL
(NATIONAL ASSEMBLY BILLS NO. 13 OF 2018)

The Deputy Speaker (Sen. (Prof.) Kindiki): I cannot see the Senate Majority Leader. This Bill is deferred.

(Bill deferred)

Next Order.

*Second Reading*THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT)
(NO. 3) BILL (NATIONAL ASSEMBLY BILLS NO. 35 OF 2019)

The Deputy Speaker (Sen. (Prof.) Kindiki): I cannot see the Senate Majority Leader or his representative. This Bill is deferred.

(Bill deferred)

Next Order.

*Second Reading*THE ELECTION (AMENDMENT) BILL
(SENATE BILLS NO. 18 OF 2019)

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Eng.) Maina is not here. This Bill is also deferred.

(Bill deferred)

Next time, if the Speaker defers an item whose Sponsor has not approached the Chair to explain themselves, there will be consequences.

Next Order.

MOTION**ADOPTION OF CPAIC REPORT ON INQUIRY INTO FINANCIAL
OPERATIONS OF VARIOUS COUNTY EXECUTIVES FOR FY 2013/2014**

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

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the Financial Operations of Kiambu, Busia, Kwale, Tana River, Trans Nzoia, Nyandarua, Migori, Kisumu, Samburu, Kericho, Bomet, Bungoma, Garissa, Isiolo, Kitui, Lamu, Makueni, Mandera, Marsabit, Meru, Mombasa, Nyamira, Taita Taveta, Uasin Gishu, Vihiga and Wajir County Executives for the Financial Year 2013/2014 (1st July, 2013-30th June, 2014), laid on the Table of the Senate on Thursday, 21st November, 2019.

Mr. Deputy Speaker, Sir, if you look at the list of counties whose reports were presented today, you will notice that 15 out of the 26 counties have had new chief executives since then. You will also notice that this report covers the Financial Year (FY) 2013/2014. This House has previously pronounced itself that the Committee on County Public Accounts and Investments (CPAIC) needs to be more up to date.

I wish to report to the House that the reports that we are discussing today will bring to 63 the reports that CPAIC has laid before the House. Of the 63, seven reports were adopted in the last Session, 10 reports have been adopted in this Session, 20 reports are on the Order Paper awaiting division, and 26 reports are the subject of today's Motion.

It would then be expected that for the two FYs 2013/2014 and 2014/2015, we would lay on the table of the House 94 reports. I can account for the remaining 21 reports. The pending 20 reports have been written and are awaiting adoption. They were part of a retreat that CPAIC took about three weeks ago. It is our expectation that by the end of this session, CPAIC will have closed the chapter for the first two financial years of devolution.

It must also go on record that the first Senate did a lot of good work in terms of defining the space, mandate, job description of CPAIC and affirming the oversight role of the Senate, particularly on financial operations of counties. Unfortunately, we were unable to adopt a single report in the last Senate. We now have 63 reports before the House, and 20 reports that are at different stages of report writing and adoption. We hope to focus on much more recent financial years when we start the new Session.

A few issues have been raised in the reports that are before us, and I am aware that we will be discussing a matter of national importance at 5.00 p.m. Therefore, you will allow me to be very brief in my observations. These reports are focusing on the FY 2013/2014, hence some of the things might have been overtaken by events.

This House has adopted the Fiduciary Risks Report, which summarizes all these issues as from 2013 to 2015. These reports speak of illegalities, breaches of the Constitution and violation of various statutes. Some of them are a violation of the Intergovernmental Relations Act, where county governments continue to make payments

to the Council of Governors (CoGs), which is then used to take the Senate and other Government agencies to court. These are the illegalities that we have clearly pointed out.

However, that is a small thing compared to the other illegalities that we have seen, in terms of breaches of the Public Procurement and Disposal Act and the Public Finance Management Act. For every illegality, we have made recommendations that investigations should be undertaken with a view of prosecuting those found culpable. We are very cognizant that the Senate, in itself, cannot render verdict or jail somebody.

That then goes to the expectation that many people have had around our work as CPAIC. There have been questions like: "Why is so and so still walking around free, when the Auditor-General has said that they embezzled public funds?" We have been guided by this House and I do recall a Report that I brought to this House, and the House reminded my Committee that it is not the place of Parliament to render verdict on someone's culpability or guilt. We were told that it has to be established through investigation and subsequent prosecution.

These reports have a cocktail of stories of theft, corruption and rampant plunder. Some of my Members, particularly those who are endowed as a result of drinking too much milk and meat, like Sen. Olekina, have always thought that we need to deal with the governors there and then. That is because of the annoyance and bewilderment that comes when we see the colossal amounts of money that the Auditor-General says has been misapplied.

In this particular financial year, there is a matter that will, unfortunately, have to go back to the National Assembly. The Transition Authority (TA) gave a conditional grant to county governments for refurbishment and establishment of county government offices, executives and assemblies. The money was an average of Kshs70 million per county. In that year, none of the counties were able to account for that money. They instead said that they would account for it through the TA. When we asked that question, we were told that a report on the audit of the TA would be laid before the National Assembly. Just imagine how much Kshs.70 million across 47 counties could have done to help the people of our counties. Therefore, we have flagged out such cases of corruption and theft

Subsequently, we have been saying that the governor is a Chief Executive Officer (CEO) of the county entity. Our understanding is that the CEO is also the chief accounting officer. If you are the CEO, you are also the chief accounting officer. You cannot run away and say that it is the Chief Officer for Lands who is responsible of some junior persons. We are holding the CEOs and the governors jointly responsible, and we are subjecting them to investigation and prosecution.

We have seen many cases of inefficiency and cases of fiscal imprudence, particularly on issues of employment costs. Many counties are running employment costs above 40 per cent, and the governors do not have what I call the 'balls' to deal with that particular matter. We have seen operations take up more than 30 percent of county governments' allocation; we have seen county assemblies taking almost 15 per cent of county revenues in certain counties. Those are cases of fiscal imprudence, where we have made some prudential recommendations.

We have seen cases of ineptitude, particularly decisions around projects, where some projects like one of the Reports that has been adopted previously in my County of Homa Bay, where the County Executive was distributing electric chicken hatcheries to

areas that have never seen electricity. Those are poor decisions in which we end up losing millions of shillings. We have also made recommendations on that.

On book keeping, I agree with one of the distinguished Senators who talked of coming up with a minimum certification or minimum qualification standards for chief officers of finance. The PFM Act has been interpreted in a problematic manner. In the PFM Act, the county treasury is established. The members of that county treasury are identified as the County Executive Committee (CEC) Member in charge of Finance, and several other people. The Act says that the CEC in charge of Finance shall be the head of treasury. In the reporting standards, there is a requirement that the head of treasury should be a member of a professional body. Indeed, there is a requirement that the professional membership number be appended to the financial statements.

Unfortunately, county chief executives have interpreted the role of a CEC to be a political appointee. We had a case – it must have been in Wajir County – where we were told that the CEC Finance was a physiotherapist. There is nothing wrong with being a physiotherapist, but round pegs should be put in round holes, and not in square holes. There is a county where the chief officer for finance was an ECDE teacher. There is nothing wrong with being an ECDE teacher, but an ECDE teacher would offer more value in the ECDs and education department rather than in finance. Therefore, I agree with the suggestion by the Senator that we need to amend the law and prescribe minimum qualification standards for people who manage books at the county government levels.

There are also cases where the national Government is frustrating county governments. None of the cases speak to it more than the current inquiry that is going on with regard to the Managed Equipment Scheme (MES). Once again, even though this is a matter that has occurred outside the duration that we are discussing, it has been brought to the attention of my Committee, though informally, that the national Government seeks to take away the Universal Health Care (UHC) Programme from counties. The national Government is attempting to recentralize health care and health service provision by allocating a very huge budget for the UHC, managing it from Nairobi, where the principal of subsidiarity would have demanded that it would be better managed at the county government level.

The other case that has been there since 2013 is the issue of the Integrated Financial Management Information System (IFMIS). We had a meeting with the Director of IFMIS and chairs of public accounts committees. The Director of IFMIS said that IFMIS works 99.9 per cent, and he was almost lynched. It was a sense of *déjà vu*, because I have also gone through such an experience in the hands of our honourable MCAs. However, it was because the report that the National Treasury was giving was inconsistent with the reality on the ground. The IFMIS continues to be a problem, interfering with operations of county governments.

Another issue is that of late disbursement of funds to county governments. From an accounting perspective, the cash basis accounting that county governments use; if money is received on the 1st of July, then that money is for the new financial year. However, the National Treasury sends money, not to counties, and then demands that counties account for that money in the previous financial year. That causes serious problems and almost every county in this Republic opens the year with a surplus. In some cases, the surplus is close to 20 to 25 per cent of their total revenues. The surplus paints the picture that county governments have got money, they have got cash in banks as cash,

and cash equivalents, and yet they still have pending bills. The culprit in that particular case is the National Treasury, which released money after the end of the financial year.

Mr. Temporary Speaker, Sir, there are other issues of political concern, like the transfer of assets and liabilities from the defunct local authorities, seven years, going to eight years down the line. Counties have identified their assets, but the process of transfer of assets and liabilities has not been effected. Our concern is that in the process, unscrupulous persons would be appropriating and allocating to themselves some of the assets of defunct local authorities. At the same time, unscrupulous persons would be entering liabilities into the books of county governments which do not exist.

Mr. Temporary Speaker, Sir, the Senate needs to provide leadership on this, because all the bodies that we have talked about do not seem to have any idea on how to unlock this. Everyone is blaming the TA. Even the members of Intergovernmental Budget and Economic Committee (IBEC) are blaming the TA, which folded almost four years ago. It is probably time that the Senate, through a Motion, would revive this matter so that it is brought to a close.

