

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 25<sup>th</sup> June, 2015

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

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

### PRAYERS

### PETITIONS

**The Speaker** (Hon. Ethuro): Hon. Senators, we have a number of Petitions. I was just wondering whether we should deal with all of them or not. I will propose that I read them out and you can contribute to all of them collectively. I think that will be the best approach.

#### ALLEGED BREACH OF THE CONSTITUTION AND OTHER LAWS BY THE COUNTY EXECUTIVE AND COUNTY ASSEMBLY OF MACHAKOS

Hon. Senators, one of them is a petition to the Senate by residents of Machakos County concerning alleged breach of the Constitution and other laws by the County Executive and County Assembly of Machakos.

Hon. Senators, pursuant to Standing Orders No.220(1)(a) and 225(b), I hereby report to the Senate that the petition has been submitted, through the Clerk, by 24 residents of Machakos County concerning alleged breach of the Constitution and other laws by the County Executive and the County Assembly of Machakos.

As you are aware, under Article 119(1) of the Constitution, every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation. In the petition, the petitioners state that there have been numerous breaches of the law in the operations of the Machakos County Executive and the Machakos County Assembly, a situation which has led to misappropriation and misapplication of public funds by the said entities.

Hon. Senators, among the grievances raised by the petitioners are the following.

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(a) That the Machakos County Executive regularly incurred expenditure by making purchases and carrying out projects through single sourcing without following the laid down procurement laws in particular;

- (i) in the purchase of one Toyota Land Cruiser VX motor vehicle;
- (ii) construction of the Machakos Stadium;
- (iii) construction of Machakos Peoples' Park;
- (iv) purchase of 120 police vehicles;
- (v) purchase of 70 ambulances; and,
- (vi) purchase of 40 tractors.

(b) That the Machakos County Assembly regularly incurred expenditure in the purchase of a vehicle for the speaker through single sourcing and without following the laid down procurement laws and procedures.

(c) That the County Executive has made appointments of several chief officers in breach of the law as to vetting. The appointments have also been characterized by nepotism.

(d) That the County Executive has made several irregular payments using public funds without following the applicable provisions of the law. Examples of such payments include;

(i) Irregular payments and allowances by the County Executive to the Members of the County Assembly (MCAs).

(ii) Irregular expenditure on foreign travel.

(iii) Irregular expenditure on an investors' conference.

(iv) Other expenditures are simply marked as "confidential".

(e) There has been improper interaction between the County Executive and the County Assembly, including the making of payments by the County Executive to MCAs to advance objectives of the Executive thereby compromising the principles of separation of powers at the county and effectively rendering the County Assembly ineffectual in exercise of its oversight role over the county executive.

Hon. Senators, the other grievances raised by the petitioners relate to:-

(a) Failure to implement the Integrated Financial Management Information System (IFMIS) by the County Executive.

(b) Failure to constitute an internal audit committee as required by the Public Finance Management Act No.18 of 2012. (c) Irregular procurement of goods and services for sums exceeding Kshs300 million.

(d) Purchase of fictitious and unjustified security gadgets and apparatus.

(e) Construction of 33 kilometre Kithimani-Makutano Road without following public procurement laws.

(f) Non-remittance of statutory deductions despite the same having been deducted from employees' salaries.

(g) Failure to deposit revenue in the County Revenue Fund.

(h) Irregular and un-explained income and expenditures by the County Executive of Machakos County.

Pursuant to Standing Order No.223(g), the petitioners have stated in their petition that none of the issues raised in the petition are pending before any court of law or other constitution or legal bodies. Therefore, the petitioners pray that the Senate carefully investigates and examines the matters raised in the petition and recommends appropriate action thereon.

Hon. Senators, pursuant to Standing Order No.226, I will now commence observations, verifications or clarifications related to the petition later.

Hon. Senators, pursuant to Standing Order No.227, the petition will be committed to the relevant Standing Committee. In this case, it is the Committee on Finance, Commerce and Budget and will have no more than the usual 60 days from the time of reading the prayer.

I will allow the Senators standing at the bar to enter.

*(Several hon. Senators entered the Chamber)*

UNLAWFUL ESTABLISHMENT AND OPERATION OF A MUNICIPAL  
COURT BY NAKURU COUNTY GOVERNMENT

Hon. Senators, the second petition to the Senate is by hon. Margaret W. Kiiru, Member of County Assembly, concerning unlawful establishment and operation of a municipal court by the Nakuru County Government.

Pursuant to Standing Orders No.221(a) and 225(2)(b), I hereby report to the Senate that a petition has been received from one hon. Margaret W. Kiiru, Member of the Nakuru County Assembly and a resident of Nakuru County concerning the unlawful establishment and operation of a municipal court by the Nakuru County Government.

As you are aware, under Article 119(1) of the Constitution, every person has the right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.

Hon. Senators, in her petition, the petitioner states as follows. (1) That prior to the promulgation of the Constitution of Kenya, 2010 and the County Governments Act, 2012, the repealed Local Governments Act, Cap 265, established city courts and municipal courts and created offenses and penalties arising out of violations of various local authorities' by-laws.

(2) The repeal of the Local Governments Act rendered the said courts obsolete wherefore offenses arising out of violations of the County Government by-laws will now be heard by a magistrate's court established and operationalised within the framework and structure of the Judiciary.

(3) That, indeed, in March, 2015, the Chief Justice recalled all judicial officers previously assigned to municipal and city courts and directed that all cases then pending before these courts would henceforth be heard before the magistrate's courts in various counties, as would any new cases arising from new county legislation.

(4) That, since 2013, the Nakuru County Government established and to-date continues to operate wholly outside the structure of the Judiciary a municipal court at the

county headquarters allegedly to try offenders who flout county government laws. Even after the said directive by the Chief Justice in March, 2015, the said court is fully operational.

(5) That, the municipal enforcement officers prosecuting and overseeing the operations in the said courts have not been gazetted as investigative or judicial officers. It is also unclear whom the officers are answerable to as the said court is neither an organ of the judiciary nor of the county government.

(6) No accounts of the said court, including of the revenue collected by the said court, exists which the Nakuru County Assembly would exercise oversight over.

(7) That, the court which is non-existent in law has been used by the county government operatives to unlawfully detain, harass and extort money from small-scale traders trying to eke a living, particularly the youth, women and other vulnerable groups in Nakuru County. The funds collected in this scheme are never deposited in the county accounts and only benefit a small group of people around the county secretary.

The Petitioner also says that she has made the best efforts to have this matter addressed by the relevant authorities, including the Nakuru County Assembly, without success. None of the issues raised in the Petition is pending before any court of law, constitutional or any other legal body. Therefore, the petitioner prays that the Senate:-

(i) Urgently investigates the issues raised in the petition and comes up with appropriate recommendations as may be necessary to address the issues raised in the petition.

(ii) Request the offices of the Attorney-General, the Chief Justice and the Director of Public Prosecutions to undertake an inquiry into the setting up and continued operation of the said municipal court, and take appropriate action thereof, including commencing prosecution of those found criminally culpable.

(iii) To request the office of the Auditor-General to investigate the accounts of the said municipal court and recommend appropriate action thereof, including directing recovery of public funds from those found to have irregularly benefitted from the same.

(iv) Pending completion of the above processes, request the office of the Chief Justice in liaison with the Governor of Nakuru to oversee the immediate closure of the said unlawful municipal court.

Hon. Senators, pursuant to Standing Order No.226, I shall now allow comments, observations or clarifications related to the petition at the end of the submission.

Pursuant to Standing Order No. 227(1), the petition will be committed to the relevant Standing Committee. In this case, it will be committed to the Standing Committee on Legal Affairs and Human Rights.

In terms of Standing Order No.227(2), the Committee will be required in not more than 60 days from the time of reading the prayer to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

I will allow the Deputy Minority Leader to enter quickly.

*(Sen. Abdirahman entered the Chamber)*

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, Petitions are very important, therefore, it requires that we deliberate on them as quickly as possible. Would it hurt if we could deal with these two, then the others are committed next week?

**The Speaker** (Hon. Ethuro): It would not hurt, but they have been outstanding. They have also been submitted to the relevant Standing Committee. You will only be making preliminary comments. If you are really interested, you follow them at the committee level.

#### STATE OF THE NATIONAL ECONOMY OF KENYA

**The Speaker** (Hon. Ethuro): Hon. Senators, pursuant to Standing Order No.220(1) and Standing Order No.225(b), I hereby report to the Senate that a petition has been submitted through the Clerk by one Maj. (Rtd) Joel Kiprono Rop, a citizen of Kenya and resident of Bomet County concerning the state of the national economy of Kenya.

As you are aware, under Article 119 of the Constitution, every person has a right to petition Parliament to consider any matter within its authority in enacting, amending or repealing any legislation.

Hon. Senators, I have reviewed the petition and wish to highlight the salient issues raised in the said petition. These are follows:-

(1) The national economy is in a perilous state and cannot drive any sustainable development in the country. This is blamed on:-

(a) The consistent exports since Independence of raw materials and semi-processed foods from the country to developed countries where the same is processed and sold back in the country at very high prices.

(b) The export of natural resources such as minerals and wood products to other countries at throw away prices.

(c) Large-scale importation of goods and services into the county, including from developed countries, which use our country as a dumping ground under the guise of trade.

(d) The setting up in the country of foreign owned industries and enterprises which take advantage of the cheap locally available materials and labour to produce goods before exporting the same to foreign markets at very high prices and repatriating profits back to their home countries;

(e) The securing by foreign companies of large tenders for supply of goods and services locally wherefore they tap into the cheap labour and materials available locally before repatriating the huge profits back to their home countries.

That this sad state of affairs has led to the country incurring perennial huge trade deficits, in relation to our trading partners and to an exponentially growing public debt.

The petitioner, therefore, requests the Senate to initiate steps to remedy this situation, including undertaking legislative measures that will, among other things:-

(a) Substantially close the local market to all imported non-essential goods and services.

(b) Restrict the setting up, locally, of foreign industries save for those that under special agreements will lead to transfer of technology and ownership to Kenyans within a short period of time.

(c) Support the establishment of suitable local industries in every sub-county for real time manufacturing, processing and value addition of locally produced goods for the local and export markets.

(d) Promote the elimination of barriers to inter-African trade and work towards establishing an African Economic Zone.

Hon. Senators, pursuant to Standing Order No.227(1) and (2) the petition will be committed to the Standing Committee on Finance, Commerce and Budget, which will report in not more than 60 days. This is applicable to all of them.

GRIEVANCES AGAINST THE NAKURU COUNTY ASSEMBLY  
AND THE NAKURU COUNTY EXECUTIVE

Hon. Senators, this is a petition to the Senate by nine Members of the Nakuru County Assembly concerning certain grievances against the Nakuru County Assembly and the Nakuru County Government.

Pursuant to Standing Orders No. 225(a) and (b), I hereby report to the Senate that a petition has been submitted by nine Members of the County Assembly of Nakuru through the Clerk requesting the Senate to investigate certain matters, activities and expenditures of the Nakuru County Assembly and the Nakuru County Government and to undertake certain interventions on the same as explained below.

(1) The petitioners are all Members of the County Assembly and residents of Nakuru County. As you are aware, under Article 119(1) of the Constitution, I have reviewed the petition and wish to highlight the salient issues raised by the petitioners, which are as follows:-

(i) Unlawful and unprocedural appointment of Mr. Joseph Motari as the county secretary by the Governor of Nakuru County, even after the county assembly voted to reject the said appointment on the basis that Mr. Motari had not been competitively recruited as required by Section 44 of the County Governments Act. He was appointed to the position without the approval of the county assembly.

(ii) That the said appointment of the county secretary was challenged in the high court in Nakuru in Petition No.23 of 2013 as consolidated in Petition No.25 of 2013 whereby the court upheld the decision of the county assembly to reject the appointment of the county secretary, but the governor in disregard of both the decisions of the county assembly and the high court, has retained Mr. Joseph Motari as the county secretary.

(2) Impropriety of the County Executive Committee Member for Lands, Physical Planning and Housing in handling land matters in the absence of a County Land Management Board.

(a) In the absence of a County Land Management Board in Nakuru County, there has been general lawlessness in the manner decisions affecting lands and planning at the

county level are made and implemented leading to numerous accusations of fraud and impropriety on the part of the County Executive Committee Member for Lands, Physical Planning and Housing.

(b) The County Assembly has been unable to exercise oversight on the said County Executive Committee Member for Lands, Physical Planning and Housing, as any attempt to do so has been frustrated by the County Assembly Speaker.

(3) Unprocedural conduct of business at the Nakuru County Assembly. The County Assembly has been reduced to the following:-

(a) A House of convenience and chaos. Where the Standing Orders are not followed or are amended at will to suit the interest of the Speaker of the assembly.

(b) The Speaker has, whenever it suits her, allowed hired thugs and security officers into the Chamber and used force to harass, frustrate and bar those opposed to the Speaker from contributing to or debating Motions where she is the subject of discussion.

(4) Contravention of public procurement and Public Finance Management and other laws by the Nakuru County Government and County Assembly.

(a) The County Assembly has been operating in contravention of the Public Procurement and Disposal (County Government Regulations 2013) as far as procurement of goods and services for the County Assembly are concerned, leaving the Speaker with a free hand to handpick procurement staff and to singly award contracts for supply of goods and services to the County Assembly.

(b) The Nakuru County Government has, contrary to Section 119(2) of the Public Finance Management Act, opened and operates numerous bank accounts with different banks where different revenues streams are banked, thus, making it easy to misappropriate and fail to account for such revenues;

(5) Irregular and unprocedural administration of pension schemes for Members of the County Assembly (MCA) and staff of county governments.

(a) The MCAs and staff of the county government are deducted contributions towards the Local Authority Provident Fund (LAP) Fund and the County Pension Fund (CPF) previously known as LAPTRUST. A decision that was unilaterally made by the Council of Governors without the involvement of MCAs or the staff of the county government to obtain their views on the matter;

(c) The Retirement Benefits Authority (RBA) de-registered Local Authorities Pension Trust (LAPTRUST) administration services with effect from 4<sup>th</sup> September, 2014, over failure by the scheme to comply with directions given by RBA, operating a management structure with conflict of interest and charging administration fees that are more than twice the industry average. This has placed the retirement benefit of members of the scheme in jeopardy.

(6) The Plight of Nominated MCAs.

The nominated MCAs in Nakuru County Assembly and generally across the country are grossly under-facilitated, partly as a result of guidelines issued by the Salaries and Remuneration Commission (SRC) on payment of allowances and mileage claims. This has left nominated MCAs unable to work and carry out their representative mandates and also placed them at the mercy of Speakers and other politicians, who either

use them to advance their schemes or to frustrate them when they do not agree with their positions.

The petitioners state that they have made the best efforts to have these matters resolved by the relevant authorities without success. None of the issues raised in the petition is pending in any court of law, constitutional or any other legal body.

Therefore, the petitioner pray that the Senate do the following:-

(a) Urgently investigates the issues raised in this petition and comes up with appropriate recommendations necessary to address the issues raised in the petition.

(b) Expedite consideration of the office of the County Attorney Bill 2014, which will assist in having the county governments and assemblies operate in compliance with the letter and the spirit of Constitution and other laws.

(c) undertake an inquiry into the conversion of LAPTRUST to County Pension Fund and into the operation of the same, including taking an audit of agreements entered into between the CPF and the county government, to protect the pension funds held by CPF.

(d) Considers and pronounces self on the matter of how long the officers seconded to county governments by the Transition Authority can continue to serve in those positions before competitive recruitment for the positions can be undertaken. In the interim, to declare that the Nakuru County Secretary is occupying the position unlawfully.

The Petition is signed by nine petitioners.

Hon. Senators, pursuant to Standing Order 227(1), the matters raised in this petition fall within the mandate of a number of Committees. However, since the main issues relate to alleged violation of applicable laws or which call for necessary legislative interventions by the Senate, I, therefore, direct that the petition be considered by the Standing Committee on Legal Affairs and Human Rights. Of course, Standing Order 227(2) applies in terms of the duration.

#### THE STATE OF HEALTHCARE SERVICES IN KENYA

Hon. Senators, there is one more petition by Mr. Bernard Kiprotich Cheruiyot, a resident of Bomet County, concerning the state of healthcare services in the Republic.

Pursuant to the Standing Orders 220(1)(a) and 225(2)(b), I hereby report to the Senate that the petition has been submitted through the Clerk by one Mr. Bernard Kiprotich Cheruiyot, a resident of Bomet County, concerning the state of healthcare in Kenya. As you are aware, Article 119(1), provides that every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing, any legislation.

Hon. Senators, in this Petition, the petitioner raises *inter alia* the following issues:-

(a) That the health sector has constantly remained grossly underfunded nationally and the state continues to deteriorate.

(b) That devolution of health services caused a myriad of problems, including brain drain, demoralized workforce, strikes, delay in payment of salaries and disorganization.

(c) That devolution of healthcare services has made it impossible to fairly distribute the scarce health professionals in the public service among the counties and it has become impossible to standardize their terms and conditions of service across the counties.

(d) That in view of the current state of affairs in Kenya's health sector, it might not be possible to achieve the Millennium Development Goals (MGDs), particularly pertaining to the neonatal health and eradication of HIV/AIDS.

(e) That, furthermore, the realization of the Vision 2030 social pillar might not be achieved as it will not be possible to realize a healthy working nation.

(f) That, there is urgent need for a fresh radical and emergency review of the entire healthcare sector.

(g) That Parliament is the right body to address the matter, including making proposals for the relevant amendments to the Constitution and other laws, to ensure that this very key sector is safeguarded.

The petitioner, therefore, prays that the Senate initiates the process of amending the Constitution and all relevant laws to ensure sound management of the sector by:-

(a) Reverting the management of certain aspects of the health services, such as those that relate to human resource to the national Government and leaving the county governments to manage the development of health infrastructure and the supply of drugs.

(b) Establishing a health service commission.

(c) Advocating for the improved terms and conditions of the service in order to retain health professionals in Kenya.

(d) Proposing modalities to ensure fair distribution of health professionals among the counties.

Hon. Senators, pursuant to Standing Order No.226, I will allow comments at the end on all the Petitions read, so far.

Pursuant to the Standing Order 227(1), the petition stands committed to the relevant Standing Committee, in this case, the Standing Committee on Health. In terms of the Standing Order 227(2), the Committee will be required in not more than 60 days from the time of reading the prayer to respond to the petitioner, by way of a report addressed to him and laid on the Table of the Senate.

I thank you.

Please, proceed, Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Mr. Speaker, Sir. It is difficult to focus on five Petitions at once. However, I thought that that Petition No.4 should have been referred to the Joint Committee of the Committee on Legal Affairs and Human Rights and the Committee on Finance, Commerce and Budget. This is because there were very serious financial issues raised therein, so that they can work together and bring a report.

Mr. Speaker, Sir, what runs through these Petitions gives us two things as a Senate. One, the public is fully aware of their rights under the new Constitution and will stop at nothing to enforce those rights.

Second and most important, it is unfortunate that the Senators of the counties where these Petitions have come from, who should, in fact, be the sponsors, are not here. If what you have read to us about Nakuru County is actually happening, it casts a very serious issue on how devolution is being mismanaged by those entrusted.

In my many years in Parliament, I have only heard today that a speaker can hire goons, guards and all manner of people to molest members in the House. I hope that is not happening. We saw an Indian, Italian, Korean and Somali type of activity in Nakuru County Assembly where there was a serious fist fight. If that was caused by the speaker, by bringing in strangers, it is actually insubordination of the Constitution and should lead to, not only the speaker being impeached, but probably, being barred from holding such office.

Mr. Speaker, Sir, I urge the committees to investigate these matters very seriously because when citizens come to the Senate, it means that they have lost faith in any other institution along the way. You remember the words of the Senator for Narok County, after bringing here and sponsoring petition; that this was their last hope. I believe that members of the public are treating the Senate as their last hope.

Nakuru County has been notorious for these excesses since Independence. You remember that there was a man called Kariuki Chotara and another one called Kihika Kimani, who used to tell the country: “*Serikali ya Nairobi ni ingine na Serikali ya Nakuru ni ingine.*” I hope that we are not getting to that. It is the duty of the Senate to curtail such excess.

The case of Machakos County and the allegations of misappropriations of funds are equally notorious. I hope the relevant committee will look at this.

However, more importantly, what runs through two or three of those Petitions is that the Senate and the individual Senators in their counties must come to terms with how locally collected revenue is being accounted for, banked and used.

I come from a county where before devolution, we used to collect close to Kshs2 billion through the seven local authorities. The economy is now booming because of devolution. However, last year, the records of the county government show that they only collected Kshs158 million. The money is being collected and that is the slush fund that most governors are using to play reckless politics.

The Senate is an oversight body. I laud the ruling of the court that every governor must submit and supplicate themselves to the Senate, to be questioned on how they are spending public funds. I hope the distinguished Senator for Kakamega and his committee will no longer come here and cry for help. You have now been given the teeth and you can use them to bite. That way, we can have protection of the public in the manner that the funds are used.

Mr. Speaker, Sir, recently, a Senator told us how his governor turned up in a harambee with Kshs7 million cash in a bag. This cannot be money earned by the

governor. This is money stolen by the governor. This is why the Senate must look at every county on how much local revenue is collected and how it is accounted for.

**The Speaker** (Hon. Ethuro): Order, Senators! You will appreciate that the entire Order on Petitions is not given more than 30 minutes, including when I was reading them and your interventions. We still have other business on the Order Paper. I will only give one minute per person. Just speak, but life is about priorities. Pick the one that you think you really want to comment on.

As I said, I have identified the committees that will be dealing with the matter.

On the issue raised by the Senate Minority Leader on which committee will deal with the fourth petition, if you look at it, most of them actually go to the Committee on Finance, Commerce and Budget. Given their workload and the issues raised on this other petition; unlawful and procedural appointment of the County Secretary, impropriety of the CEC member for Lands, Physical Planning and Housing in handling land matters in the absence of a County Land Management Board (CLMB), unprocedural conduct of members at the assembly, contravention of public procurement, public finance and other laws, I decided that it is proper that we give them to the Committee on Legal and Human Rights because that is the bulk of the issues. However, they are at liberty to borrow from the Committee on Finance, Commerce and Budget and any other committee of the House or whatever other expertise that is required. I do not think it is rocket science. Even if it were, rocket scientists are available.

**Sen. (Dr.) Machage:** Bw. Spika, wahenga husema: “Mbiu ya mgambo ikilia, kuna jambo. Ndege wengi wakilia, mtafute nyoka.” Leo tunapata watu wa makundi matano tofauti wakipendekeza vilio vyao kwa Bunge hili. Ni mwanzo mzuri ingawa wengine walishafanya hivyo hapo awali lakini tunaona kwamba wananchi wanaanza kutambua umuhimu wa Bunge hili la Seneti. Pia wanatambua kazi yetu. Ibainike, ijulikane na itambulike Kenya nzima, kwamba Bunge hili lina jukumu kuu la kuangalia hasa utu wa Mkenya pamoja na kustawisha na kuangaza mawazo ya usawa. Pia itambulike kwamba hata mahakama imetambua jambo hilo jana, ingawa kidogo ilitunyang’anya nguvu za kuadhibu.

**The Speaker** (Hon. Ethuro): Muda wako umepita.

**Sen. (Dr.) Machage:** Bw. Spika, ninashukuru lakini nilikuwa na mengi.

*(Laughter)*

**The Speaker** (Hon. Ethuro): Utapeleka hayo mengi mbele ya kamati.

**Sen Kittony:** Mr. Speaker, Sir, having listened to the Petitions, allow me to add my voice and commend Kenyans who now know their responsibility. It seems quite a number of them now know what the Senate can offer. We are receiving quite a number of them even from MCAs. The Senate should really take its role responsibly, execute and answer Kenyans favourably.

We need also to encourage the entire citizenship to read and understand the Constitution. It is theirs and it will only serve them in a better way if the Senate will execute its mandate properly.

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I support what Kenyans are doing at the moment.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. I congratulate Mr. Cheruiyot from Bomet for his suggestion that some of the functions of the Ministry of Health should be taken back to the national Government. I support him and let me point out to the county that devolution is facing challenges in the department of health, not because of devolution, but because of mismanagement of human resources. It is important that we quickly create the Medical Health Workers Commission (MHWA) just like the Teachers' Service Commission (TSC) and we shall have responded.

I also support the petition from Machakos County. The purchase of motor vehicles, allowances and foreign travels by MCAs cuts across many counties. I hope that the Committee will come up with a comprehensive answer.

Finally, the act of the Governor creating a confidential account where he expends money in a confidential manner is actually impunity and criminality.

I support the Machakos petition.

**The Speaker** (Hon. Ethuro): You have done well, Sen. (Dr.) Khalwale. You took one and a half minutes. I was willing to allow you two because of your other issues.

**Sen. Elachi:** Thank you, Mr. Speaker, Sir. I thank the petitioners for having faith in the Senate. My request is that we expeditiously finalise with these Petitions within the given time. That way, we will also settle the disputes that they have within those counties.

I would also like to request the Senate to talk to Ms. Serem. Members were either elected through a party list or the suffrage system. However, when we arrive in this House, all Members are equal and no one should feel less important. It is unfortunate that in county assemblies, you will find all the Chairs are men because these other ones were nominated. This is something that we now need to stop. I hope the recommendations that will come out of the petition will work on that.

I thank the court for its ruling that governors must appear before Senate to account for public funds. I believe the Senator for Kakamega will be above board as he deals with governors.

**Sen. Khaniri:** Mr. Speaker, Sir, I thank you for the opportunity. I came in a bit late and only listened to the last two Petitions. I want to thank the nine patriotic Kenyans from Nakuru for bringing this to our attention. What impresses me about this petition is the fact that Kenyans are now so enlightened about their rights. In fact, they have now become the biggest protectors of devolution which they hold so dearly. We, as a Senate, have partners in Kenyans who are helping us to ensure that devolution actually works. They do not want people to play around with the monies that we send to the counties. I am glad that they are very vigilant.

The allegations that have been made about Nakuru County Assembly are very grave. I am glad that pursuant to the relevant Standing Order you have referred the matter to the relevant Standing Committee. These matters must be investigated thoroughly so that we get to know the truth. If there are people who will be found liable for committing these offences, stern action must be taken. We support the whole idea of Kenyans being enlightened and bringing their issues to their representatives in the Senate.

Thank you.

**Sen. Keter:** Mr. Speaker, Sir, I came in late and I found you reading the last two Petitions which in my view are very detailed. I want to thank the nine MCAs from Nakuru County Assembly and also Mr. Cheruiyot from Bomet County. This is because they really gave detailed information concerning the Petitions that they have forwarded to us.

I would like to urge Senators, especially the relevant committees to speed up these investigations so that within the shortest time possible, we, as a House, can make a resolution. The issues raised do not only concern Nakuru County, but cut across most of our counties. This is important for the maintenance of dignity in our county assemblies. If we do not act right now, it will spread to other counties since there is a lot of animosity on the ground. This must be dealt with accordingly.