The issue of pending bills started immediately upon the advent of devolution. Counties like Nairobi started with billions of shillings in pending bills. This is because they started with a Kshs5 billion bank loan and overdraft facility which today, eight years down the line, has not moved from the original Kshs5 billion. All the money that we collect at Gikomba Market goes into servicing a loan that was taken to pay salaries, even before the advent of devolution. It is a ridiculous situation to have a Kshs5 billion loan.

At some point, when we looked at the rate of interest on that loan, it was at 24 per cent, even in the era of interest rate controls. That is because the bank said that 14 per cent is the interest, and 10 per cent is a penal interest. You can imagine the Nairobi City County paying a quarter of Kshs5 billion every year to a bank or to a financial institution. We again need to provide leadership on this matter, so that we can free the people of Nairobi.

Finally, is the issue of human resources. I had earlier on talked about the capacity assessment and rationalization programme that was initiated somewhere along the line. This was to ensure that for the staff who were amalgamated from the defunct local authorities, there can be clear job evaluation, job descriptions and so that we can weed out unnecessary staff.

It is disappointing that the National Treasury, the Ministry of Devolution and ASALs, the Salaries and Remuneration Committee (SRC), and all those other bodies have chosen to organize a National Wage Bill Conference without any reference or invitation to the Senate. I will be finding out from the Clerk if, indeed, there was any invitation, because I believe that the Senate has developed some very deep expertise on issues of the wage bill and on employee matters across the 47 counties. It would be useful if the Senate was part of that conversation, so that we can come back and implement the necessary policies, regulations and legislation.

Mr. Deputy Speaker, Sir, I beg to move that the Senate adopts these 26 Reports. I will ask Sen. Kibiru to second.

Sen. Kibiru: Thank you, Mr. Deputy Speaker, Sir. I rise to second the Motion. Indeed, the Committee has looked at a number of issues. We are sharper than when we started, and I want to commend the Chairperson for leading the team well. This is one Committee where we keep time so that we can be accountable.

We have agreed in the Committee---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Kibiru! Are there committees that do not keep time? You know they say that to name one is to exclude others.

Sen. Kibiru: Mr. Deputy Speaker Sir, I am just trying to say that we need to keep time, because it is a valuable resource.

(Sen. Wamatangi withdrew from the Chamber)

Mr. Deputy Speaker, Sir, Sen. Wamatangi has just walked out, instead of keeping time and waiting to listen to this Motion.

Moving forward, as a country, let us agree that we need to be accountable. Accountability starts from the resources that we get. When we talk about counties, I like giving an example about organizations and the corporate world, where as the management, you are given what we call in accounting the "Agency Theory." Shareholders give you the mandate, as the board and the management, to run the affairs of the organization. You are then to report at the end of the financial year through the audited accounts and, for that matter, the audited financial statements.

The same applies to the counties. When we elected governors, and the leadership at the national level took over, they got into a social contract with the people, who gave them that mandate. When one is given a contract, they need to respect it. One way of doing so is by accounting for every penny that is given. Over the period I have been in that Committee, many governors have come there and behaved as if they were shocked. It is as if these are new things to them. In Uasin Gishu County, when we told the Governor that he borrowed without consulting the National Assembly and the National Treasury, he got shocked that he was borrowing to buy equipment without consulting.

Mr. Deputy Speaker Sir, we need to amend the Public Finance Management (PFM) Act or one of the Acts, so that whoever is governor--- This is something that we can do as a sandwich course, and probably pass legislation that we need to retrain governors, who are the CEOs of the counties, so that they can take the issues of governance seriously.

We have seen governors who told us that they have risky framework and policies, and yet when you ask them what that entails, you see them whispering to their staff and asking them what that means. Probably, we did uplift our governors to a level of incompetence. This is because by the time one takes a job, they need to know what the job entails. I am more often disappointed when you see a governor who does not even understand the audit process.

In a nutshell, Mr. Deputy Speaker Sir, I am saying that we have been morticians. We are talking about the FY2013/2014. We have complained of being morticians, but as a Committee and as the Chairperson has said, we have tried to expedite some of the work. We are dealing with issues that passed. Unfortunately, the governors who did this probably did not know that some of the issues that we have debated today and the recommendations that we have made will be executed during this time. They probably said, like it has happened before in this country, that some of the audit issues will come in another decade, but here we are.

All that we are saying is that some of the measures that have been recommended by the Committee need to be executed. Like I mentioned earlier, the Committee invited liaison officers from the EACC, the DCI and the DPP. This was so that when we make recommendations, the multiagencies can pick the issues and prosecute them as and when the recommendations are made.

Having said that, I want to come back to the issue of the health sector. The other day, I saw a newspaper article saying, “The dying Level 4 Hospital in West Pokot.” Unfortunately, that is where we have this calamity, and the issue will be debated shortly. The Level 4 hospital was described as a “dying” hospital. I want to hear of one county, other than Machakos, where health institutions are actually giving the services that are deserved. I believe that it is not an issue of public relations. Every day, the news is full of health institutions that are not working.

As much as we say that health is a devolved function, I repeat that we need a marshal plan. We need to come together, as a nation, and ask ourselves what the cause of these problems is. At one time, the nurses are on strike; the next time it is the paramedics or the doctors; and at another time, the MES programme is not working. In Kirinyaga County, for example, which has 52 doctors, half of them have been in school for the last two years, yet we continue paying them. These are some of the recommendations that, as the Committee of the Senate, has made. In some of the reports, we need to ask ourselves what it is that we can do, so that health services work. There are countries where this works. It works in Mauritius, the United Kingdom (UK) and even in some of the tiny countries. We need to put our work together and make that work.

If you look at all the reports that have been presented here, one glaring issue is on value for money. Let us pay the bills because the Auditor-General has said so. We will be recommending this, and I believe that, that is what will be debated tomorrow. However, the question of value for money can never be ascertained. This is because a road was graveled, some fish fingerlings were bought and put into the water, but a service was done and a proper process of procurement was also done. We need to relook at what it is that we can legislate or put in place to ensure that whatever project is undertaken, somebody puts in time to justify value for money.

Mr. Deputy Speaker, as per that last audit, the value of the projects that have stalled are in excess of Kshs366 billion. I believe that as we progress, we are probably at Kshs400 billion. We are losing money. Here we are saying that the country does not have money and that the economy is not performing well, yet at the same time, we have projects that are not being utilized to generate money.

As we look at the reports and the recommendations that we have made, I saw in today’s newspaper that in terms of revenue collection, the Nairobi City County already has a shortfall of 1.7 billion. It should bother us, as a country and as the Senate, which protects and oversight the counties, that counties with the potential of collecting Kshs60 billion are still over relying on shareable revenue. There is a report that was carried out by the national Government and supported by the World Bank (WB) that indicated that Nairobi City County can generate over Kshs60 billion.

There is one county that I was keen to know its potential to raise revenue; I think it is Kericho County. Somebody told us they are able to collect over Kshs10 billion in own-source revenue. The framework and the discipline need to be instilled. We need to encourage counties to increase on their own-source revenue.

Finally, we should discuss the new formula that is coming up, on sharing of revenue. One of the key issues that will come up is that of prudence and the way counties perform when it comes to accounting issues. A percentage will be given to that. The other one is own-source revenue. These are some of the key things that we need to put as motivators for purposes of making counties work.

Mr. Deputy Speaker Sir, with those many remarks, as usual, I beg to second the Motion.

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

(Question proposed)

I can see a request from Sen. Olekina and Sen. M. Kajwang'; this is your Motion, but you are aware that we have a scheduled Motion for 5.00 o' clock. However, you can proceed; we will interrupt the debate at that point.

Proceed, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. I rise to support the adoption of this very important Motion. I was hoping that every Senator would be here today, because I have sat in all the sessions, apart from either one or two of them, dealing with the issues of Financial Year 2013/2014 to a point where we thought we should start looking at the current reports. Whenever I meet a former governor, the first thing that comes to mind is; what will happen to this governor when Article 226(5) of the Constitution finally catches up with him?

One of the main observations that I noted, going through various volumes of the Auditor-General's reports, was the lack of competence in the county government financial management. When governors appear before us, it is as if it is the first time they are hearing that there are pieces of legislation called the Public Audit Act, the Public Procurement and Disposal Act (PPDA), or even the Constitution, in that case. When you ask the governors whether they were familiar with the audit process, most of them will tell you, "No." In fact one former governor I met said, "If you ask me today to comment on things that happened when I was the governor, where will I start?"

My message to them, and this is part of an observation or hopefully a recommendation, is that they have to make right where they went wrong. This is money that belongs to the public. Currently, we are having serious challenges in terms of paying bills. When you go to each and every county, there are stalled projects which will never be completed. All these are noted in these reports that we have worked on diligently, day in and day out, so as to ensure that there is continuity and proper accountability.

Additionally, there are certain observations that we made where when you look at the Auditor-General's reports, many of the governors will say: "At least this year, we have received a qualified opinion." They then believe that a qualified opinion means they have spent the money wisely. Most governors were shocked when we made it clear to them that a qualified opinion only means that you did, to some extent, provide the documentation which the Auditor-General was seeking.