Despite the court rulings, the executive of Nakuru County has never acted. It is upon the Senate to act on this matter.

The healthcare situation in the country is really worrying. Most of the health facilities in all the counties are wanting. Even the basic pain killers are not there. You will even find people going to private hospitals to be treated.

Thank you.

**The Speaker** (Hon. Ethuro): Hon. Senators, by 3.30 p.m., I will stop the interventions. I will just go by the list as prompted and I will robustly enforce the one minute limit.

**Sen. Ndiema:** Thank you, Mr. Speaker, Sir. The number of Petitions being brought to the Senate does, indeed, demonstrate that the public has a lot of confidence in the Senate. I would request that the committees concerned do thorough investigations and come up with recommendations that will settle the matters.

All the issues raised here are important. The fact that the MCAs are beginning to come to us, perhaps, is a pointer that there is something wrong with the oversight role of the MCAs in the counties.

On the issue of the petition on health, indeed, health services area suffering. As you will recall, I brought a Motion to this House which this House approved, that the issue of personnel management in our health institutions, including counties, should have a national management outlook. We need to manage personnel issues in the health sector, particularly doctors at the national level.

**Sen. M. Kajwang:** Mr. Speaker, Sir, allow me to comment on the last petition that talks about the state of healthcare in Kenya. There have been calls to take back healthcare management to the national Government. However, I am glad that the petitioners are very clear in their mind that they are not calling for a centralization of healthcare which is already devolved. They are only calling for the centralization of human resource management.

We have abused our doctors and yet, they are some of the sharpest and brightest people we have in our society. If you look at the high entry requirements that have been put in place for those who join medical schools---. Unfortunately, we have now left them at the mercy of village based recruitment cartels.

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I am glad that we now want to nationalize the management of medical services. I hope that will be the conclusion that the Committee will come up with and I also hope that some patriotic Kenyans will petition this House to talk about decentralization of infrastructure management in primary and secondary schools. In the education sector, we have attempted something similar.

Thank you.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, the petition by Nakuru County on the municipal courts is very curious. The Legal Affairs and Human Rights Committee will handle this issue decisively, but it has far-reaching implications. Nairobi County has three City Courts. The same applies to Mombasa and many others. Therefore, we will get into a crisis. At the same time, since the repeal of that Cap.265, we have passed the law on protecting counties on matters that came before the Local Governments Act. We do not know where the Bill we passed here disappeared to.

Mr. Speaker, Sir, we also plead with you, that as we are trying to protect those courts from what is happening in Nakuru, we would like to see the law that we passed here being implemented. Right now, it is still gathering dust somewhere.

**Sen. Melly:** Mr. Speaker, Sir, during the short two weeks' recess, we visited a number of counties. The last county we visited was Nakuru County. Though we were going for a different mission with regard to ICT, a number of issues came up. It is in order for the committee to make sure that some of these issues are addressed. One is on the role of the county assembly in vetting. There were a number of issues raised by the MCAs that an individual was proposed by the Governor, the name was forwarded for vetting by the county assembly. However, at the end of the day, when the county assembly rejected that person, the same person was appointed a chief officer.

These issues are grave. I believe the relevant committees of the Senate will do a good job to ensure these issues are sorted out.

**Sen. Sijeny:** Thank you, Mr. Speaker, Sir. I wish to commend Kenyans who have petitioned the Senate. This shows that they are aware of their rights. It also shows that as much as they know what is required of them, awareness creation or dissemination of the Public Procurement Act and other relevant laws needs to be conducted. There needs to be a deeper understanding of the Constitution which, probably, is why they are petitioning because someone somewhere is not doing what is right. What I like about these Petitions is the fact that they are resorting to legal and peaceful means of resolving disputes instead of the ugly scenes we saw in Makueni County and other places.

I believe and pray that they will be resolved. Thank you.

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, as my colleagues have noted, these Petitions are raising pertinent issues that have come up as a result of devolution. It is time that we critically looked at them. Nearly every county is affected, particularly in the health sector. It looks like diseases are aware that the function was devolved and thus the rise in the number of problems in the counties than before. It is good we model it along the teacher management model so that it is easier to address those problems and find out how we can manage them.

If it had been devolved, in the counties that have been having issues like Wajir, Mandera and so on, people would have already run away. It is good to address these issues as they come up. We ask Kenyans to be vigilante so that they can bring these issues up all the time.

Thank you.

**The Speaker** (Hon. Ethuro): Next Order!

### PAPERS LAID

REPORT ON THE NATIONAL GOVERNMENT BUDGET IMPLEMENTATION  
REVIEW: THIRD QUARTER OF  
2014/2015 FINANCIAL YEAR

**Sen. Elachi:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 25<sup>th</sup> June, 2015: The National Government Budget Implementation Review Report; Third Quarter Financial Year 2014/2015.

*(Sen. Elachi laid the document on the Table)*

REPORT ON PUBLIC HEARINGS ON THE  
INTER-GOVERNMENTAL RELATIONS BILL

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 25<sup>th</sup> June, 2015; A Report on the Inter-Governmental Relations Amendment Bill, 2014.

*(Sen. Mutula Kilonzo Jnr. laid the document on the Table)*

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I beg to lay the following two papers on the Table of the Senate today, Thursday, 25<sup>th</sup> June, 2015:

THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL  
OPERATIONS OF ISIOLO COUNTY

The first one is the Report of the Auditor-General on the Financial Operations of Isiolo County Assembly for the period from 1<sup>st</sup> July, 2013 to 30<sup>th</sup> June, 2014.

THE COUNTY GOVERNMENTS BUDGET IMPLEMENTATION  
REVIEW REPORT

The second one is the County Governments Budget Implementation Review Report; Third Quarter by the Controller of Budget.

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I thank you, Mr. Speaker, Sir.

*(Sen. (Dr.) Khalwale laid the documents on the Table)*

**The Speaker** (Hon. Ethuro): Next Order!

## STATEMENTS

### MEASURES TO MITIGATE HUMAN-WILDLIFE CONFLICT BETWEEN THE KINNA COMMUNITY OF ISIOLO AND WILDLIFE AT MERU NATIONAL PARK

**Sen. Khaniri:** Mr. Speaker, Sir, I have a Statement to give in response to what was requested by Sen. Mutula Kilonzo Jnr.

Before I do so, I want to say that at the Plenary of the Senate held on 21<sup>st</sup> May, 2015, the Senate adopted the Motion filed by Sen. Adan requiring the joint Standing Committees of the Senate, the Committee on Land and Natural Resources and the Committee on National Security and Foreign Relations to conduct comprehensive investigations into the matter of human wildlife conflict affecting people of Kinna Community in Isiolo County and present its report within 30 days.

Mr. Speaker, Sir, the 30 days have since lapsed. That was on 21<sup>st</sup> June, 2015. The Joint Committee seeks the indulgence of this honourable House and the leave of the Chair for an extension of 45 more days so that it tables a comprehensive report on the matter.

I am glad to report to the House that the Joint Committee has made a lot of progress. The Committee traveled to Isiolo and had two meeting sessions in Isiolo. We managed to have a session with the Governor of Isiolo County.

**The Speaker** (Hon. Ethuro): Order, Senator! What are you asking of the House?

**Sen. Khaniri:** Mr. Speaker, Sir, we are requesting for an extension. At the same time, I am briefing the House on the progress report on the matter. That is why I am giving the justification why we need the extension.

**The Speaker** (Hon. Ethuro): You should have given the justification, but not a report. The most important thing was a request for an extension. It will be granted.

**Sen. Khaniri:** Thank you, Mr. Speaker, Sir, for allowing us 45 days.

**The Speaker** (Hon. Ethuro): You will have 45 days.

**Sen. Elachi:** Mr. Speaker, Sir, I have three Statements to give as requested yesterday. However, I will start with the one about the Business of the Senate for next week.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 30<sup>TH</sup> JUNE, 2015

Hon. Senators, pursuant to the provisions of Standing Order No.45, this is to present the Senate Business for the coming week, commencing on Tuesday, 30<sup>th</sup> June, 2015.

The Rules and Business Committee (RBC) will meet on Tuesday, 30<sup>th</sup> June, 2015, at 12.00 p.m. to schedule the Business of the Senate for the week. Subject to further directions by the RBC, the Senate will consider the Mining Bill (National Assembly Bill No.8 of 2014) and the National Government Coordination Amendment Bill (Senate Bill No.30 of 2014).

At the Committee of the Whole stage, the Senate will also continue with Business that will not have been concluded in today's Order Paper, focusing on the debate on Bills at the Second Reading stage.

On Wednesday, 1<sup>st</sup> July, 2015, subject to further directions by the RBC, the Senate will consider various Bills at the Second Reading stage, including the County Retirement Scheme Bill (Senate Bill No.25 of 2014). The Senate will consider any other Business scheduled by the RBC.

On Thursday, 2<sup>nd</sup> July, 2015, the Senate will deliberate on pending Motions and any other Business scheduled by the RBC.

Hon. Senators, I would like to sincerely thank and commend you for expeditiously considering and passing the County Allocation of Revenue Bill, 2015, yesterday. I also note with appreciation that we passed the Natural Resources (Benefit Sharing) Bill, 2014. Both Bills are critical to the well being of our counties.

Similarly, hon. Colleagues, we also concluded the Second Reading of the Reproductive Health Care Bill, 2014. This demonstrates your commitment to the execution of your legislative mandate.

I thank you and hereby lay the Statement on the Table of the House.

*(Sen. Elachi laid the document on the Table)*

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. I would like to remind the Senate Majority Leader that we tabled, in this House, an interim report by the County Public Accounts and Investments Committee. The tradition in Parliament has been that a Public Accounts Committee Report should be given the earliest opportunity to be debated on and adopted by the House. Therefore, we request that the Report be brought on the Order Paper at the earliest convenience.

**The Speaker** (Hon. Ethuro): Chief Whip.

**Sen. Elachi:** Mr. Speaker, Sir, next week, in the RBC, we will ensure that the report appears on the Order Paper.

INSECURITY ALONG THE TURKANA AND WEST POKOT  
COUNTY BORDERS

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, I have two Statements to seek.

Mr. Speaker, Sir, I rise to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations concerning insecurity along the Turkana and West Pokot County borders. In the Statement, the Chairperson should:-

(1) State if he is aware that the leadership of the two counties entered into a mutual agreement that as a first step to end insecurity in the area, no construction or any other development should be undertaken by either side without the concurrence and full participation of the other. As a result of the agreement, there has been relative peace for the last two months.

(2) Explain whether he is aware that the Turkana County Government is currently constructing a road from Kainuk in Turkana County to Sarmaj in West Pokot County thereby reneging on the agreement.

(3) State if he is aware that as a result, tension is now building up between the two communities and;

(4) Explain what the national Government is doing to forestall the rising tension and prevent a flare-up of violence.

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

*[The Temporary Speaker (Sen. (Dr.) Machage) took the Chair]*

Mr. Temporary Speaker, Sir, can I go to my second Statement or should we finish with this one first?

**The Temporary Speaker** (Sen. (Dr.) Machage): What is your wish? If you have not finished the first one, why should you go to the second one? I do not see your second request for a Statement in the Order Paper.

Where is the Chairperson of the relevant Committee? When do you hope to give that Statement?

**Sen. Adan:** Mr. Temporary Speaker, Sir, I would request Sen. (Prof.) Lonyangapuo to give us about two weeks to respond. I wish to inform this House that I spoke to the Cabinet Secretary, Ministry of Interior and Coordination of National Government this morning on the matter that affects boundaries, especially to address the concern that was raised yesterday in this House. Matters affecting Vihiga County were raised yesterday and also the one appearing on the Order Paper today about Isiolo and Meru counties. He informed me that he is putting up committees to look into the boundary issues that are affecting the counties. So, he will be able to respond to those matters next week, because he will be engaged in an international conference this week.

**The Temporary Speaker** (Sen. (Dr.) Machage): Are you comfortable with that?

**Sen. (Prof.) Lonyangapuo:** No, Mr. Temporary Speaker, Sir. As we wait for a detailed answer to be given in two weeks, could she undertake in this House to proceed to

ask the national Government to go to the ground and tell the communities to stop the ongoing construction, as they sort out what is happening, to avoid this flare-up?

**The Temporary Speaker** (Sen. (Dr.) Machage): It might not be the orthodox thing to do it your way. You need a comprehensive report that will include every prayer that you may wish. Two weeks is not too much, especially knowing the amount of work that, that committee has.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I do not know whether you followed what I was saying. For the first time in our lifetime there has been relative peace. Could this construction be stopped and then they can proceed with all the details?

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senator, you say for the first time in your lifetime, there has been peace in the last two months in your area. Now, with the construction going on, why do you want to disturb the ground if it will lead to flare-up? Let the *status quo* be maintained as we seek for that Statement. Maybe interfering with the construction will ignite the fighting again.

**Sen. (Prof.) Lonyangapuo:** You are right, Mr. Temporary Speaker, Sir. The construction was initiated last night and it is bringing problems. Let the construction be stopped and the *status quo* be maintained.

**Sen. Adan:** Mr. Temporary Speaker, Sir, I would request, Sen. (Prof.) Lonyangapuo to bear with us, because I am sure, that stopping the construction might complicate issues. I believe that this is a contract that has already been entered into by the relevant counties.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I am very sorry that the Chairperson is not getting me right. There has been no problem for the last two months. We even signed a memorandum of keeping peace and stopping all construction in the presence of the Cabinet Secretary, Ministry of Interior and Coordination of National Government. Suddenly, there is construction going on. I request that it be stopped to avoid flare-up. So, it is not a usual development. This is something that is strangely going to affect what we have worked for.