As I support this Report, I believe that the EACC and also the Director of Public Prosecutions (DPP) will have fun reading the recommendations so that they can follow the money to the former and current governors. My message is very clear as I support this Report: That where you have misappropriated public funds, it is about time for you to

start correcting. When we got to several counties which are noted here, beginning from Kiambu all the way down to Wajir, we found that projects were being undertaken which were not budgeted for. It is no wonder then that we have a lot of pending bills. They would have a budget and even request money from the Controller of Budget (CoB) to pay for projects which are budgeted for. However, when the money is finally transacted to their accounts, they end up paying for things which are not in the budget. This is a result of incompetence and lack of understanding as to why people are put there.

I am sure that when they finally sit down and pay attention to the reports, the former and current governors will rush to the Senate tomorrow to get a copy of this Report, which we are now debating. This is because you will find that in most counties, as long as the Chief Executive Officers (CEOs) are already out of office, they are like "it is none of my business." They do not know that even the new governors who came in, and who are still their competitors, will not try to do anything to help them to fix their mess; so the mess is still with them. If a governor was defeated and he does not correct or try to mitigate on the issues pointed out by the Auditor-General, that issue will still be alive until the time when the EACC or the DPP catches up with them.

On the issue of lack of discipline, we noted that a lot of counties deducted the statutory deductions, for example, the Pay As you Earn (PAYE), *et cetera*, but they never remitted it to the Kenya Revenue Authority (KRA), to retirement bodies, the National Hospital Insurance Fund (NHIF) or the National Social Security Fund (NSSF); yet they still have huge pending bills. This is an issue that I hope we can reign in on these governors and ensure that whatever amount of money is deducted from employees can be sent to the bodies that require that money. On this note, I would like to encourage Kenyans out there to check their pay slips and follow up so that they do not have to wait until the last minute when they have retired for them to look for their retirement benefits and they cannot get them or to even follow up with KRA.

On the issue of pending bills, it is my hope that when these governors sit down and think about what is happening in this country--- I support 100 per cent and actually commend the current Acting Cabinet Secretary (CS) for the National Treasury and Planning for having instituted administrative measures to try and bring in sanity. If these governors can look at those bills, and pay off the ones that they believe are genuine, at least the KRA will be able to collect the money. This is because the moment the contractors have been paid, the KRA will also go after those contractors and collect money, thus enabling them to up their annual collection.

Because of time and I know that we have another debate at 5.00 p.m., I would like to end by saying that it is imperative that the governors and the entire finance departments in all counties familiarize themselves with the four pieces of legislation. This is in order to ensure that they can account for all the money and literally use the money in the manner that it is supposed to be used. These four pieces of legislation are; one, the Public Audit Act, and is very important for them to understand the audit process. They can specifically go to Section 31 of that Public Audit Act.

Two is the Public Finance Management (PFM) Act, which is very important. In fact, when you think about the issues of reconciliation, the PFM Act requires county governments to reconcile their books on a monthly basis and share with the Auditor-General, but quite seldom do they do that?

Three, the Public Procurement and Disposal Act and finally, four, is the Constitution. This is so that we can ensure that at least when you are tasked with the responsibility of ensuring that counties collect and utilize their money to develop the county, you will not be there lining your own pocket and leaving the people out there who cannot afford drugs.

As I sit, I fully support this Report and I hope that all Senators who are elected and also nominated can take time to read it and go back and support their counties.

Thank you, Mr. Deputy Speaker Sir.

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

Proceed, Sen. (Dr.) Langat.

Sen. (Dr.) Langat: Thank you, Mr Deputy Speaker, Sir, for allowing me to add my voice to this important Motion by Sen. M. Kajwang'. It is important that we do thorough oversight of our counties. There are many messes in our counties, but I do not know if it is out of ignorance or whether it is done deliberately. Governors are ignorant when it comes to giving accounts of what is happening in the counties.

We read the audit reports that we normally receive. I am surprised that in most cases, they are being asked to have internal auditors because they do not have these auditors to advise them. It could be that some governors do not want to have internal auditors because of fear that they might expose some of their weaknesses. However, if they employ those particular technocrats, it will be possible for them to understand some basics when it comes to issues concerning counties.

I was surprised that some of them have been coming to seek sympathy. A few weeks ago, the whole nation was surprised to see a governor coming with hospital documents to claim that he was sick and not in a position even to manage what is going on in the county yet he has his deputy and some officers to assist him or inform him what is going on in the county. If we do not do something as the Senate, some of them will fake sickness by going to hospitals and staying there for a long time so that they avoid the Senate. We have to be strict and make sure that our counties are running smoothly.

Mr. Deputy Speaker, Sir, I am also surprised because we go round and see stalled projects. We witnessed this in Kitui having visited one polytechnic. We have stalled projects that have not been completed. We heard from some people that whenever the residents approach the governor or MCAs on the same, they are told that the projects cannot be completed because they were started by former governors and they do not know where the money went. Most of the projects which were started by governors who never managed to come back have never been completed. It is likely that they will never see the light of day despite the fact that public money was used. Therefore, we need to come up with a strategy to monitor how projects can be completed because public money is used.

Again, like Sen. Olekina said, they have a funny way of managing money or revenue that is collected from the source. We have heard of counties where clerks can collect money and issue receipts, but that money is not deposited into the right bank accounts. What is happening in our counties is interesting and I would like Members of the Senate to know that terrible things are happening.

There is a county that constructed one ECDE classroom at a cost of Kshs1.5 million yet MPs construct classrooms at a cost of Kshs500,000. In fact, today I had a discussion with the Deputy Speaker of the National Assembly. He told me that he has

never constructed a completely finished classroom with ceiling boards and tiles for more than Kshs700,000. If you go to our counties, you will find that costs are exaggerated. It is hyperbole that a classroom can be constructed at a cost of Kshs1.5 million. The wastage of money that we give to the counties is alarming.

It is even worse when we invite them to come and account for the money and they fail to appear. Like one Senator said, we should come up with a law that when they fail to come and account, money should not be disbursed to them. Why should you be given more when you are unable to account for the money that you have received?

Like Sen. Olekina said, I expected all the Senators to be around today so that we fully support this because of its magnitude.

I thank you.

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to also add my voice in support of this Motion by the Chairperson of the CPAIC. I will try to be brief in light of the debate that is coming up in the next few minutes.

I will focus my contribution to three issues which are; processes, leakages and white elephants and then propose a way forward.

On processes, I want to say that---

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

Sen. (Dr.) Langat and Sen. Cherargei kindly approach the Chair.

*(Sen. (Dr.) Langat and Sen. Cherargei
approached the Chair)*

Proceed Sen. Wambua.

Sen. Wambua: Mr. Deputy Speaker, Sir, there is a growing trend not just in counties that have been listed in the Motion as read out by Sen. M. Kajwang', but even in other counties where governors have decided to blatantly ignore or just abuse the procurement laws in this country when it comes to issuance of tenders especially for capital projects.

Under processes, there is also the issue of the blatant disregard of labour laws where especially the executive arms of county governments have converted them to employment bureaus. Today I received a letter from a number of casuals who were engaged by the County Government of Kitui. They have not been paid for the past three months and now their contracts have been terminated without pay and explanation. Some of these issues should be taken up seriously by the CPAIC and other relevant Committees of the Senate.

We also have the issue on leakages and this is where the biggest problem is. Without casting aspersion on any one, many governors are running successful criminal enterprises in terms of theft of public resources. It is amazing that a governor can authorise collection of statutory remittances or deductions and fail to remit to the National Hospital Insurance Fund (NHIF), the Kenya Revenue Authority (KRA) and other statutory bodies. Worst still, governors collect money in terms of taxes, levies and cess and spend it directly without depositing it. The money is supposed to be deposited before it is processed for use.

Thirdly and lastly is the issue of white elephants. It is what Sen. (Dr.) Langat alluded to where projects that were started by the first batch of governors who did not make it for the second time have entirely stalled. I will speak about projects in Kitui. All the projects that were incomplete before the previous general election have stalled and there is no word from the county government as to whether monies will be committed to complete them.

We have scenarios where white elephants are started all over the country. We have heard that white elephants in the counties account for more than Kshs360 billion. This is serious wastage. In fact, it is a lot more money than the monies we are allocating to counties for a whole financial year.

Mr. Deputy Speaker, Sir, for us to be taken seriously as a Senate - and I want the Committee to hear this - we cannot be talking about white elephant projects running into hundreds of billions of shillings and still continue to allocate monies to these counties.

Going forward I propose that all governors appearing before the County Public Accounts Investment Committee (CPAIC) should adduce their evidence on oath. Secondly, those governors who repeatedly refuse to appear before CPAIC, their counties or their governments should be struck off the list of the disbursement schedule.

Mr. Deputy Speaker, Sir, it cannot be that the Senate will continue giving money to counties, but governors do not want to account on how they are using those monies allocated to them.

Mr. Deputy Speaker, Sir, I support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators. I wish to give directions as follows:-

We have one more request for contribution on this debate and I will give the floor to that request; I think it is Sen. Omogeni. The reason I am doing that is because this is a very old Report and we need to dispose of it. If there is no other interest in the debate, we had better wind up with it and be left with Division.

We might overshoot the 5.00 o'clock limit because the speaker will have a maximum of 20 minutes, if he takes shorter, the better. In the event that, that happens, you will indulge me and then the Motion by the Senator for Bomet will proceed immediately after we wind up this Order.

Secondly, sometime ago I directed that I will deliver a ruling on the Motion that had been brought to the House for debate by the Senator for Narok County, Sen. Olekina. I now want to apologize that it has taken a bit of time because I had travelled. However, the ruling will be delivered on Thursday, 28th November, 2019 at 2:30 p.m. or soon thereafter in the afternoon.

Proceed, Sen. Omogeni.