**Sen. Adan:** Mr. Temporary Speaker, Sir, since Sen. (Prof.) Lonyangapuo insists on this matter, and I am not privy to the construction that is on the ground, I will share the same information with the Cabinet Secretary. If it is possible, we will deal with it immediately. If it is not possible to do so, then I will request that the Statement be given in two weeks' time.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well. It is so ordered.

Sen. (Prof.) Lonyangapuo, proceed to the next Statement.

## STATUS OF THE EAST AFRICAN SAFARI RALLY

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order 45(2)(b) to seek a Statement from the Chairperson of the Standing Committee on Labour and Social Welfare on the status of the world famous East African Safari Rally.

In the Statement, the Chairperson should:-

- (1) Explain the status of the world famous East African Safari Rally.
- (2) State and explain the reasons that led to the collapse of the world famous rally.

(3) State what the Ministry of Sports, Culture and Arts is doing to restore the East African Safari Rally.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Machage): Where is the Chairperson of the Committee on Labour and Social Welfare? Any Member of the Committee?

Yes, Sen. Halima.

**Sen. Mohamud:** Mr. Temporary Speaker, Sir, on behalf of the Committee, I promise to get back to the Senator in two weeks' time, if that is okay with him.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well. Are there any other requests?

## POINT OF ORDER

PROCEDURE FOR APPOINTMENT OF THE  
GOVERNOR AND DEPUTY GOVERNORS OF CBK

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. I rise to seek guidance from the Chair concerning the positions of the Governor and Deputy Governor of the Central Bank of Kenya (CBK).

I would like to draw your attention to the CBK Act, Section 13(1), which provides that there should be a Governor who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament. Section 13(b)(1), provides that there shall be two Deputy Governors, who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament.

Mr. Temporary Speaker, Sir, on 18<sup>th</sup> June, 2015, the National Assembly debated the report on the approval of nominees and passed it without amendments. The Senate was not involved in the vetting process and approval of the nominees, as required by the Act that I have just quoted. I would like to remind the House that in a similar provision of a statute, a precedent was set by this House and the National Assembly, where the Inspector General of Police was subjected to a Joint Vetting Committee of the two Houses.

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Mr. Temporary Speaker, Sir, I would like you to give us guidance on why the approval by Parliament of the Governor and his Deputy was not brought to this Senate, as provided for by law. I would like you to guide us on what will happen, since these names have already been taken to the President. Should the President appoint them? Will that amount to a legal appointment or is there an intervention that the Senate is doing, to ensure that this appointment goes through the due process?

**The Temporary Speaker** (Sen. (Dr.) Machage): Could you read the law to the House?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, at the beginning, I referred to Section 13(1) of the Central Bank of Kenya Act. It provides that there shall be a governor who shall be appointed by the President through a transparent and competitive process with the approval of Parliament.

Section 13(b)(1) provides that there shall be two deputy governors who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament.

The functional word here is “Parliament”. The law does not speak to the National Assembly alone.

**The Temporary Speaker** (Sen. (Dr.) Machage): What is it, Sen. Wetangula?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I fortify that argument by drawing your attention to Article 231 of the Constitution which establishes the Central Bank of Kenya. Article 231(5) states:

“An Act of Parliament shall provide for the composition, powers, functions and operations of the Central Bank of Kenya.”

It is from this that the Central Bank of Kenya Act that Sen. (Dr.) Khalwale has referred to, comes into relevance. I also draw your attention to Article 93(1) of the Constitution which states:

“There is established a Parliament of Kenya, which shall consist of the National Assembly and the Senate.”

Unless, otherwise expressly provided, Parliament means the National Assembly and the Senate. Therefore, if an Act of Parliament provides for a process of vetting, validation or in whatever manner the exercise of authority to Parliament, it is means that it is concurrently exercised by both Houses. You remember that we had an altercation on the matter of the Inspector General of Police, when he was being vetted. The Speaker agreed that we were right, but he had already let the cat out of the bag.

Joint vetting is not anticipated; the National Assembly should do their vetting and the Senate should do theirs of such nominees. The upshot is that the National Assembly having done what they did, the two nominees to the Central Bank of Kenya; the governor and the deputy must then be forwarded to the Senate for vetting. If approved, then they can be forwarded to the Head of State for appointment. If not, the consequences are known in law.

Mr. Temporary Speaker, Sir, as I end I want to tell you as the Chair of this august House, that jurisdiction is not a gift. It is conferred by the Constitution and the law. This House has no capacity or right to sign away the little jurisdiction that we have been given

such as in this case and the case of the Inspector General of Police.

**The Temporary Speaker** (Sen. (Dr.) Machage): You do not need to be a genius to understand the specifics of the law as quoted by Sen. (Dr.) Khalwale and Sen. Wetangula. Due to the weighty nature of the ruling that I may have decided to give now, I will postpone it. Further, it is because some aspects of the population and leadership need to be tutored carefully and slowly for them to understand the law.

*(Applause)*

I rule that we get a comprehensive statement from the Chair. Thereafter, a ruling will be made on Tuesday at 2.30 p.m.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. The greatest fear of Kenyans is that if that ruling does not come quickly, the appointment will be made.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! You are now stepping on the Chair. Have a seat and relax! You should not ever imagine what the Chair will rule on Tuesday; just wait.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, Sir. As we wait for the ruling, it will be prudent for the Chair to send communication to the Executive that the *status quo* be maintained until direction is given. You may say that you will deliver the ruling on Tuesday and tomorrow morning, an irregularly appointed governor of the Central Bank of Kenya will be sworn in without any input from this House which has been given legal authority by the law to be part of the appointing process.

**The Temporary Speaker** (Sen. (Dr.) Machage): I may not be able to do so. However, I will quote the Standing Orders of this House. Before I come up and assess the law as it is, I will be completely out of order to criticize whatever has happened in the "Lower House." So, you wait for my ruling first. Look at Standing Order No.90(5).

**Sen. Elachi:** Mr. Temporary Speaker, Sir, yesterday, I was ordered by the Speaker to bring three Statements that were supposed to be answered by the Committee on Finance, Commerce and Budget. I have the Statements, but I request for your advice since all the Members who requested for them are not in the House.

**The Temporary Speaker** (Sen. (Dr.) Machage): In the past, precedence has been set in the House, that when the questioner is not here, a Statement cannot be submitted to the House. So, we will wait. Until such a time as when the questioner has notoriously avoided appearing, then we can say that the Statement belongs to the House and then we listen to it. For now, that suffices.

## POLLUTION OF ATHI RIVER

**Sen. Khaniri:** Mr. Temporary Speaker, Sir, I rise to give a Statement. At the sitting of the Senate held on Wednesday 4<sup>th</sup> March, 2015, Sen. Mutula Kilonzo Jnr., the Senator for Makueni, requested for a Statement from the Chairperson of the Committee on Land and Natural Resources on Pollution of Athi River in Machakos and Makueni counties. In the Statement, the Senator sought information on the following:

(a) Whether the Government is aware that there is disposal of effluent into Athi River in Machakos and Makueni counties.

The Cabinet Secretary is aware that there is disposal of effluent into Athi River in Machakos and Makueni Counties. The Ministry is in the process of addressing the problem. Through the National Environment Management Authority (NEMA) and the Water Resource Management Authority (WARMA), the Ministry has developed a strategy to control pollution of Athi River. However, it is worth noting that the effluent in the river section that is in Makueni County, is as a result of disposal in the upstream.

(b) Whether there is a current Environmental Impact Assessment (EIA) Report on the river and if there is, we present the same.

There is no EIA Report on the Athi River. Normally, environmental impact assessments are done on proposed projects that have potential adverse impact on the environment.

In relation to rivers, lakes or wetlands, the following activities require environmental impact assessment.

(1) Erection, construction or demolition of any structures or part of structures located in or under the river, lake or wetland;

(2) Excavation, drilling, tunneling or disturbance of the river, Lakeland or the wetland;

(3) Introduction of animals into a lake, river or wetland;

(4) Introduction of plants or plant parts, dead or alive in any;

(5) Disposing of substances in a lake, river or wetland that are likely to have adverse environmental effects on the water bodies.

(6) Direct or block any river, lake or wetland from its natural and normal course; and,

(7) Drain any lake, river or wetland.

(c) The Senator wanted to know whether the National Environmental Management Authority (NEMA) has offices in Machakos and Makueni Counties.

NEMA has an office at Wote in Makueni County with two technical officers while in Machakos, the authority has three technical officers.

(d) The Senator wanted to know whether action has been taken on the officers from NEMA for dereliction of duty.

The Ministry has not established any actions by the NEMA officers that would be considered as neglect of duty that may call for disciplinary action.

(e) The Senator wanted to know whether there is any budgetary allocation for cleaning and monitoring of Athi River.

The Ministry will allocate more resources in the 2015/2016 Financial Year for cleaning Athi River together with other deserving rivers in the country. This has been informed by the fact that the current allocation is not adequate for the cleaning exercise. County government and other stakeholders will also be involved to ensure wider coverage.

(f) The Senator wanted to know the measures that have been put in place to deal with persons who are polluting or disposing effluent into the river.

The NEMA continuously monitors any illegal discharge into the river among others. Those found to be polluting or disposing effluent into the river have been given stop orders and others prosecuted. The Ministry will continue enforcing the same, in conjunction with other relevant government agencies.

(g) The Senator also wanted to know the immediate measures that have been taken to alert the communities in Machakos and Makueni counties on the hazards of using the water from the river. The Ministry through WARMA has established water resource users associations within Athi River which involves the community in the sensitization and creating awareness on the conservation of the river, including the hazards of using the water, from the river.

**The Temporary Speaker** (Sen. (Dr.) Machage): Anybody who wants to get a clarification?

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, unfortunately the response given is grossly inadequate on the questions and queries on the persons who are polluting the water which covers 190 kilometres in Makueni alone.

On the questions of the persons who are helping the community called WARMA; I have had meetings with these associations in Makueni and they do not have a coin to run an office. The Committee had given an undertaking to this House that they would conduct an inquiry that would solve most of the questions we are asking in this report.

Would I be in order, instead of asking for more clarifications and waiting for another two or three weeks, to ask this Committee to conduct an inquiry into this very adverse action on one of the largest water bodies in the country so that we can have a comprehensive report that would include prosecution of persons who have gone ahead to pollute our fresh water resource, unabated, in Machakos and Makueni counties.

**The Temporary Speaker** (Sen. (Dr.) Machage): The definition and understanding of an inquiry is subjective. They must have inquired to get the information they have. So, I do not know what level is good for you. I would rather you ask your questions then when he fails to answer the same, then we will have reason to request that he goes back.

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, the first question is on the persons who are polluting the water. From the answer, the Cabinet Secretary through the Chairman says that the persons who are remitting effluence into Athi River are not in Makueni. This answer does not specify where they are, who they are, what action has been taken and so on.

It is absolutely strange that there is an admission that there is pollution of a water body in this Republic and the Cabinet Secretary says that it is not necessary to do an environmental impact assessment. Would I be in order to ask for a clarification as to whether the prosecutions that they are purportedly conducting under this report would be done without an environmental impact assessment to confirm whether or not the effluence is dangerous to the water body and the persons consuming the water?

The Cabinet Secretary has said that there is something called Water Resource Users Association. In Makueni, we have 68 associations, but they have not been funded. Could the Cabinet Secretary clarify what budget they have given to this resource management authority organizations, how much has been given this financial year and how many of them have been sensitized.

Similarly, the allocation referred to in paragraph (e) of the answer, we want to know how much the Ministry has allocated this financial year for the cleaning of that river.

Lastly, there are those persons who have been given stop orders and those who have been prosecuted. We want to know the status of the cases, what action has been taken and whether or not the NEMA is continuously monitoring pollution that is going on.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, given the weighty issues that the distinguished Senator for Makueni County has raised, the Vice Chairperson of the Committee is most likely to tell us that he will seek further clarification. When this House was sitting in the garage at the Kenyatta International Convention Centre (KICC), we passed a Motion sponsored by the distinguished Senator for Machakos, to inquire into and report on the continuing and unabated pollution of the Tana and Athi Rivers.

Could I be in order to request the Chair to direct the Committee to carry out a comprehensive inquiry into this matter and bring a report that may be debated in this House and a resolution made. The report can be followed up for implementation.

**The Temporary Speaker** (Sen. (Dr.) Machage): You just repeated what Sen. Mutula Kilonzo Jnr. asked. You are quite out of order. I want to listen to more interventions. I can Sen. Ndiema has an intervention and may be someone else may be having an intervention. This is cumulatively considered by the Chair who may be having all your answers right now. It is up to him to tell us that he does not have all those answers. May be the Committee has done everything you want. It is up to him to say that he is not able to answer.

Please, do not cast aspersions at the Chair whom we know to be very effective.

**Sen. Ndiema:** Mr. Temporary Speaker, Sir, the Report from the Chair of my Committee---

**The Temporary Speaker** (Sen. (Dr.) Machage): Chair, please, listen because you have heard the interests of the Members.

**Sen. Ndiema:** Mr. Temporary Speaker, Sir, as I was saying, from the report, it is evident that very little has been done to protect the river in terms of allocation of funds or even to stop further pollution. This does not only affect this river, but also other rivers. I

would not object if a further inquiry is done on this and other rivers and looks into whether the institutions are capable of delivering.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! It is not for you to object. What is your question?

**Sen. Ndiema:** Mr. Temporary Speaker, Sir, my question is whether the institutions concerned have the capacity to safeguard our rivers from pollution?

**The Temporary Speaker** (Sen. (Dr.) Machage): Which institutions do you have in mind?

**Sen. Ndiema:** Mr. Temporary Speaker, Sir, I have in mind the authorities concerned with water, the National Lands Commission (NLC) and NEMA.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well.

**Sen.(Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, the issue that the Senator for Makueni has raised with regards to his county and the response that my colleague, the Vice Chairman of the Committee on Lands and Natural Resources has given, gives us an opportunity to raise very fundamental issues on the environment.

If you look at the Fourth Schedule, you will find that looking after the environment is a shared function between the national Government and the county governments, water is entirely in the hands of the county governments. I do not know how the environmental protection agency NEMA will function, given these constitutional provisions. Because of this lacuna, people are doing all kinds of crazy things with the environment. You wonder whether there is NEMA or not.

If you travel on Kiambu Road just after passing the Runda Estate entrance, you will find a huge shopping mall being built on a riparian area, on top of a river and it covers a huge area. If you pass there, you wonder who the hell did the environmental impact assessment for that project. There is a disaster in Langata because some time ago, somebody built on a river. When it rains, it floods and people cannot reach Langata. I see it in many other cities. One of the reasons our roads are being flooded is because---

**The Temporary Speaker** (Sen. (Dr.) Machage): I am really withholding my comment on what you are saying. Be specific and ask a question.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, let me be specific because I can give many examples. My question is, could the Committee come out with a response to this House, which will address this issue comprehensively? I am quite sure that almost every county will come up with a similar concern as the Senator for Makueni. Since by Article 96, this House has a responsibility of protecting the interests of the counties and since environment and water are the responsibilities of the counties, could we ask the Committee to spread its net a little wider and come to this House with a response that can address this issue?

**Sen. (Dr.) Zani:** Mr. Temporary Speaker, Sir, as I listen to the answer, it sounded like a blame game. WARMA is blaming the Ministry and the Ministry is blaming WARMA. Everybody is saying that they should not have done this or that. My specific issue is on the Statement from the Ministry that monitors the disposal. What sort of monitoring do they do if the disposal is at that high level? If they were monitoring in the

first place as they said they do in the Statement, then, there should not have been an issue. We want clarity on the monitoring that they do, when and how it happens?

I also want an explanation as to why they have not sought better budgetary allocation and if they are planning to do it in the future? The whole issue of pollution did not start recently; it started a long time ago. So, we need a clear way forward, more commitment and dedication because communities are suffering. This is the same water that is used for drinking and everything else in the households.

**The Temporary Speaker** (Sen. (Dr.) Machage): What do you have to say, Mr. Chairman?

**Sen. Khaniri:** Mr. Temporary Speaker, Sir, the questions that have been raised by Sen. Mutula Kilonzo Jnr. are now more specific than the question he raised when he requested for this Statement. The Senator tells me to give the names of the persons polluting, yet in the original Statement, he did not ask for the names, but wanted to know the measures that have been put into place to deal with the persons. He did not ask for the names of the persons polluting. I responded to the questions as they came. He did not ask exactly how much has been allocated.

Those are very specific questions that he might put up. We will go to the Cabinet Secretary to get specific answers to the specific questions that he is raising at the moment.

Mr. Temporary Speaker, Sir, I fully agree with Sen. Mutula Kilonzo Jnr. about the Committee making a visit to this place. I remember when he raised this matter; we had agreed that the Committee could make a visit to the river and witness this instead of receiving answers from the Cabinet Secretary and coming to read them here.

I agree with the proposal made by the Senator and the Senate Minority Leader that the Committee can visit the place. If we are facilitated by the Office of the Clerk, we should visit the place and table a full report.

**The Temporary Speaker** (Sen. (Dr.) Machage): Indeed, questions 1, 2 and 5 by Sen. Mutula Kilonzo Jnr. were relevant. Questions 3 and 4 were completely different questions, on matters of budget and financing. However, the magnitude of the problem on Athi River contamination is an issue that has been of concern to this House for quite some time. This is not the first time this has been raised, I remember in the last session, the Committee on Health also had a similar question and they laid a Report on the Table of this House.

This is my ruling; I have listened to the prayer of Sen. Mutula Kilonzo Jnr., Sen. Wetangula and Sen. Ndiema. My ruling is that there is nothing that prevents you, Sen. Mutula Kilonzo Jnr., from making such a request. I have also listened to the prayer of Sen. (Prof.) Anyang'- Nyong'o and Sen. (Dr.) Zani's concern. There is nothing that prevents you, as a Member of this House, from requesting this House to commission an *ad hoc* Committee, specifically to look into the pollution of Athi River.

It is so ordered.

Please, proceed Sen. Halima.

**Sen. Mohamud:** Thank you, Mr. Temporary Speaker, Sir. I have two Statements to issue. One is additional information on the Garissa Teachers Training College and the

other one is on the Government Policy regarding payment of part-time lecturers. However, I do not see the Members who sought the Statements and so, I stand guided on whether to issue them now or wait.

**The Temporary Speaker** (Sen. (Dr.) Machage): The guidance is that precedence has been set in this House that unless the questioner is around, the Statement cannot be read. So, we will wait.

Sen. Orengo, do you have a point of order?

**Sen. Orengo:** On a point of order, Mr. Temporary Speaker, Sir. I want to appreciate the Chair. Normally when people make prayers, it is very difficult to get them answered. However, before you, at least prayers are answered. I am very happy with that.

**The Temporary Speaker** (Sen. (Dr.) Machage): Thank you, Sen. Orengo. I am flattered.

Please, proceed Sen. (Dr.) Zani.

**Sen. (Dr.) Zani:** On a point of order, Mr. Temporary Speaker, Sir. Would I be in order to say that it is also good, even if the Members are not in the House, that once the Statements are ready from the Committees, even as they say it, it is a way of reporting to the House that those Statements are ready and they cannot give them because the Members are not there? It is then recorded that the Committee has actually completed the investigations.

**The Temporary Speaker** (Sen. (Dr.) Machage): If you have followed the proceedings of these House, in one of the rulings that I once made and which was negated a day after by my superiors, though I still think that it was the best, whenever a Statement is sought, it belongs to the House. That is what our Standing Orders say. The practice of waiting for the questioners to appear for that Statement to be read, to me, is disturbing. In any case, there are Members who are usually more interested, maybe more than the Member who requested for the Statement.

In the last Parliament, what used to happen is that, if one does not appear for an answer of their Statement, it was dropped. We might have to rethink the same for the Senate, so that we discourage people who ask for Statements and never appear to get the answers. However, that will depend on what you will decide in a *Kamukunji*; as to whether you want it so or not. But for now, precedence has been set. I may not like it, but that is it.

Next order!

**BILL***Second Reading*THE COUNTY EARLY CHILDHOOD EDUCATION  
BILL, (SENATE BILL NO.32 OF 2014)*(Sen. (Dr.) Zani 24.6.2015)**(Resumption of Debate interrupted on 24.6.2015)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. (Dr.) Zani, you have 35 minutes.

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir. I continue to move the County Early Childhood Education Bill, (Senate Bill No.32 of 2014); that it be read a Second time. Yesterday, at the rise of the House, I was talking about the issue of the Teacher Service Commission (TSC) going to exercise the disciplinary and professional control over the teachers. This is very important.

In the last few months, we have had very disturbing experiences in schools where teachers have abused children, especially the girl-child. We have also had cases that are going further lower into the educational system. You now find this kind of abuse taking place even at pre-primary institutions, to very young pupils. The fact that TSC is mandated in this Bill to ensure that they exercise disciplinary control over the teachers is very critical.

Having said that, I also want to add that I think sometimes the TSC has not really been effective in this. This is because the cases regarding the indiscipline of teachers tend to be increasing rather than reducing over time. It may not be the fault of the TSC, but the sort of society that we tend to be producing over time, with different issues coming out more often like abuse and homicide, among family members. Remember that if we are thinking about a child who should be safe within a particular environment, then the teacher should be the first person whom the child should feel that is the person who will protect them. When the child is in turn abused by the teacher, then I think that we have a big problem.

Mr. Temporary Speaker, Sir, the Bill wants to address such issues of discipline and ensure that it is taken into consideration and that teachers must exercise this sort of control. The actual employment of the teachers is going to be done at the level of the county in terms of payment. It is the county government that is going to be in charge of payment of the teacher, but the responsibility for the discipline of those specific teachers has actually been given to TSC.

The Bill also targets and discusses the issue of free education. In Clause 40, every child is going to go to school free. No sort of fee is expected to be charged by the county and the board has made this very clear. The only sort of charges that are perceived that

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might happen, and canvassed in the Bill, are those that have to do with those that are going to be directed to foreign students from other countries. For such kind of students, there will be a particular charge.

Mr. Temporary Speaker, of course, we know that many schools come up with other sort of charges and expenses that are not necessarily in form of fees. In many schools, you will find that a child is asked not to come to school because they have not paid a specific fee. This Bill makes it very clear that such exercise should not be entered into. It is very clear that once a child is in class, even if there is a problem, for example, in terms of uniforms or shoes because they are not expected to pay fee, they should not be removed from that particular environment.

Mr. Temporary Speaker, Sir, more proactive action needs to be taken, especially for the disadvantaged children and those with disabilities, so that, at the end of the day, no excuse is made. This is because they do not have the right equipment. Indeed, the responsibility of making sure that the right equipment and environment is applied is given to the board and the ECDE centres. They must make sure that this provision is taken care of.

This is what is stipulated in the First Schedule, which puts into place exactly what the expectations are, in terms of the provision of the sort of classrooms and environment that are meant to be there. These are very clear right from the outset. Therefore, no school or anybody can come up to say that they do not have particular equipment. For example, the size of the classroom as indicated should be eight by six metres with adequate ventilation.

The responsibility to look at any ECDE centre and ensure that it follows this provision is specifically given to the county government. However, at the national level, it is given to the Cabinet Secretary of Education. So, any matters education in terms of this Bill and the enactment of the regulations that will be put into place, the Cabinet Secretary in charge of education will take the responsibility. He will ensure that these regulations are put into place, so that interpretation of the Law is made adequately to the point at which it can be applied.

Mr. Temporary Speaker, Sir, Clause 41 deals with the issue of equality. I do not want to repeat it because I think that I over emphasized that.

Clause 41(2) addresses itself to the whole idea about race, age, disability, language, culture and gender as a basis for inequality. So, as long as somebody can prove that there is some sort of discrimination purely on these background issues, then that is something serious and tantamount to breaking a law.

A fine of about Kshs150,000 has been put in place if the legislation is broken. The age of admission is also indicated in the legislation as three to six years old. I am not sure whether, in terms of enforcement, this is will be possible. I know there are people who have children as young as two-and-a-half years already in school. Some are even still enjoying their mothers' breasts and are suddenly taken to school.

I think there is another level that has gone even lower. Rather than thinking about ECDE centres, we have some sort of support systems that are given by some schools so

that parents go to work and leave their children in these particular centres. However, for the ECDE centres, the age is three to six years and the stipulation has been put in place.

Mr. Temporary Speaker, Sir, initially, we had a Basic Education Act from Sessional Paper No. 4 of 2012 which talked about basic education and pre-primary education. It is the one that lumped pre-primary and primary together. Now that more emphasis will go into pre-primary education, the whole idea of contextualizing and focusing on ECDE becomes very critical. This Bill then amends sections of the Education Act to ensure the sections which are not very loud in terms of pre-primary education are clarified. Where, for example, pre-primary education has been mentioned, then they have been amended to be ECDE centres so that there is a linkage between this Bill and the Basic Education Act.

We do not expect a child at this stage to sit for examinations and the Bill is very clear on that. Certain tests will be done as a child begins school but it will not be a written exam so that a child fails to be admitted because they did not pass it. This is an exam for teachers to determine at what level this child can join the education system and what their abilities are so that the teachers can guide them to the next level. It is just for grouping them in terms of age, interests, ability to learn and ability to find the right mechanism in terms of giving the right level of education for these children.

There is no repeating at ECDE centres. There is absolutely no circumstance where a teacher will say, you are not ready to move to the next level, please go back. The whole issue of repeating has also been dealt with at primary level. A child will not be stopped from moving forward and, therefore, we expect a child joining an ECDE centre to be there from three to six years.

Mr. Temporary Speaker, Sir, one of the most important aspects of this Bill is that it focuses on a curriculum which will be anchored in law, with the Kenya Institute of Curriculum Development (KICD) being responsible for the development of this curriculum. You will appreciate that now, with the focus on ECDE, we do not want a situation where everybody just comes up with their own curriculum. We want something that at the end of the day, even though we may have diversity across counties in terms of interests, there is something that is overall propelling the education goals that have been set within the country.

Therefore, the curriculum and the responsibility of ensuring that this curriculum is put into place sufficiently and that it runs in an orderly manner is the KICD. They will be in charge to ensure that they do this. They will also use policy guidelines and instructions from the Cabinet Secretary (CS) at any one given time. The standards will be approved by them.

The next thing that comes into your mind when you talk about standards is quality control. There is no need to put standards and not have a system of quality assurance and control. This Bill puts into place quality assurance measures at the county level by putting in place a Quality Assurance Committee (QAC) that will ensure that standards are adhered to. Accreditation will only be for five years. This means that somebody will not be too comfortable and do things the wrong way just because they have been accredited. Accreditation is for five years and they will be reviewed. Within those five years, if they

do not do the right thing, the accreditation can be revoked. This is to ensure that quality of education is adhered to.