Sen. Omogeni: Thank you, Mr. Deputy Speaker, Sir, for according me the opportunity to also make my contribution on the Report that has been tabled by CPAIC.

First, I wish to thank the Chairperson of this Committee, my good friend the Senator for Homabay who as usual continues to do a very good job together with his team of Members. This is on record as one of those Committees that have tabled so many reports before the House.

We must commend and encourage him. The job he is doing is not easy, it is a difficult job. When fighting corruption and seeking accountability, you are also dealing with temptations. You are dealing with people who have ill-gotten money and at times

they may go to extreme levels to scuttle the work of people who are trying to push for accountability.

Therefore, we really commend the team for standing firm and for continuing to ensure that this Senate pushes for accountability, and that we undertake our duties under Article 96 which is to defend county governments and the people who reside in our counties.

Secondly is to also register my sorrow that we are into the seventh year of our devolution, but we are still yet to see the fruits of devolution. When the people of Kenya enacted the Constitution 2010, there was excitement that we were devolving power and resources to our counties. As a result, people expected to see fruits of development, provision of services, the healthcare system working, our young children attending early childhood schools and that there would be change.

The dreams of the people that we represent have been shattered. Seven years into devolution, we are yet to see the fruits of devolution. The enemy that has stood in the way of our realization of those dreams is this animal called corruption. If we do not tackle and deal with it, we will never realize the fruits of devolution.

Mr. Deputy Speaker, Sir, that is a fact and we cannot run away from it. We must ask our partners in this war; the Directorate of Criminal Investigation (DCI), the Ethics and Anti-Corruption Commission (EACC) and the Director of Public Prosecutions (DPP) not to give up. This is because we need to see more heads rolling. We want to see blood. We cannot be sitting in this House year in, year out, sending money to counties which end up in people's pockets.

I am looking forward to a time when the palatial homes that have been built using corruption money will be repossessed and we will convert those buildings into hospitals where we will put Magnetic Resonance Imaging (MRI) machines to treat our people of cancer.

We expect to see in place hospitals, not palatial homes that have been built by governors. That is not the reason why we devolved power and resources to our counties. It is because we wanted good hospitals; we wanted to give good services to our people from the counties to the sub-counties. That was the dream and expectations of the people of Kenya.

Mr. Deputy Speaker, Sir, we did not devolve power so that we have people who walk around with huge amounts of money in their pockets. We wanted to see hospitals that have drugs and specialists. We wanted to see cases of cancer being detected early and our people being able to receive treatment. However, that is not the case. If you read the Report that has been tabled before the House, in a County like Migori, there are no records for medical supplies that were delivered. The stories that you get across the counties makes you wonder: This money that we send to counties where does it go? Hospitals do not have drugs. It is like it was better when the national Government was running hospitals than now when hospitals are under counties. That is not what we need to see.

Mr. Deputy Speaker, Sir, I want to speak to the DPP, EACC and DCI that action has been taken in other places on people who hold senior positions than governors. As we speak, the Prime Minister of Israel is facing corruption charges. The former President of Brazil has spent time in jail. The same applies to the former President of South Korea. Those are high ranking officials who are senior than our governors.

I wish to commend the good job that has been done of late by the EACC. I do not wish to speak of the merits of the case, but what is now being presented in court is not just a case of failure to comply with procurement laws, but these are cases where there is proper paper trail. These are cases where governors have been found culpable of using their cronies to award contracts to their friends and their family members and in return that money is wired to their personal accounts. We need to fix that.

I thank the Central Bank of Kenya (CBK) for coming up with this idea of not allowing people to withdraw money over the counter. This way we are able to have paper trail. What we expect now is for the Judiciary to play its role. Where cases have been brought to court and there is enough evidence to sustain a conviction, let there be first quick trials and those culpable be sent to jail.

Mr. Deputy Speaker, Sir, we cannot allow a case where in this era and age, counties are unable to have proper book keeping. I mean, how can that be the case? If you are a county government and you cannot keep proper books, that is unforgivable. I hope what we are doing is not in vain; that these reports will not be put in some shelf to gather dust, but that some authorities will pick them up and action will be taken. We need to see deterrence.

Let me speak to the Office of the Auditor-General because at times, there is a feeling that staff in the Auditor-General's office get compromised. A case in point is the Kiambu County case where the Committee had to make recommendations for another audit to be undertaken for that county government. I was in the session of my own County of Nyamira, when the auditors had given an almost clean bill of health over the accounts of Nyamira County and yet there were glaring issues.

May I ask the EACC and the DPP to also have a very keen eye on the Auditor-General. This is because if they get compromised, we get shoddy jobs being delivered to us and we will not be able to play our oversight role. They must remain professional. It should not be the case that if your hands are greased with some good money, then you give shoddy reports but you do adverse reports for those who do not "see you". No!

We need to see a professional team from the office of the Auditor-General. I hope the new appointee to that office will ensure that the officers in those offices are professional, detailed and can do good work so that when we get these reports at the Senate level, our work can be made easy.

Mr. Deputy Speaker, Sir, corruption has caused the downfall of many countries. Venezuela was doing very well 20 years ago, but because of corruption, it has gone down. A report was done in the 1980s that picked out Nigeria, India and Brazil as one of the countries that could have attained industrialisation at the turn of the century. Nigeria was singled out because it has been blessed with so many natural resources. However, because of corruption, Nigeria never picked up.

As we speak, Brazil is the manufacturer of Embraer planes because they fixed corruption issues. India produces the highest number of doctors in the world and is the Information Technology (IT) hub as we speak. However, Nigeria, because of corruption, never picked.

Mr. Deputy Speaker, Sir, if we do not assist some of these counties in terms of ensuring that these incidents of corruption are dealt with, counties will never pick up. The development that the people of Kenya hoped to attain by devolving power and resources will never see the light of day.

With those remarks, I support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Members. Senate Minority Leader, we had made an administrative decision, but we can give you a few minutes just to say a few things.

Please, proceed.

The Senate Minority Leader (Sen. Orengo): Thank you, Mr. Deputy Speaker, Sir. I stand to support the Motion and particularly, thank the Committee led by the distinguished Senator for Homa Bay County.

Generally, this Committee is doing very well. In fact, if you look at the reports we are dealing with, comparatively going to the past, we will be talking about reports of accounts of seven or eight years ago. I think we are catching up and this reporting omnibus is also enabling us to deal with these reports in a more effective manner and faster than we would normally do. I thank the Committee and I hope you continue with that good work.

Having sat in some sessions of this Committee, I think of all the parliamentary committees - I am talking about Committees of both the National Assembly and the Senate - this Committee has very talented Members. When they interrogate public officials who appear before them led by governors, at the end of the day, the Senate is put in very good light.

More importantly, this Committee is important in the sense that one of the most fundamental principles for which modern democracies are established, is to ensure that that old principle which was very well established by those who lived in the American colonies fighting against British imperialism, talking about no taxation without representation. That particular doctrine has been crystalised in our Constitution. It is not only in the European Constitution, but more importantly, in this current Constitution.

Mr. Deputy Speaker, Sir, whenever we are considering these reports, it must be remembered that this is one of the principal ways in which Parliament and the Senate are putting into effect our role of oversight and ensuring the people's resources and revenue are not put to waste. Also, those who have the control of these appropriated funds are made accountable.

Therefore, in doing this work the way they are doing, I hope that we, as a Senate, will continue to show that we are not protecting counties just by ensuring that they get more resources, but ensuring that the resources that go to counties are used in accordance with the directions of Parliament as a whole and more particularly, the Senate.

While at it, there should be no delay in the appointment of the Auditor-General. I think it is getting overdue because when there is no substantive holder in that office at any one time, that is when opportunities are created to ensure cartels get away with what they should not be getting away with.

Mr. Deputy Speaker, Sir, I will only add one more issue since you have been gracious and kind enough to give me some little time. I appreciate for being given some little time because I know there is a Motion of Adjournment coming. I am talking on the basis that I have heard people talking about this animal called corruption from many Governments of the past. Every Government has tried to deal with corruption more particularly, by trying to punish impunity and if they were successful, I cannot say.

The most important way of ensuring that there is no corruption is by shutting out the opportunity for corruption. Not dealing with corruption once it has been committed, I

do not think that is the most effective way. The other day, I heard a senior lawyer in India in one of the courts talking about the jockeys running away and leaving their horses. In our environment, we strike when both the horse and the jockey have gone. We are trying to catch up with the jockey, but we can never catch up with the horse.

I would like us to remember what former President Kibaki did to ensure that those who managed public resources were able to do so at the places the resources were. That is the point at which we should stop corruption. This is because by dealing with the enemy when he or she has already struck is just getting involved in a recovery process.

Mr. Deputy Speaker, Sir, we have seen where we come from. Sometimes we endlessly blame the courts, the DPP and sometimes the EACC. The problem lies with those who are given these monies to spend. It is at that place where this money is being spent that strict application of the law should be executed to make sure we do not go through this rigmarole year after year.

The success of the counties or the devolved system will depend on how they manage their resources. All around, if you talk to the ordinary person in the streets and the villages, they are not particularly happy about how their resources are being spent.

Mr. Deputy Speaker, Sir, while we do not want the devolved systems and the counties to be destroyed on account of governors and county governments not doing what they should, but the governors and the county governments, including the county assemblies, must also make sure that at that end, they spend the resources the way they should.

The governors and their representatives in the executive should also try to be humble. When governors want to replicate their counties as small fiefdoms by replicating what they see at the national level, this is the beginning of power getting into the minds of people at that level.