Mr. Temporary Speaker, Sir, as we move to various other issues such as no written exams, learning has to be activity based. This is because we are dealing with young children who should be experimenting and, therefore, they should enjoy their education. Two systems are going to be put into place in terms of hours for running ECDE centres; half day from 8.00a.m to noon and full day which is about 8.00a.m. to 3.00 p.m. However, when this is operationalised, most of the children will go up to noon because even in the centres where they are going to be kept up to 3.00p.m, it is usually a way to support the systems and help parents to get other work done. Most people stop work from 3.00 p.m. to 4.00 p.m. So, it is more of a programme that allows them to rest in the afternoon rather than giving them a lot of work that needs to be done. This will give them the opportunity to concentrate on the various things that they are doing.

Evaluation on application will, therefore, ensure that these standards will be kept over time and followed at the end of the day. There is also a mechanism to ensure that they have been put into place and, of course, the fact that they can be revoked makes it serious that they must continue with this.

By agreeing as a country to ensure that we have education for all, we gave ourselves the responsibility to ensure that every child has the education that is key. As signatory to the Millennium Development Goals (MDGs) and the goal of education which is clearly stipulated, there should not be any inequality which, again, Kenya adheres to.

Mr. Temporary Speaker, Sir, in Article 2(6) of the Constitution, we have tied ourselves to the Statutes and the Conventions that this country is a signatory to. Some of those Conventions are the ones that we want to ensure the standards are kept high because most of the time, the focus is not on ECDE. I think this is the strength of this Bill; to ensure that we get it right with the child from the word, go. If we get it wrong, then we will find a child who is not interested in learning and maybe this child is the future engineer, pilot, teacher, doctor, clerk or lawyer. So, it is very important to ensure that this has been put into place at the right time. Therefore, quality assurance is serious and a representative of Education Standards and Quality Assurance Council will sit in the committee that I had alluded to earlier on, just to ensure the standards are maintained and implemented at any given time.

Safety and equipment is very critical. That is why the accreditation process is going to take even a site visit to the specific area to ensure that they actually conform to the expectations. At the end of the day, proper examination will be done at specific sites to ensure safety and that buildings are done well. For example, in schools where they have children with disabilities, there must be ramps for them to move safely within their environment and do various things.

Mr. Temporary Speaker, Sir, corporal punishment has been addressed in other legislation and also as a policy. We have taken a position of non-corporal punishment and so does this Bill. I remember at one time when I went to visit my very young daughter of about three years old in school, I found her with a mark across the cheek, suggesting that

somebody had slapped her. I knew her to be a very obedient child. I checked with the teacher only to realise that there was some sort of bias towards my child and I said, next time let me know. If you want to do something, you can do it on her “behind” because somebody can turn accidentally and the next thing is that you have a child going blind. So, it is a serious affair that when parents take their child to school, they do so knowing that their children will be safe. That safety has to be ensured. If there is a problem of discipline, then parents need to be informed.

Mr. Temporary Speaker, Sir, one of the things that happen more often is the issue of emotional and psychological abuse. Recently, there was a case in the newspapers of a child who had been psychologically abused by teachers who kept calling her names and punishing her over the same reasons that she had been punished before. Therefore, it is important that this Bill not only talks about the physical abuse, but also the emotional and psychological abuse and tries to find ways to ensure that the child is protected from this mischief. We should not have a situation where we have rogue teachers. I think we have realized over time that the situation has changed especially in matters education. There are very many people who have trained to become teachers and yet they were not focused to become teachers.

This Bill stresses on particular key components. It stresses on the issue of quality education at the ECDE level. It stresses on the issue of control to ensure that whatever measures that have been put in place have been followed through. It addresses the issue of inequality to ensure that it does not have an effect on children who are too young to understand what is going on, so that they can support themselves. This should be done in a very structured way.

The whole issue of quality is handled at the lower level in terms of the hierarchy, the class room level and at the ECD centre itself. The ECDE centre should have systems put in place, for example, Parents Teachers Associations (PTAs) and feeding programmes that will ensure that the child is well nurtured.

We can then move to the level of the county where county boards should be put in place so that they can effectively look at the challenges facing the various schools. They should take care of registration of these institutions so that we do not have education centres spiraling all over without being registered appropriately. The Act will ensure that quality programmes are run in schools.

At the national level, we have the Cabinet Secretary in charge of ECDs being responsible to ensure that all these regulations are effected. I think once this Bill becomes an Act, then our children are going to be safe and happier. I think they will begin to enjoy education.

I beg to move and request Sen. (Prof.) Lonyangapuo to second the Bill.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I rise to second this Bill as brought to this House by the Committee on Education. I would like to thank the Committee and the stakeholders who participated to address the issues to do with ECD and for the very first time isolate the law that will be dealing with ECD, especially after the enactment of the new Constitution as seen in the Fourth Schedule. This is where there is separation of the function of the national Government and the county governments.

In Part 2(9), it states:-

“The functions and powers of the county are free primary education, village polytechnics, homecraft centres and child care facilities”

When the new county governments constituted themselves, this is what they were supposed to address by composing and getting the right calibre of staff. What was taken down there was pre-primary education otherwise called ECDE and the associated facilities that normally go with it like homecare for children, village polytechnics, homecraft centres and childcare facilities.

Mr. Temporary Speaker, Sir, occasionally, there is still a lot of confusion where some county governors and their CECs think that primary and secondary education was devolved and so they are wasting a lot of their time handling this. We should recall that at that time when this Constitution was introduced, immediately after that, the Grand Coalition Government mandated Ministries to align their functions and duties to the new Constitution. That is when a commission that was headed by Dr. Douglas Odhiambo was created in the Ministry of Education to align and come up with how each of the education functions was going to be dealt with in light of the devolved functions that had gone to the counties.

That document was prepared and early 2012, it was supposed to be released, but unfortunately to date – that time Prof. Ongeru was the Minister in charge and Prof. Kiyiapi was the Permanent Secretary – the document is still intact with all the proposals on how to handle all of the functions for the pre-primary, primary, secondary and university level education, so that each level of government can be able to isolate their functions in line with what had been introduced in the Constitution.

Mr. Temporary Speaker, Sir, that is why for the very first time we should thank the Senate through the Committee on Education that they have been bold enough for the last two years to work on the County Early Childhood Education Bill that is going to look at the standards and how the child can be brought up. Currently, as constituted in the national Government, we have Directors for pre-primary education and primary education, but because of the clamour to run their affairs alone, the county governors and the county governments have not had a guiding document that stipulates how each of this should be done.

That is why last year, the Kenya National Union of Teachers (KNUT) together with the Teachers Service Commission (TSC) had issues with the county governments with regard to the employment of ECDE teachers. They thought that it was very easy to ignore the type of teacher who should be employed for the children. That type of controversy will be removed when this Bill comes into effect because it stipulates the type of training the teacher is supposed to undergo. This time round, the curriculum is going to be standardized although we also have the local languages that are supposed to be captured.

I am talking about the registration of centres where the children are going to learn, what type of classroom should be built, what type of basic material should be provided as equipment, chairs, the type of food that the children in ECD should be given, the type of

training that they should be given and more so, the type of teachers and who should be sitting in the boards of management.

Mr. Temporary Speaker, Sir, when I look at Clause 3 which gives the Objects and Purposes of this Act, it says:-

“3(a) – the Objects are to provide a framework for the establishment of a comprehensive early childhood development and education system by the county governments”.

Not anybody can just decide to start an institution. There must be a procedure and a programme on how to start an institution and the type of materials to be provided. There is also need to provide for a framework of establishment of the necessary infrastructure to support the provision of quality education in the Early Childhood Development Education (ECDE) centres.

Mr. Temporary Speaker, Sir, if you remember, across the country, most ECDE centres also known as nursery schools are church-based; they are sponsored by churches while some are sponsored by the national Government. They are built alongside primary schools. Some of the ECDE centres are built by NGOs. Therefore, this Bill will ensure that all nursery schools and the ECDE centres fall into one management in the county. There will be a board that will oversee that. The board will make sure that management of each ECDE centre is done by parents who should be vetted properly. Their qualifications should be known. That will be contrary to what happens where for one to be a member of the board, they must have a child in the school. That should not be the case because somebody can have a child but they know nothing about how to run an education system for the children.

The Bill also stipulates that members of the County Executive Committee (CEC) be incorporated. There is a County Director of Education, but how do they relate with each other? Currently, if I am not wrong, you will find that most counties have not employed a director or somebody in charge of the ECDE. They think that the CEC should deal with everything.

Mr. Temporary Speaker, Sir, more budgetary allocations should be given. That can only be addressed if this Bill is looked into. This is because the Bill suggests that there should be a board. The board should have powers to plan and budget for the expenditure of the ECDE centres in order to expand them.

Mr. Temporary Speaker, Sir, I was surprised at what has been happening in my county. The CEC in charge of education thinks that his business is to give small chairs to children in any function. Every weekend, he donates chairs. However, if you study it keenly, you will discover that he is aspiring to be elected as a Member of the County Assembly (MCA) in 2017. Therefore, the objective of what should be done has been lost totally. I was surprised by this.

Regarding employment of teachers, you may find that anybody who finished Class Eight, Form Two or Form Four and he or she is a friend of the sitting governor or a CEC, is employed. This Bill will streamline and bring all those things together. This is because, at the moment, you may find somebody who just finished school has been

employed. In order to be relevant, they struggle to go for studies during school holidays in order to get certificates.

Mr. Temporary Speaker, Sir, the Bill also talks about standards and the type of materials to be given to our children. It also proposes that there should be a fine for parents particularly in pastoralist regions who do not take their children to school especially the ECDE centres. In some of the pastoral regions, there are no schools. We should include, in this Bill that the county government must provide food so that the nomads who move from one place to another in search of food take their children to school because they will be sure that food will be provided for children at lower levels.

The criteria for registration of a school and who qualifies to sit in the board are indicated. The curriculum should be that which can be understood. We visited Kisii County and found over 1,000 ECDE centres. We noted that most of them use different syllabi. This Bill proposes the need to standardise and ensure that there is a relationship between the national Government and the director in charge of the ECDE. They should come up with standards that will be applied across the board as the ECDE centres are built.

In Clause 30, the Bill stipulates who should sit in the board and the role of parents in ensuring that their children go to school.

Mr. Temporary Speaker, Sir, children in some ECDE centres do not put on uniforms. Is it mandatory that all children in ECDE centres put on uniforms? These are some of the things which are being addressed by the Bill.

Concerning payment of fees, we know that primary and secondary school education is free. What about the ECDE? It should be automatically free before you go up. That is the starting point of education and, therefore, it should be free. That means that uniforms, food and anything else should be free for children in the ECDE centres. It is like building a house and you need to lay a proper foundation. Substantial amount of expenditure should go to ECDE centres in county governments.

Mr. Temporary Speaker, Sir, I do not know whether you have taken note of this. Every weekend, governors and CECs rotate taking cheques to some schools of their choice. In my county, I have never had a cheque taken to an ECDE centre yet that is their function. That means that some governors and county governments have not understood their role properly. They think that education is the upper limit. So, they forget what was given to them.

Administration of early childhood is also indicated in detail. However, when it goes to the next stage, there are proposals of what we need to have as a structure of management in the county; the ECDE committees; how they relate with the one in the school; how they relate to the one in the county and how they relate to the County Education Board which also oversees primary and secondary schools as well as polytechnics.

Therefore, for the first time, this Bill comes at a time that we are putting the foundation of devolution right and making sure that what the people of Kenya agreed on is handled properly. Governors clamour to run and administer primary and secondary

schools in Kenya. However, they have not convinced us that they have handled the ECDE and polytechnics properly.

This Bill also talks about children who live with disabilities and how they should be assisted. It touches on what is required of them to continue with their education. Previously, nothing special was given to them. For example, when classes are constructed, how do you ensure that children with disabilities access them?

Mr. Temporary Speaker, Sir, Clause 73 talks about how the Cabinet Secretary sitting in Nairobi can work with the County Education Board in making regulations for the better carrying out of the provision of this Act which can be done from time to time as need arises.

There should be a comprehensive syllabus that essentially may not be very different from one another. Up to 80 per cent of the Early Childhood Development (ECD) syllabus being taught in Bungoma County should be similar to the one that is being taught in West Pokot, although some local languages can also be taught. Therefore, the ECD is the real foundation of education. The Bill also deals with how the private ECD centres should be run.

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

*(Question proposed)*

**Sen. Sijeny:** Thank you, Mr. Temporary Speaker, Sir, for giving me a chance to contribute to this wonderful and very important Bill.

First and foremost, the Constitution of Kenya, under the Bill of Rights, is very clear. Article 53 (1) (b) of the Constitution stipulates that every child has a right to free and compulsory basic education, amongst others. This is also intertwined with Section 4 of the Children's Act which says that the best interests of the child shall always prevail. The Children's Act also stipulates very clearly that every child has a right to education amongst others. I wish to commend the Committee which has brought this Bill. It shows that these are very responsible citizens who want this nation to be recognized.

When you start supervising and ensuring that children from the age of three to six years get the strongest foundation in education, you are actually and truly showing that you are patriotic and want a very good and prosperous country. The children of this tender age must be guided accordingly, because knowledge is power. Given the way things have been, attaining this ECD education has been mission impossible and, in fact, a nightmare for most parents and even the elite or people who come from the privileged society.

It is even more expensive than when you start from Standard One and above, for reasons which I do not understand. But with the passage of this Bill, there shall be established institutions where these children can go and get what is rightfully theirs, which is, education. This gives them a chance to learn according to the syllabus which, once the Bill is enacted and implemented, shall be uniform, age-appropriate and very useful for these children of a tender age.

Mr. Temporary Speaker, Sir, when the children have the right to education, then even the caregivers or mothers, most of who are housewives have time to go and do other chores. They can go back to school, learn simple or short courses, for those who cannot afford long courses. They can be engaged in other income generating activities, which will help improve the economy and generally the lives of these children.

Devolving ECD education is the best way forward. Let the people within the rural areas, counties and wards attain this most important and precious thing called education. Many a time children of this age are left out of proper learning and when they start, it become difficult. When they meet people who had the basic education you can see a lot of difference, which is not good for the country.

Within this kind of learning and when you have a well qualified management, the children shall be trained and their talents nurtured. This is very useful not only for the children, but also the entire nation. Many countries have been engaged in such activities. In fact, in most of the western world, the art of teaching people on providing proper nutrition starts from this tender age. They shall get all the training. For example, on Sunday, the world celebrated the Yoga Day. Yoga can start being taught at this tender age. They will learn and become very healthy and useful Kenyans.

Mr. Temporary Speaker, Sir, there is provision for a board. This board is very important because it will not only conduct proper researches and ensure that the whole country and all counties are not only providing the same education, according to the syllabus provided, but also ensure that the buildings where the children are taught are habitable.

I remember when my children attained the age of going to school, the first thing I would do when I walk into an educational institution was to go straight to the toilet. If I found it dirty, I would not even consider the school. You need to assess the hygienic status of the toilet and dining room. Many a time children get food poisoning and other sorts of diseases, because those areas have been neglected.

Since politicians normally donate chairs and desks, you will find that the classrooms are mostly decorated, but other facilities may be neglected. Even the mats that children sleep on could be very dirty. The board will ensure that we have a generally clean and user-friendly environment. It will also ensure that the children are not abused. The counties should not just build tents or structures that will expose children to a lot of danger.

Mr. Temporary Speaker, Sir, I have seen the provision for mobile schools within the Bill. These mobile schools will also ensure that the children, particularly the internally displaced, will have access to education. I remember when I was young, we used to have mobile libraries. I do not know why they stopped because I do not see them anymore; I stand to be corrected if they still exist. These mobile schools will instill in the children the culture of reading, exposing them to the art of holding books and reading.

Many Kenyans cannot read even a 19-page Bill. My Bill on reproductive health is very clear, but a journalist, after listening to the entire debate on it, could still misrepresent facts; that it is some “condom” Bill or something else. This is very unfortunate.

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**Sen. Abdirahman:** Mr. Temporary Speaker, Sir, I add my voice to this very important Bill that touches greatly on our young people, particularly those below the age of five. In fact, were it not for our current Constitution that was enacted in 2010, particularly the chapter on devolution that specifically assigns county governments the role of Early Childhood Development Education (ECDE), before that, things were completely different. ECDE was only an appendage of primary schools. There was no clear determination of the framework for governing them, teacher recruitment and the best way in which these young people could get education.

I am particularly impressed by a number of areas that this particular Bill captures. I start by picking the first bit that relates to the management aspect, particularly obligating the county governments as a prime responsibility to ensure that they promote ECDE. As opposed to the national government that was mainly manned at the national level, but only with representation at the district level then, now, we feel that we will have people who will be doing work hands-on. They will establish these schools in collaboration with communities whether it is public or private. That gives people an opportunity, including parents, to look after their children very well.

I am also impressed to look at the duties of parents explicitly put in the Bill. Many parents think that they have no responsibility with regard to looking after the welfare of their children. They want to send them to schools in the morning and probably, receive them in the evening as though these are dumping sites. Sometimes mothers and fathers feel that they have other things to engage in, and that, the teacher is the person responsible for their children. Spelling out this clearly in the Bill will help us to identify who is responsible for this and the other, so that it becomes a shared responsibility.

Mr. Temporary Speaker, Sir, identifying children with special needs early enough will forestall a problem that would be detected at later stages in life. Many a times, our schools do not have specific areas for children with special needs. Identifying them at the early childhood age would be crucial to determine whether these children will learn along with others or whether they will need to be categorized as children with special needs and we prepare them early enough.

Other areas that this Bill touches on, which I felt would be very useful, are the mobile schools. My sister who comes from the lakeside city had picked the same thing. To a pastoralist like me, when I see a law about mobile schools at this early age, I get the feeling that this Bill caters for the needs of all Kenyans irrespective of the regions which they come from. It is something worth noting. Unfortunately, recently, the Ministry of Education has constituted a Nomadic Education Council, something similar to a department. We had asked for a commission at the beginning but the fact that this is factored in this Bill will help the nomadic population in this country to benefit greatly from the provisions of this Bill.

In addition, another area which I felt was important is the ability of the boards to suspend centres that do not perform well. This gives an opportunity to the people at the lower level to either allow a centre to continue or disallow it for a genuine reason. It helps monitor much more efficiently.

What also caught my eye in this Bill is the fact that we can have matters that relate to quality assurance from the onset. Quality education can only be obtained when we have quality assurance. This is an area where the Ministry of Education has largely failed in a number of our regions. Putting this as an important aspect will help our children to acquire quality education.

Mr. Temporary Speaker, Sir, I am also impressed to see that holders of diploma level of education will be entrusted with our children. The better educated an individual is, the better quality education he or she will offer. It is not like getting a Standard Eight drop out to keep the small ones busy. Setting up this requirement will also contribute to the quality of education that those small children will get.

The bit on curriculum development is said to be holistic. It will be done by the Kenya Institute of Curriculum Development in collaboration with the county governments. We are impressed by the fact that this will be holistic - basic life skills that is mentioned from the onset.

*[The Temporary Speaker (Sen. (Dr.)  
Machage) left the Chair]*

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

The 8-4-4 system of education had good intentions at the beginning. It comprised of woodwork, metal work and other technical subjects. This was later got rid of hurriedly by our education planners. However, the fact that we are talking about basic life-long skills in the curriculum development for early childhood education is something which we need to implore.

Overall, this Bill will go a long way in enhancing education in this country. A good foundation at the early childhood level will make our children fit in the job as they graduate from the universities in the future.

With those few remarks, I beg to support.

**Sen. M. Kajwang’:** Mr. Temporary Speaker, Sir, thank you for giving me an opportunity to contribute to this Bill, which I support. Sometimes, early childhood education can make a difference in the lives of young people. If you look at the children we are raising in Nairobi today, particularly we who seem to be much more privileged than other members of the society, we can afford to take them to the best schools where they learn some of the concepts that we only came across later on in life. By the time they graduate from the ECDE section, you find that these children are so much ahead.

When you compare and contrast them with the children of the people who vote for us, the people we represent deep in the villages, they might not have the luxury to take their children to schools that offer Montessori curriculum and such other fancy foreign curriculum that put them ahead of the rest. Therefore, by devolving ECDE and coming up with this Bill, we will provide some basic advantage to the millions who voted

for us in this House, so that their children can also have a good foundation that will carry them for the rest of their lives.

Mr. Temporary Speaker, Sir, this Bill says certain things, for example, that Early Childhood Development (ECD) shall be compulsory. At this point, allow me to disclose that I never went to pre-primary school. I went straight to Class One. If this Bill was in force those days---

**The Temporary Speaker** (Sen. Murkomen): You are not alone, even the Chair did not go to pre-primary school.

**Sen. M. Kajwang:** If I look round, it seems that if this Bill was in force at that time, our parents would have been fined Kshs500,000, jailed for two years or done community work which would have meant even flogging in public.

With a devolved system of governance, it now becomes much easier for us to see the priorities at the local level and use the county governments to come up with solutions to those local problems. For this Bill to be meaningful, we will need to conduct some civic education for parents. The fines here are quite punitive. I guess the intention of having heavy fines of Kshs500,000 or Kshs1 million is to encourage parents to take their children to school. At the age of three years, children are still seen as fairly young in the village and still walk around naked.

If ECD is compulsory, then it needs to be free. We need to address the reasons why parents do not take their children to school. One of the reasons is that they do not have clothes that they can put on to go to school. At the age of three, you will find some children not proficient in toilet training. Our mothers, grandmothers and aunties in the village might not be able to afford the things we call diapers, pampers so that their children can go to school and still keep themselves clean and civil throughout the day. So, we need to address those issues. If it is going to be free, then we have to think about the issues of uniforms.

Mr. Temporary Speaker, Sir, regarding feeding, the Bill says that county governments may carry out feeding programmes. I hope that when it gets to the right time, we shall change the “may” to “shall”. You are not going to take children to school from different backgrounds and those from poor backgrounds will come without a snack and those from privileged backgrounds will come with some. We need to create some parity or level playing ground. I do not think it would be very expensive if the county governments fund the public ECD institutions to ensure that the feeding programme is mandatory. It should not be a “may” but a “shall”.

The issue of corporal punishment has also been addressed in this Bill. At the age of three to six years in the olden days, we were still not immune to flogging particularly if you allowed the goats to stray into somebody’s compound. We are not in a different dispensation where some clever people have decided that those of us who were flogged while young tend to have violent and anti-social tendencies.

Mr. Temporary Speaker, Sir, from your demeanor, it appears you were also flogged when you were young but I have not seen your violent and anti-social side. Child psychologists tell us that children can be guided, corrected and shepherded in a different

manner that is devoid of corporal punishment. This Bill is very clear that corporal punishment shall not be accepted.

Mr. Temporary Speaker, Sir, regarding the issue of the curriculum, we have said that the Kenya Institute of Curriculum Development shall develop curriculum for ECD. We have also allowed that county governments may look at that curriculum and fine tune it to be in line with the realities. What I did not see and probably will need to do much more detailed reading is the issue of languages to be used in teaching the children at that early age.

We are facing a crisis where children of a certain class or society will hardly be proficient in mother-tongue. Being proficient in mother-tongue does not make one a tribalist but makes one diverse. What language of instruction are we going to use to ensure that our children have access to a wide variety of languages and are able to understand, accept and adopt the cultural teachings from the areas where they come from? The little I know about the songs that were sung in the olden days was not learnt at higher levels in school. They were learnt in the village at the fireplace with the grandmother. I hope we can use the early childhood education not just to pump in western beliefs and western stories like Cinderella, Barbie and so on. I hope we will inject knowledge of some of our heroes like Jaramogi Oginga Odinga, Dedan Kimathi, Samoei and so on, in the curriculum.

Mr. Temporary Speaker, Sir, for ECD to be compulsory, then ECD centres must be in close proximity. We see a situation where every morning we subject our three year old children to two hours of torture in traffic jam so that they can go to a good school. I would not want a situation where my people who are in Nyandiwa Island have to be transported by boat everyday so that they can access the nearest ECD centre.

Therefore, we need to come up with mechanisms to define the ratio. Are we going to have a school within a certain square kilometre range or are we going to have it within a certain population number range? If it is going to be compulsory and if it is going to attract a jail term, then the county government has an obligation to make sure that these facilities are provided.

The issue of entry exams has been dealt with by this Bill. Back in the days, for one to get to Class One, it used to be a very easy test. It depended on how long your hand was. The issue of the length of the hand has been used differently. In our case, it meant being able to touch the ear on the opposite side of the head. That alone made people eligible to go to Class One. There should be no entry exams and children should not be embarrassed to be subjected to some rigorous examinations before they go to school.

Mr. Temporary Speaker, Sir, in terms of obligations of county governments, we know that there are certain counties where there is a stand-off. The counties recruited ECD teachers and there were some forces which said that ECD teachers should be employed and recruited by TSC. This Bill provides clarity on that. However, I see a danger because on one hand, the Bill says that the TSC shall exercise disciplinary and professional control over ECD teachers but that disciplinary and professional control seems to be shared by the county executives. Principles of management; one man, one boss, we should not subject ECD teachers to too many centres of control. As we look at

this Bill, we need to harmonize that so that we do not have conflict in the supervision and control of ECD teachers.

Again, we need to have a standard model on infrastructure. The danger here is that you will find an ECD classroom of same specification in different areas is constructed at different prices. One could be Kshs2 million and another one could be Kshs8 million. I think we need to find a way of standardizing these things. We need to have a standard model and also advice on a standard bill of quantities. This is one of the areas that corruption creeps in.

In conclusion, I support this Bill but I also hope that this House, a petitioner or the Council of Governors shall initiate focused discussions on devolving infrastructure development at primary and secondary schools in this country. This is a section that is suffering. That is why we proposed to add Kshs7.7 billion in the Division of Revenue Bill to go to counties and address emergencies.

In my county, two school dormitories were burnt down by arsonists and we did not see the central government donating even a single cent in terms of disaster and emergency funds. Sometimes we wonder what these funds do in Nairobi. They should be taken down there so that when it comes to improvement of infrastructure, we hardly see the national Government. It is the Members of the National Assembly who go around masquerading and all the things they do will be painting walls and doing some superficial things in areas that are their political strongholds.

When a new Member is elected, they forget about the projects initiated by the previous Member and they start new ones. Therefore, you end up with a situation of having too many classrooms in a county which are not completed. This puts a lot of pressure on us, as Senators and leaders to contribute funds for their development.

I hope that we shall also have some conversation to devolve some infrastructure development for primary and secondary schools just the same way infrastructure development and staffing for ECD.

With those comments, I support.

**Sen. Ndiema:** Mr. Temporary Speaker, Sir, I stand to support this important Bill. I wish to thank the Committee for bringing a Bill on Early Childhood Development Education (ECDE) and coming up with good proposals that are in the Bill.

The Fourth Schedule to the Constitution has devolved ECDE to the counties. I believe that was very proper because previously, it appeared like there was nobody responsible for ECDE. There was no document or law that placed ECDE on any institution in the Government. What we have previously seen is a haphazard establishment of these centres with varied curriculum, no uniformity and no standardization.