Mr. Deputy Speaker, Sir, I will end it there. As a word of encouragement to the Chairperson Sen. M Kajwang' and his team, I appreciate their work.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Leader of the Minority.

(Sen. M. Kajwang' stood up in his place)

Hold on Sen. M Kajwang'. I also want to accommodate the Senator for Bungoma because it is one of the counties mentioned in this Report. He has graciously accepted to take not more than five minutes.

Sen. Wetangula: Thank you, Mr. Deputy Speaker, Sir, for this special dispensation from you for me to make a comment on this CPAIC Report.

Bungoma is one of the counties audited and reported in this Report under debate. The regrettable thing is that even as the Committee under the distinguished Senator for Homa Bay continues doing a good job, we are still lagging too far behind with audits.

This Report covers the year up to 2016 while we are already in 2019. It means that we continue being morticians on public expenditure. This is not particularly good because in the course of time people lose memories, things and dynamics change, the culprits change positions and we end up failing to hold people culpable.

I encourage the Committee that as they continue looking at these accounts, they should also be able to make firm recommendations about what needs to be done where

there are transgressions of the law, mis-expenditure and above all where counties are manning and accumulating huge imprests.

I just saw in the media that unaccounted for imprest in my county now stands at about KShs150 million. That is an outrage. Nobody should ever be allowed to take imprest without surrendering the previous one. It is through imprest that we lose a lot of public money.

Mr. Deputy Speaker, Sir, more importantly - and this is not just about Bungoma but all counties - the Transition Authority(TA) and the successor to it the counties, have never been able to properly account for public assets. There was a lot of land everywhere in this country in terms of public parks, public markets, dams, cattle dips and a lot of things which in the transition and confusion of moving from local authorities to county governments some of these properties just disappeared. There are always criminals hanging in the wings to take advantage of any confused situation.

I would want to see that CPAIC call in and hire an external valuer and investigator to go through the records of each and every county. They have authority to do this. This is because if we are talking about property for example, in Nairobi City County, a small property measuring 50 by 100 meters is worth millions, probably Kshs50million or 100 million. People have floated away this for their personal benefit in many former municipalities. My county is not any different. Public land has been stolen.

Mr. Deputy Speaker, Sir, more importantly, the Committee should not just end up saying that they recommend that such and such be done or improved. Where there is culpability, they must recommend that other agencies of Government must take up and investigate the matter if there was criminal conduct on the part of accounting officers, so that we can have proper accountability in our management of public affairs.

I say this because corruption has eaten away this country. In the old days and even in the last Parliament, public accounts management and reports coming here were taken very seriously. If you look at this, we have accounts of about 15 counties. How many of us are here? I do not know if some of us have spoken to this before. A misappropriation of funds in Tharaka Nithi County is as offensive to the Senator for Bungoma County as it is to the Senator for Tharaka Nithi County because we are all custodians of public good.

We need to have a very concerted effort. More importantly, a way must be found. Today, we had the Cabinet Secretary for the National Treasury and Planning appearing before the Senate Committee on Finance and Budget. He has come up with a very innovative way of dealing with some of the errant counties. He is seeking Parliamentary authority under Article 225 to freeze disbursement of funds to counties that are continuously flouting rules of public finance management including but not limited to payment of bills of suppliers of goods and services and other things.

Mr. Deputy Speaker, Sir, we need to extend that application to the management of accounts. Unfortunately, we are looking at accounts of people who have since left office. You cannot now start punishing a new regime for the sins of the previous one even if there is perpetual succession.

I would want to see a way in which the CPAIC under the management of Sen. M Kajwang' or his successor in title at whatever time, to do their best and keep abreast with the financial years so that by now we should be debating the accounts and audits of the Financial Year 2018/2019 because we are now in the Financial Year 2019/20. If we are

tackling accounts of the FY2015/16, then we are just tapping wrongdoers on the wrist and telling them to move. Some have already moved on.

Although I know the workload is very heavy, looking at what they have done on Bungoma, the conclusions and the statements made are very casual and feeble.

Mr. Deputy Speaker, Sir, we want to see that where tax payers' money has not been accounted for, protected or out-rightly misappropriated, to be an issue we must deal with firmly. We should show the resolve of this House as the last oversight House after the county assemblies. We are capable of doing what we are enjoined to do by the Constitution including, but not limited to, inviting in criminal investigative agencies to deal with situations as they arise.

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

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. Wetangula. I request Sen. M. Kajwang, who is the Mover, to reply. I encourage him to do a symbolic reply given the circumstances of this afternoon.

Sen. M. Kajwang: Thank you, Mr. Deputy Speaker, Sir. In respect to your directions and to Sen. (Dr.) Langat who moved the Motion of Adjournment, I beg to reply.

I want it to go on record that this will be the 63rd Report that the CPAIC has brought to this House. We have 20 more reports remaining for us to close the 2013/2014, 2014/2015 financial years.

I report to the House that our considerations and interrogations are on the current Financial Year 2017/2018. I invite Members of the Senate to our Committee when we invite governors from their counties or any other governor. They are free to join as friends of the Committee. I also wish to urge Senators present that we need to have a much more robust debate.

I cannot agree with Sen. Wetangula more. We seem to be taking reports of CPAIC quite casually. This then sets in Motion the process of implementation. The Clerk of the Senate is expected to write to all the accounting officers and implementing agencies. They will have three months to implement and write back to the Senate. I invite Senators to join the CPAIC in following up the recommendations.

Mr. Deputy Speaker, Sir, pursuant to Standing Order No. 61(3) I pray that you defer putting of the question to a later date.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. M. Kajwang, this Motion requires Division through delegation. Would you like to request that Division be deferred? Again, given the circumstances of this afternoon, would you like to make that request?

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, I request that you defer putting the question to a later date pursuant to Standing Order No. 61(3).

The Deputy Speaker (Sen. (Prof.) Kindiki): It is so ordered. Division will be tomorrow.

(Putting of the Question on the Motion deferred)

We move on to the Next Order. I now call upon the Senator for Bomet County to move his Motion of Adjournment. We have eaten into around 20 minutes of this Motion, should any Senator wish to compensate for that time, the procedure is that he or she can

request for an extension of time beyond 6.30 p.m. That Senator must make that request before 6.00 O'clock in accordance with the Standing Orders.

Proceed, Sen. (Dr.) Langat.

MOTION OF ADJOURNMENT UNDER STANDING ORDER 34

LANDSLIDE DISASTER IN WEST POKOT COUNTY

Sen. (Dr.) Langat: Thank you, Mr. Deputy Speaker, Sir. Pursuant to Standing Order No.34(1), I beg to move that the Senate do adjourn to discuss a definite matter of urgent national importance regarding the disaster in West Pokot County, occasioned by the landslide that claimed over 50 lives following days of heavy rains in the country.

Mr. Deputy Speaker, Sir, I convey my heartfelt condolence to the people of West Pokot County and more especially to all families that were directly or indirectly affected by the landslide.

As I have mentioned, the tragedy has claimed over 50 lives and more bodies are still missing and are yet to be retrieved from the mud sludge. Some families have lost all their members. As we heard in the media yesterday, there is a family that lost five members. Apart from the loss of lives, many other residents have been injured, property worth millions destroyed and livelihood lost. I, however, express my disappointment regarding the slow emergency response to this particular disaster.

We have heard over the media that the Cabinet Secretary (CS) for National Security and Coordination of National Government, CS for Devolution and Planning and the Regional Commissioner were still in Eldoret up to yesterday waiting for the weather to be conducive so that they could visit the place. While the military has been deployed to assist in recovery and relocation of people from areas perceived to be in danger, very little has been done to ease the suffering of the affected people of West Pokot. Medical assistance, for instance, is slow and needs to be stepped up to save lives of people that have been injured.

Mr. Deputy Speaker, Sir, the disaster has affected the people and they have suffered greatly. Therefore, further provision of food, water and clothing should be fast-tracked to cover all the affected families.

According to the meteorological department, heavy rain is still expected to continue with intensity in the coming week before easing towards mid December. This raises fears of more devastating effects in various parts of the country as it was mentioned yesterday. This calls for the National Disaster Operation Centre (NDOC) and other emergencies rescue to be proactive in mitigating any potential disasters that may occur arising from the ongoing weather.

Mr. Deputy Speaker, Sir, in light of this disaster, I urge you to refer the matter to the Standing Committee on National Security, Defence and Foreign Relations to invite the CS to respond to a Committee of the Whole to explain the disaster situation occasioned by the ongoing rains in various parts of our country and measures put in place to mitigate this particular disaster.

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

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

Madam Temporary Speaker, county governments have got least strength to respond to these particular disasters. Therefore, this House needs to reconsider strategies and money that the county governments have put aside for disaster management.

The Governor of West Pokot County is only making statements, but is unable to do much in this area of concern. I have also registered a lot of disappointment. This is because the highest officers in Government moved to Eldoret using machineries like a helicopter from the army. They gave an excuse that they could not reach that particular place yet the Deputy President's chopper landed in that place and did the necessary.

This negligence should not be taken lightly yet people are dying. We also heard yesterday that places like Murang'a, Bomet, Kericho and others parts of this country are sending signals of danger yet we have not seen any Government response in those particular places warning people to keep off areas that are giving signals of danger. Therefore, the Government has to pull up its socks when it comes to responding to these particular disasters.

People in West Pokot have received little medication on specialised areas. The military officers that have been deployed to the place are few. Therefore, we request the Government to send more so that they can open up roads for the people to be assisted by members of other agencies, for example, the Kenya Red Cross (KRC). We have seen the efforts of the KRC who are doing a good job but are challenged by the bad roads. The military personnel would have been deployed to those areas to assist the affected families.

Madam Temporary Speaker, I would like to thank the people who have made contributions to assist the affected families such as churches and other well-wishers. We thank the Government of the United States of America (USA) through the Ambassador. Yesterday, the President of the USA, Mr. Donald Trump, announced that they will assist the affected families financially.

I am not happy with how the Government of Kenya is responding to this tragedy. There have been warnings on impending mudslides in other counties such as Murang'a yet the Government has not taken proactive measures to assist our people. Disaster management in our country is poor. I wonder whether there are any disaster preparedness measures for such situations. This is a matter of grave concern and I have requested the particular committees concerned to take serious action.

Madam Temporary Speaker, I beg to move this Motion and ask Sen. Cherargei to second.

Sen. Cherargei: Madam Temporary Speaker, I would like to begin by congratulating you for the appointment as a trustee of the National Fund for the Disabled of Kenya (NFDK).

I take this opportunity on my own behalf and on behalf of the people of Nandi County, to pass our deepest condolences to the families of more than 50 lives that were lost in West Pokot County. I also wish a quick recovery to the many people who are still recuperating in various health facilities in West Pokot and the neighbouring counties. There has been wanton destruction of property in West Pokot County.

Secondly, I thank the agencies that have come out to support the people of West Pokot County through finance and other forms of support such as prayers. As Sen. (Dr.)

Langat has said, we would like to see a more proactive reaction to disaster response and management in the country so that we prevent more disasters from happening.

Madam Temporary Speaker, yesterday, the national Government, through the Deputy President, reached out to people in the affected area. I hope that in future, our systems will be more proactive. We cannot prevent disasters from happening, but we can at least mitigate them by putting necessary measures and systems in place.

Unfortunately, the Cabinet Secretaries in charge of the Ministry of Interior and Coordination of National Government and the Ministry of Devolution and ASAL Areas as well as the Regional Commissioner could not fly to West Pokot County yet we needed to see them on the ground. You are the Senator for Uasin Gishu County which is 73 kilometres to West Pokot. We expected the Cabinet Secretaries to even go by road if the choppers were not in working condition. Interestingly, when the Auditor-General raised a red flag on the purchase of military helicopters, the Ministry concerned informed us that the helicopters have night vision and can fly in the dark. I hope that the necessary agencies will be censured.

The senior Government officials are taking this issue lightly without the commitment. You can imagine the pain and anguish that the residents of West Pokot County are undergoing yet some people are treating this issue casually. I hope that with the interventions by the national Government and the County Government of West Pokot, the people of West Pokot County will get an opportunity to recuperate as they mourn their loved ones. I hope that systems will be put in place to ensure that the county resumes normalcy.

Madam Temporary Speaker, as you may recall, this House passed the Disaster Risk Management Bill (Senate Bills No. 8 of 2018) that was subsequently referred to the National Assembly. Without a proper framework, efforts on disaster and risk and management will continue to fail. A legal and institutional framework will provide clarification concerning the division of tasks to be undertaken on the two levels of government and policy guidelines on how the system should operate in practice during disasters such as the one that occurred in West Pokot County and other areas.

I take this opportunity to urge colleagues in the National Assembly to fast-track and expedite the passage of the Bill. The Disaster Risk Management Bill (Senate Bills No. 8 of 2018) will ensure that we have a well-coordinated programme to ensure there is no blame game when a disaster happens.

It is sad that the County Government of West Pokot has issued an M-Pesa pay bill number asking for contributions from well-wishers yet we have allocations in the budget that are meant to assist the victims of such disasters. We need to fast-track both institutional and legal frameworks to ensure proper disaster response.

Madam Temporary Speaker, resources meant for disaster preparedness should be allocated to the county governments. The national Government should only assist in coordination and logistical support. It is not practical to buy food supplies for the affected families in Nairobi and fly them all the way to West Pokot yet the same supplies can be found in Kapenguria, Kitale, Eldoret and many other neighbouring towns.

I urge our colleagues in the National Assembly to expedite the process of passing the Disaster Risk Management Bill (Senate Bills No. 8 of 2018). I hope that the President will assent to the Bill as soon as possible after it is passed in the National Assembly so that we have a law to assist in the management of such disasters.

Madam Temporary Speaker, the Meteorological Department has flagged out high risk counties and said that most of the parts of the country will be affected by continued high rainfall. Let us not wait for disasters to happen. We should take this opportunity to put necessary intervention in place and ensure that we remain focused.

With the discussion on the need for constitutional review, this is an opportune time to review the role of the national Government *vis-à-vis* that of the county governments to ensure that there are adequate resources allocated towards disaster and risk management. Now that we are having the conversation about constitutional review, we must think about disaster and risk management in this country so that we do not lose more lives or property in the near future.

Madam Temporary Speaker, I wish well the people of West Pokot County as they come to terms with the disaster. I thank you for this opportunity and beg to second.

(Question proposed)

The Temporary Speaker (Sen. (Prof.) Kamar): Kindly proceed, Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Madam Temporary Speaker, I thank you for giving me the opportunity to ventilate on this Motion. I also thank Sen. (Dr.) Langat for bringing this Motion to the House. We have been experiencing heavy rainfall throughout the country. Therefore, we must address the issue of disaster preparedness as a nation. The county governments must be effective in addressing the same.

I would like to pass my condolences to the people of West Pokot County who have lost their loved ones. Disasters are painful because they are not planned for. Some disasters are man-made while others are natural. The one for West Pokot County is actually a natural calamity. However, as much as it is a natural calamity, we cannot just sit back because that is a natural calamity. There are some natural calamities that are preventable.

For instance, Madam Temporary Speaker, we all very well know that every year, we have a period of heavy rains. Therefore, there is need for county governments to interrogate this issue of floods, because this is not the first time that floods have taken away a number of lives. It has happened before in other parts of the country, and there is need for county executives to ensure that they put aside some money solely for arresting this flood menace.

I watched on television how the road was intensely damaged, and it had even been separated into two. It is so bad that if you had gone to the East to see a family, you could not go back to the West. It was a sad situation. As I was watching the television, I could tell that even the quality of the road was not up to standard.

There is need for us, as a nation, to try and prevent some of these natural disasters. For instance, floods can sweep away a road and buildings because of soil erosion. However, there are many ways in which the county governments can manage this situation, for example, by planting trees.

Madam Temporary Speaker, I thank organizations like the Kenya Red Cross Society (KRCS) and everyone else who has come on board to support the families that were affected by the disaster with food, clothing and basic needs. However, as much as

they are supporting, there is need to look for a sustainable way of ensuring that we bring this disaster to a stop.

There was a time when county governments were putting aside funds to prevent disasters. I remember that at one point, I saw some culverts and terraces being erected for purposes of preventing floods in Nairobi. However, there is need for county governments to seriously look into the issue of floods, because prevention is better than cure.

Madam Temporary Speaker, we should not always wait for a disaster for us to come to ventilate on the issue here in Parliament. Some Bills, like The National Disaster Management Authority Bill, 2019, should not be delayed so that it addresses some of these issues. Even county governments and county executives should address this issue and report to the Senate. They should let the Senate know what they are doing about that Bill, and what they are doing about managing floods. It is possible to arrest some of these issues early.

Some of the ways that such natural floods can be managed is by the construction of flood ways. Now, if the county governments put aside some little money for this, it is possible to prevent flooding. Planting of vegetation, erecting terraces and culverts are all equally important in preventing floods.

Apart from that, it is important for county governments to have crisis management centres to deal with disasters. These centres should manage disasters before they start. Even when disasters strike, they should address the affected families directly and indirectly. These centres should also come up with sustainable solutions to arrest such calamities.

Therefore, Madam Temporary Speaker, I beg to support this Motion. I hope that it goes to the next level, and that it will be taken seriously for the purpose of intervention.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you.

Proceed, Sen. Ochillo-Ayacko.

Sen. Ochillo-Ayacko: Thank you, Madam Temporary Speaker, for giving me an opportunity to add my voice to those of the people of goodwill, who are expressing their sympathies, love and concern to our unfortunate brothers, sisters and families in West Pokot.

As a family, nation and as a people, we are mourning the loss of lives of many people whose sin or offence, perhaps, is poverty. They are the poor and vulnerable people who live in one remote area called West Pokot, and they are part and parcel of this nation.

Those unfortunate citizens died very sadly. Some of them did not know that a disaster of this magnitude would ensue in their lives. Some of them had dreams and hopes. Maybe others were robustly aspiring to participate in supporting or amending the Building Bridges Initiative (BBI) Report, or doing something positive about the future of this country.

It is, therefore, unfortunate that this disaster has cut their expectations and hopes in life before they are realised. However, those of us who are left behind must continuously pray for these unfortunate Kenyans. We must continue doing what we must do to ensure that such disasters do not recur.

Having said that, Madam Temporary Speaker, I have also heard some of my colleagues castigating some government officials for not visiting West Pokot, in spite of

the fact that they have helicopters and other things. I do not know why officials are being castigated for being unable to make it to West Pokot, but it may not be that simplistic.

I remember that in my earlier life, I was also being flown around in choppers. My brother, Sen. Wetangula, has also had a similar experience. At times it gets to a situation where the instructions of the captain of a chopper become final. They tell you that from the information available to them, they are unable to continue further. It does not matter how mighty or which office you hold. They simply tell you that they do not want to be part of the suicide mission that you are engaging in. Therefore, before we castigate officers, we must also set back and know that, at some point in this country, we have lost leaders who tried to fly from one place to the other.

I hope the reason these leaders were unable to fly to West Pokot was one that could not be avoided. I persuade anyone who is angered at them for not flying, to also be mindful of the fact that when the captain says you cannot fly, then you should not fly. We do not want to increase suffering and death by adding on to what Kenyans are already suffering from after losing very many people in West Pokot, by losing any leader who is going there to rescue victims.

Madam Temporary Speaker, I encourage people in responsible positions, including Members of Parliament (MPs), both at the National Assembly and at the Senate, to do something. We should talk about this disaster and do something that is pragmatic to alleviate the suffering of our brothers and sisters in West Pokot. It may not be opportune right now to bicker, quarrel and grandstand about who should be doing what. This is the time we should unite in our support, both emotional and material, for those who are suffering.

With those remarks, thank you, Madam Temporary Speaker.

Sen. Wetangula: Thank you, Madam Temporary Speaker, for giving me time to contribute to this Motion of Adjournment. I send my condolences, those of my family, the people I represent in Bungoma and the FORD Kenya (FORD-K) Party to the people of West Pokot County.

West Pokot is a poor county set in a very difficult terrain. This is a county that has suffered neglect from colonial Kenya, through independent Governments of this country. At one time, West Pokot used to be referred to as a closed district, where the Government would close the entire county from access by anybody. Therefore, no media or nothing could go there and they would commit untold atrocities against the people of that county. It is even more tragic that Mother Nature can bring such pain to the people of West Pokot County.

We have had landslides in Central Kenya, Murang'a County in particular, Khuvasali in Malava Constituency which is in Kakamega County, and other parts of the country, but it has never been that tragic. I expected the national Government to direct that flags be flown at half-mast in remembrance and acknowledgement of the tragedy that has hit West Pokot County.

Madam Temporary Speaker, disaster management is a shared responsibility under the Constitution. The Fourth Schedule gives authority to both national and county governments to manage disaster. I do not share the view that the delay in passage of a Bill that left this House and went to the National Assembly is a hindrance. A disaster is a disaster and the response by the Government must be instantaneous and effective. When we have a situation such as what we have in West Pokot County, I expect the

Government to deploy the military. Thank God that we have a military that is never at war with anybody apart from going out to keep peace and the current misadventure in Somalia.

The national Government should deploy the military to West Pokot County to assist families to carry bodies of their loved ones who are being recovered. I am told that more than 50 people have died, but most of the bodies have not been found. The army should go down the stream.

We have River Muruny that joins Turkwel River that flows to Lake Turkana which is heavily infested with crocodiles. They should see that the families that have lost their loved ones have the opportunity to give them a decent burial, but that is not happening. More importantly, I would like to hear that the Government is helping to erect shelter on safer grounds for people who have had their dwellings washed away. Again, that is not happening.

We do not want to see people being put in inhumane camps as if they are refugees in their own country because we have enough capacity, space, and opportunity to give a sense of pride to Kenyans. When something happens in any part of this country, people everywhere in the country should feel the pain like the people of West Pokot County are feeling.

Madam Temporary Speaker, what hurts many people more is the reckless users of social media. A deluge like what we saw in West Pokot County swept away families. The floods swept away an entire family of seven people. Users of social media, completely oblivious of the pain people are going through, are posting horrid pictures of dead Kenyans on social media. Where have our morals gone? We cannot have people behaving like beasts towards others. Whereas people need comfort, confidentiality and prayers, criminal and crooked minded people are busy taking pictures of naked dead bodies and posting them on social media. This is extremely callous and has to be condemned.

We have a law in this country like they have in the USA. Even American soldiers that are bastardized and killed in Afghanistan, Somalia, Iraq and everywhere---

(The amber light was switched on)

Madam Temporary Speaker, can I have a few more minutes?

The Temporary Speaker (Sen. (Prof.) Kamar): I will allow you one more minute.

Sen. Wetangula: One minute is too little.

The Temporary Speaker (Sen. (Prof.) Kamar): You still have two minutes.

Sen. Wetangula: Madam Temporary Speaker, when Americans are killed in the countries that I have mentioned, you will never see blood and dead bodies on American television screens. Where are the morals of our country? We cannot have this kind of recklessness by people who do nothing but live on social media insulting each other from morning to evening and posting all manner of things. That has to stop. We have a law that needs to be enforced. We do not have a shortage of laws against offensive public moral behaviour.

Equally important, there are areas where this devastation has taken place. We have those who have died, those who have been left homeless and children who will be

going to school. We also have wildlife in those areas that needs to be taken care of in terms of protecting people.

Part of my early life, I lived in Ortum where River Muruny that devastated the area passes. It is a difficult terrain. It is hilly, forested and with wildlife and so on and so forth.

West Pokot County, more than anything else, needs the entire national Government's machine in relation to disaster management. Equally important, is the capacity and the ability of the national Government, through the Meteorological Department and other agencies, to inform people when we expect heavy rains. It is not enough for the Meteorological Department to keep on telling us that we will have above average rains or we will have rains up to Christmas time.

They should tell people that we have areas like Murang'a, Kakamega, and West Pokot counties that are prone to landslides and advise people to move to safer ground. The Government has a duty to do that. Even where people nostalgically want to hang on to their traditional homes, they should be moved forcefully to save their lives and avoid disaster from happening. This is an act of negligence on the part of the national Government because this was foreseeable.

Before the Solai Dam Tragedy, people saw the dam cracking and the embankment weakening, but nobody told those who lived on the path of the water to move away. We lost close to 50 people. After a short while, it becomes part of our history. In this country, there is a phrase that we should forget and move on.

Madam Temporary Speaker, just like I tweeted, this matter should not be left to the County Government of West Pokot. This is because county governments in this country are too weak. Their resources are limited and their ability is not sufficient. There is no single county in this country that has helicopters to fly people through difficult terrains.

The army should set up a camp in Kapenguria and Makutano towns and do everything humanly possible for the next three, four or five months to give comfort to our brothers and sisters in West Pokot County. They should build houses for them, repair the broken roads and give them a normalcy of life that they require.

Madam Temporary Speaker, I beg to support.

Sen. (Dr.) Zani: Madam Temporary Speaker, I wish to start by thanking Sen. (Dr.) Langat for bringing this important Motion for Adjournment. Again, we have been caught flat footed. We spoke about this issue last week. We talked about the vagaries of the weather and weather patterns that are expected, but we always have the same problem. We experience floods when there is a lot of rain. However, we do not have a way of tapping rain water that could be needed another time. After that, we have a series of droughts that end up leaving people dead.

People die either because there is too much water or lack of water. We talked about this and the need for having laws being implemented. Every country should plan well for disaster management.

It is raining in Kenya and the neighbouring country, but they have not been affected like us. Our neighbours built dykes and were prepared for the rains. It is not about the weather but how one plans for the weather. We know the weather patterns in sub-Saharan Africa and it is possible to pre-empt and plan. Our meteorological

departments should send the warning signs early so that people are moved to safer grounds.

I wept when I saw parents identifying bodies of their children and people identifying bodies of family members who lost their lives as a result of the floods. It is torturous for a whole family to be wiped out within a minute. We do not even have plans for those who have been left. They do not know where they will get housing, water and food. It is disaster after disaster and this creates a big problem yet this is something that can be projected and planned for. The national Government should put up an emergency kitty to deal with such cases.

We have organisations that have been assisting the victims. I am happy that aid is now being given directly to the victims, which is a good direction to take. We have had cases where people take advantage of such disasters and use the money that is meant to help such people for their own benefit.

I find that approach good and that is the way to go even as we plan and think of how to move forward with devolution. We can borrow that and later have the leaders oversight the use of the funds to see if they are used appropriately rather than hearing that funds have not reached the people who are in need.

We have the County Integrated Development Plans (CIDPs) within the counties that are usually pushed back because of lack of mitigating circumstances. We are taken back development-wise when such disasters happen. Netherlands is surrounded by water, but it has found a way of handling its situation. In USA, the citizens are forewarned of a storm long before it happens.

People in such areas should be asked to leave early. If they do not agree, then they should be pushed out. The basic principle should always be to save life. We have heard of countries that have had Tsunamis without a single person dying. We now have technology that can predict the weather patterns and ways for mitigation.

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

The Temporary Speaker (Sen. (Prof.) Kamar): Are you done? I want to give you 50 seconds.

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker. We will move away from this if those other plans are put in place. It is about pre-warning, action, saving lives, focussing for the future and acting in advance. It is also about valuing the lives of all Kenyans.

Sen. (Prof.) Ongeri: Thank you, Madam Temporary Speaker, for allowing me to express my sympathy and condolences to the families in West Pokot, Taita-Taveta, Meru and Murang'a counties who have experienced nasty flooding during heavy rains. This is not a new story in Kenya. We have been having disaster after disaster.

Watching those clips is very worrisome. We have seen children, fathers, mothers and members of the community struggle to salvage what they can. I felt bad when I heard that Wei Wei Secondary School had also been affected. That school produced one of the best performing students and I visited it sometimes back.

The causative effect of flooding is clear in everybody's mind. The deaths were as a result of geophysical effects. The mudslides swept away houses and habitation. Help was not forthcoming because those people are remotely located.

The County Government of West Pokot has no capacity to deal with that kind of emergency because it was on a higher scale. I commend the Government because it deployed officers of the armed forces and other security organs. I also thank the humanitarian agencies who dealt with the problem.

We empathise with the families, but what else can we do as a nation to avoid such things from happening in future? Climate change has been a story and I remember negotiating the Convention Climate Change Framework when I was the United Nations (UN) Environment Ambassador. We went to Paris to get the Paris Convention and discussed the mitigating factors that are required to deal with such emergencies.

We know that there will be flooding, earthquakes and flash floods because of climate change. Therefore, we should have mitigating factors. One mitigating factor is having a plan between the national Government and the county governments and the focus should be on areas that are prone to flooding. We should also plant vegetation along the slopes so as to reduce the intensity of flooding that goes downstream. We should also construct water ways to direct the water to other places.

Flooding is not a strange thing in areas like Wajir and Marsabit counties. I know that because I have worked in Wajir. That place is a savannah and it gets flooded everywhere. What worries me is the epidemic that emerges after the floods such as waterborne diseases as a result of shallow pit latrines in those areas.

(The red timer was switched on)

Madam Temporary Speaker, kindly allow me a minute to conclude.

The Temporary Speaker (Sen. (Prof.) Kamar): I will give you a minute.

Sen. (Prof.) Ongeri: Thank you, Madam Temporary Speaker. Apart from evacuating people in places like West Pokot and having the humanitarian groups like the Kenya Red Cross Society (KRCS), we should maintain the morale and the nutritional status of the people who have been left behind. Those people did not have anything to eat for many hours and there was no service reaching them.

There were no blankets and nothing to shield them from harsh climatic conditions because we know it is very chilly. You and I have protected ourselves with heavy gearing so that we are safe from pneumonia and other diseases that might develop because it has been raining today. My recommendation is that as a nation, we should be prepared to take over the emergencies at the county level because counties may be unable.

I thank the Mover of this Motion because it is timely. All Kenyans must empathize with people from the areas that have been affected. Appropriate measures and resources should also be set aside in order to deal with the situation.

I thank you.

The Senate Minority Leader (Sen. Orenge): Madam Temporary Speaker, I also wish to thank Sen. (Dr.) Langat for bringing this very important Motion to the House. It shows that we are one as country. The fact that Sen. (Dr.) Langat from Bomet County thought about the tribulations of the people in West Pokot County, that is a demonstration that when we have national problems and disasters, we must be patriotic and think as a nation especially we Members of the Senate. I know that the Senator for West Pokot County is not here for a good reason.

Madam Temporary Speaker, climate change and global warming are with us and we cannot run away from them. Although there are naysayers, there is evidence out there to show that we must deal with global warming. If you look at the Arctic and the Antarctic, the ice is thawing at a fast rate and the sea level is getting higher. Even where there was life, you could still find disaster. The flora and fauna is changing because of this phenomenon.

The reason we must deal with it is because many areas are being affected constantly. An area like the Caribbean has experienced hurricanes and storms for a long period. Constant hurricanes and typhoons have hit Indonesia, the Indian sub-continent and South East Asia. The phenomenon we are seeing in West Pokot County is not just a Kenyan affair. Even the USA had Hurricane Katrina, which was a major disaster for a country as rich as the USA.

Some of the naysayers in Washington D.C. do not read the signs and listen to science that global warming is a phenomenon that must be dealt with. Nationally, we must deal with it by protecting our forests since some of these things are happening because of deforestation and other phenomena like desertification.

Having said that, I sympathize with the people of West Pokot County because they have gone through great suffering. What is happening there is a great tragedy. I feel that we should not be parading our police officers, firefighters and the NYS on national holidays because when speeches are made, they say that they are ready to fight any problem anywhere and at any time round the clock. During national holidays, they are in their thousands, but these units were not there to be seen in West Pokot.

One of the things I have noted is that there is also some dysfunction in the Government because the Deputy President and the Minister for Interior and Coordination of National Government are members of the National Security Council (NSC). When they go to a place like West Pokot County, it must be in an organised fashion. There must be activity to be seen. The first responders should be people like the police, the army and fire fighters among others and they must be trained at both the county and the national level.

We should not be parading them during national holidays, but we see very few of them when it comes to national disasters. The Deputy President looked a lonely figure and looked helpless in a private helicopter. Could we have state resources taken there? This is a question that we must ask.

The Deputy President should have first organised the NSC to ensure that the people of West Pokot County were given what they deserve.

(The red timer was switched off)

The Temporary Speaker (Sen. (Prof.) Kamar): You have one last minute.

The Senate Minority Leader (Sen. Orendo): This is because they are taxpayers, they are Kenyans and must get the services of the national Government when a situation like that happens in that part of the country.

Thank you, Sen. (Dr.) Langat, for bringing this Motion.

Sen. Madzayo: Asante, Bi. Spika wa Muda kwa kunipa nafasi kutoa maoni yangu kuhusu janga ambalo lilitokea kaunti ya West Pokot. West Pokot ni sehemu ya Kenya ambayo imekumbwa na shida nyingi.

Kwanza, ningependa kutoa rambirambi zangu za dhati kwa watu wa West Pokot. Vile vile, ningependa kutoa rambi rambi kwa aliyekuwa Seneta na ambaye ni Gavana, Prof. John Lonyangapuo, kwa jitihada ambazo anafanya kusaidia watu wake. Nilisikitishwa sana na karibu machozi yanitoke nilivyo ona alivyokuwa akijieleza. Ni kama alikuwa analia. Alisema kwamba ameachiwa watu wa West Pokot ilhali hana uwezo. Hiyo ina maanisha Serikali haijalia maanani watu wa West Pokot.

Bi. Spika wa Muda, sehemu ikikumbwa na janga kama lile lililotokea West Pokot, Serikali inafaa kuingia kati mara moja. Serikali inafaa kutoa mikakati ili watu waone kwamba inaweza kuwasaidia, kuwatumikia, kuwapunguzia shida walizo nazo, na pia kuwatoa katika sehemu ambazo hazifai.

Mito mingi imefurika na maeneo mengi yamekumbwa na mmomonyoko wa udongo. Hali hii imesababisha madhara makubwa. Kwa hivyo, Serikali, haswa Idara ya Utabiri wa Anga, inafaa kutahadharisha watu kutoka kwenye maeneo hatari ili kuepukana na majanga.

Bi. Spika wa Muda, sio watu wa Kaunti ya Pokot Magharibi peke yao. Vile vile, watu wa Kaunti ya Kwale wamekumbwa na mafuriko. Watu wa Bunyala na Kaunti ya Kilifi pia hukumbwa na mafuriko. Miezi kadhaa iliyopita, kumekuwa na hali ya suitofahamu katika maeneo fulani ya Kaunti ya Kilifi ambapo watu walikuwa wakipelekewa chakula kupitia kwa ndege aina ya helikopta.

Lazima sisi Wakenya tuzingatie mambo kama haya. Serikali yetu pia inafaa ihakikishe kuwa athari kama hizi zinazokumba Wakenya zinadhibitiwa kabla kutokea.

Asante kwa kunipa muda huo.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. Omogeni, proceed.

Sen. Omogeni: Thank you, Madam Temporary Speaker, for also according me an opportunity to contribute. First, I thank my good friend, the Senator for Bomet County, Sen. Dr. Langat, for introducing this Motion for debate before the Senate.

I would like to register my condolences to the people of West Pokot County who have been affected by this natural calamity. On behalf of myself and the people of Nyamira County, I say, *pole*. We hope that they will be strengthened because whatever happened is beyond the prevention of human beings.

Secondly, we should not be embarrassed by what occurred in West Pokot County because natural disasters happen everywhere. I read in the newspaper yesterday and I watched *CNN* this morning. What we are seeing in Kenya is also happening in Italy, though it has not killed people.

The City of Venice is flooded and people have been forced out of their houses. These things happen. What is important is how we respond to some of these disasters. How prepared is our Government in responding to disasters? Let us give the blame where it squarely lies.

Under the Sixth Schedule of our Constitution, the issue of disaster management is the responsibility of the national Government. So, we should not be sitting here blaming the County Government of West Pokot. It is the national Government that has been tasked with the responsibility of ensuring that there are mechanisms in place to respond to any disaster.

The efforts that have been put in place by the national Government are commendable, but I hope that they will do more. There are some facts which are glaring

and everybody can see. The affected families have lost homes, valuable items and farming investments. Therefore, they need assistance from the Government.

I hope the Government has put in place some compensation fund that will be given to the affected families because we have been told that rains will subside in the next five days or so. Once that is done, to be seen that we have a Government that cares for its people in place, we need to ensure that we identify the affected families and give them money to reconstruct their homes so that they continue with their day-to-day activities.

Madam Temporary Speaker, we should not allow disasters to happen year in, year out. If we can map out West Pokot County and scientifically arrive at a conclusion that, that is an area that is prone to this kind of calamity during the rainy seasons, then we should put in place mechanisms of mitigating the losses likely to occur when we have landslides.

Madam Temporary Speaker, in America in the 1930s, there used to be serious floods in the Tennessee Valley---

(The red timer was switched on)

I have a minute, I believe. I will conclude.

What President Roosevelt did was to set up the Tennessee Valley Authority (TVA) that put in place mechanisms to mitigate the issue of floods. They tapped the water that was emanating from the floods into dams that could generate power for the locals.

The Temporary Speaker (Sen. (Prof.) Kamar: Please conclude!

Sen. Omogeni: Madam Temporary Speaker, the TVA supplies to the national grid the cheapest electricity in America.

I hope that we can also utilise some of these topographical areas and convert them to investments that can be of use to our country. I hope the Government can do something to mitigate the losses that have been suffered by the people of West Pokot County.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senators, for those good contributions.

ADJOURNMENT

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, having concluded debate on the Adjournment Motion, it is now time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 27th November, 2019 at 2.30 p.m.

The Senate rose at 6:30 p.m.