Mr. Deputy Speaker, Sir, ECDE is very important because how you educate and handle a child at that formative stage is very important. It determines what that child becomes in future. This Bill comes at the right time when counties are establishing these centres. Apart from county governments, there are other institutions engaged in running these institutions, more particularly the church organizations. I would wish that even if more responsibilities are placed in the county governments, the role of churches should

not diminish; they should be encouraged as they complement the role of the Government. The county governments should step in, where churches are limited in resources, for instance, in providing qualified teachers. We should not have a situation where we limit the county governments to only those institutions which are deemed to be public in the sense of being owned by the Government.

Mr. Temporary Speaker, Sir, what this Bill pleases me with, is that it is touching on all pertinent issues concerning education in such institutions. It has talked very much about the need to standardize the curriculum to ensure that there are no tests at the end of the day. In some schools, even before the child is admitted to ECDE, they have to undergo some interviews which is really torturous because the child is young, not fully developed and its ability cannot be assessed. Some children develop faster depending on the environment. This Bill also seeks to standardize facilities to ensure that every institution that seeks to offer education to tender age children have proper facilities. The teachers should have proper qualification so that there is sound management.

As the situation is now, the facilities in most ECDE classes, which we call nursery schools in most counties, are poor. In a primary school, the worst class that you will find is the nursery school. If the other classes are cemented on the floor, the ECDE class is full of dust. This is where children at an early age are. They are developing their feet and yet they are attacked by jiggers.

The quality of teachers in these institutions leaves a lot to be desired because most of them have just left school and have no training at all. I believe that when the standardization comes with this Bill, there will be well trained teachers to take care of these children not only in the manner of education but even looking at their welfare.

The previous speaker, the Senator for Homa Bay, said that it is more than teaching; it is how you handle the children when they soil themselves. There are other issues that are equally important. This Bill seeks to make it compulsory for all parents to put their children through the ECDE classes. We are all aware that not every village has these facilities. Instead of hammering and trying to force parents to take the children to school - I believe in this age and time, most parents love their children and they would like them to get proper education – we should try to make the facilities attractable enough for parents to voluntarily take their children to these ECDE centres.

The issue that comes to my mind is proper buildings that have a proper environment. Previously, and even now, I have seen some ECDE classes in counties which are deemed to be complete but have no glasses on the windows. This exposes the children to adverse weather. Some classrooms do not have ceiling boards to ensure that children stay in a warm place. A child of three years cannot concentrate in a classroom or play outside for more than certain hours. There must come a time where they want to doze off. Facilities should be provided for them to sleep and take a nap. Currently, most classes do not have these facilities.

Mr. Temporary Speaker, Sir, sanitation facilities including toilets and water should be standardized. Every ECDE centre must have water for the children to drink or clean themselves when necessary. In fact, most primary schools, even those that are built

through Constituencies Development Fund (CDF) do not have these facilities. It should become compulsory for CDF to construct toilets for every class it builds.

Having inspected certain projects in my county, I was told that CDF is not allowed to build toilets. I do not know where that rule comes from but may be it does not earn more votes to build a toilet. There is nothing that bars county governments from building toilets.

This is because that is a health issue which is devolved and they should go and do it straightaway. I say this because I have even been involved and contributed towards the construction of toilets for even secondary schools

Mr. Temporary Speaker, Sir, the issue of teachers, instructors or caretakers needs to be looked at as they are recruited. This is because these are the people who will be handling children in their sensitive years. They should be motivated enough to take care of children in a motherly and proper way. As they are being recruited, we should ensure that they are properly remunerated. We should recruit the best to ensure that they give quality education to the children.

On the issue of administration, since most of these centers are located in primary schools, there will certainly be some conflict. This is because primary schools are deemed to be under the national Government while ECDE is under the county governments, yet the parents are the same. I think that there is need at a certain level for the two levels or Government to discuss and agree on the issue of management. What will be the need to have a headmaster or principal for a primary school and another one for the ECDE center? This is a duplication which may not be necessary.

They may have to share certain functions. Why should we have different parents association for the primary and ECDE schools, yet it is the same parents with children in ECDE and Class One to Class Eight? I think that at some stage, there is need to harmonize and ensure that the two levels of Government agree as to who will do what.

Mr. Temporary Speaker, Sir, with those remarks, I beg to support.

**Sen. Hargura:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to support the County Early Childhood Educational Bill. Article 53 of the Constitution of Kenya clearly states that every child has a right to free and compulsory basic education. Since we are dealing with early childhood, the same Constitution, in Fourth Schedule, Part 2, Section 9, states that, that is the function of the county government. That is why it is stated as pre-primary education.

We now know that county governments are trying to come up with the necessary enabling legislations. So, it would be better if the Senate could come up with one Bill which will be applicable across the counties, and that is why we need to move fast.

I know that there are counties which are coming up with their own specific early childhood education Bills. The earlier we move to provide some framework, the better. This is because we know that the other levels of education; primary, secondary and higher levels are all run at the national level. They are all under uniform standards throughout the country.

*(Sen. (Prof.) Anyang'- Nyong'o answered*

*a phone call in the Chamber)*

**The Temporary Speaker** (Sen. Murkomen): Order, Sen. (Prof.) Anyang'-Nyong'o. The Chair has eyes and can see what you are doing.

**Sen. Hargura:** Mr. Temporary Speaker, Sir, I do not see why the pre-primary or ECDE should not also be standardized, thus the need for this kind of a Bill where we have to set out clearly the requirements, so that can then be adopted across the counties, maybe with some specific modifications depending on the prevailing conditions in those counties.

This Bill is very elaborate; clearly setting out the objectives in terms of establishing comprehensive ECDE system, infrastructure and quality of education. In order to ensure that the compulsory part is attained, the infrastructure should be available in the first place. The Bill also specifically states who should do what, so that it does not become a task which is not defined and hanging in the air, with nobody to be held accountable. It is very clear that the county government has been given its responsibilities. It has provided the infrastructure necessary facilities and personnel or teaching staff.

Mr. Temporary Speaker, Sir, as it has been said before, the Bill also clearly sets out the requirements of an ECDE teacher, something that has been overlooked for a long time. Primary school leavers, secondary school leavers, dropouts and those who have not performed well will still end up as ECDE teachers. We realized that these children require somebody with more skills than just somebody who knows how to read and right.

The Bill states very clearly that one has to be a diploma holder in ECDE and also a registered teacher by the Teachers Service Commission (TSC), for the sake of standardization and ensuring that children throughout this country gain the basic minimum level of service in terms of education.

It is stated very clearly that the curriculum has to be uniform in the sense that it has to be done by the Kenya Institute of Curriculum Development (KICD) maybe with special inputs by the counties, taking into account their own specific conditions because situations are different within urban centers, rural set-ups and pastoralists' communities. So, there are some county specific requirements in the curriculum which the County Executive Members (CECs) could chip in to make it county specific. However, having a curriculum developed by the KICD is the right way to go, so that we start with the same quality.

Mr. Temporary Speaker, Sir, in case of the parents, because education is compulsory, then they have to avail the children for education. But, as it has been said, I think that the facilities have to first be there. In most areas, for example, the sparsely populated arid and semi arid areas, the main inhibiting factor for the young children going to school is the distance to the available school. I know of areas where the available school is maybe 10 kilometers and we still expect a child of three years to access that facility. That is not practical and the reason those who end up going to school do so after they are able to walk the 10 kilometers. That is the reason they start from Class One.

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As it is, county governments have started constructing ECDE centers but the unfortunate thing is that those centers are also within those schools. I enquired and was told that it is the policy that the ECDE centers have to be within established schools. That does not in any way make it better for the children. It will still be available only to those who are around the school. Those who live far from the school will still not access the ECDE centers.

To be fair to the parents and for them to avail their children, then an ECDE centre should not be more than a kilometre from their homes. In the case of nomadic communities, then it has to be within the village so that when the village moves, the school moves with the village. The penalty for failing to avail your child is a fine of Kshs100,000 or imprisonment for one year. I think this will only be applicable once infrastructure has been provided within reasonable range for the children to walk.

Mr. Temporary Speaker, Sir, the other part is, of course, the case of parents bringing their children to school and withdrawing them. This is very common in the pastoralist areas. A child is brought when they are young, and when they are old enough to look after the animals, they are taken out of school. This punitive measure of making sure that parents do not withdraw their children is also very necessary as much as the penalties may be much beyond what Kenyans in those parts of the world can afford – a fine of Kshs500,000 or two years imprisonment. That needs to be checked. It must be something which is not very prohibitive. However, once the infrastructure has been provided, I think parents will also feel that they are keeping away their children from available facilities.

The other part of the Bill takes care of children with special needs. This is something which has not been there before. You will find that the ECDE facilities that are being constructed across counties are standard and do not take into account children with physical disabilities like blindness and hearing impairment. The system is tailored for a normal child. The Bill now puts a structural responsibility on county governments to provide these facilities for all children to benefit right from the beginning.

Mr. Temporary Speaker, Sir, the part that I would like to mention which this Bill brings out and which also brings in a part of this country which has been left out is the mobile schools especially for the pastoral communities. Last weekend, I went round some parts of my county with the Governor and some Members of Parliament. We went to two mobile communities and one of the requests that they put to us was a mobile school facility. This is because they have children all over the village and the county government has employed teachers but the children have nowhere to learn.

That makes it necessary that provision of mobile schools should be clearly entrenched in this Bill. That way, county governments will know very well that these schools are very necessary. It is not only the ECDE centres but even as the same children grow, they still need to have lower primary mobile schools until they reach a point where they can move to a boarding school. That is if it will be difficult to move along with the family.

That is the only way that we can reduce illiteracy rates in some parts of this country. It is impossible to say that education is free and compulsory when the

infrastructure you are providing is not relevant to the way of life of these people. No parent will give you a three year old child and then go into the bush to look after their animals. They will comfortably move with their children. We should have education systems which are sensible to the ways of life of these people. Otherwise, we will still have illiteracy levels in some parts of this country, 50 years down the line, at 80 per cent. One of the hindrances is the way of life of the people. If we can amplify that mobile school part – even in the Bill it is just a section – proper support systems can be provided for it.

Mr. Temporary Speaker, Sir, with a mobile school, even the supervision will have to be mobile. It will not be the normal education system which you just go to school and you have to know where they are and what kind of supervision to provide in terms of quality. That part of the Bill if fully implemented by county governments, especially those in arid areas with pastoralist communities, then we will achieve some of these international requirements like the MDGs by reducing illiteracy levels. That is why we have not been improving at all because you will not always get these children.

In any case, there is always alternative work to do. If they do not go to school, the parents will be happy because the parents will ask them to look after their livestock and so they will not be idling somewhere. It is up to us to impress upon these parents that it is better for these children to go to school but we provide the commensurate facilities for them.

With those remarks, I support the Bill.

**Sen. Mohamud:** Thank you, Mr. Temporary Speaker, Sir. I would like to thank the Committee for coming up with this good Bill. As we are aware, ECDE is a devolved function and this Bill arises as a result of the Committee visiting almost 30 counties. The recommendations that we passed in form of a Motion from the county visits that we had have enriched this Bill.

We know ECDE is the foundation of education and in this Bill, various pillars have been outlined. The first pillar is equity and inclusion. In this case, all children, including those from poor and disadvantaged families are given the opportunity and those in emergency areas are also accorded a chance. Children with special needs are also considered as we are aware it has already outlined the various structures that will support this issue.

Mr. Temporary Speaker, Sir, the aspect of quality has been outlined and that means empowering and capacity building of parents and additional facilities, since they are the key stakeholders in education. In this Bill, the qualifications of a teacher have been outlined. It has been clearly stated that an ECDE teacher should be a diploma holder, the age has been outlined and he or she must be registered with TSC which is mandated to recruit, promote and look into the welfare of teachers.

The quality of infrastructure in the Bill has also been explained. As a Committee, we have been advocating for the best classroom model where it is self-contained with all the facilities like washrooms, running water, talking walls and sanitation. The partnership is indicating the balanced power relationship and one that will foster collaboration among different actors. The procedure and criteria of registration of ECDE centres is also

highlighted as well as the management committee which has various functions as outlined in Article 58. Everyone can read that.

Mr. Temporary Speaker, Sir, regarding the issue of the feeding programme, when we go out to the counties, we have raised the concern that these children of five or less years at least need one meal in a day. This will enable them go on with their day to day activities. The issue of standardized curriculum has already been outlined.

The other pertinent issue that we discussed is mobile schools which will improve access to education in pastoralist areas. We are aware that only 30 per cent of the nomadic tribes can access education. The 70 per cent are out there looking after livestock. If we provide mobile schools, I am sure we will increase literacy ratios.

Mr. Temporary Speaker, Sir, the Bill has also prohibited boarding in the ECD facilities. We have recommended day care centres where the children can be taken. This Bill prohibits boarding facilities and holiday tuition for the children.

With those few remarks, I support.

**Sen. Elachi:** Mr. Temporary Speaker, Sir, I also rise to support this Bill. This Bill brings in the issue of equalization in the education sector that we have been talking about. We started free primary education but forgot the main foundation cognitive to the development of a young child which starts at ECDE. We hope that as we pass this Bill, we shall ensure that the curriculum that they are proposing will be inculcated across all the counties.

I know that education is still a national Government function but this will ensure that parents take their children to school. We must start at ECDE. Today, because of the economic challenges that we face where both parents are going to work, young children are being taken to school at the age of two years. If give these children a better home where they can appreciate education at an early age, they will get used to school life and love being in school than the way the situation is today.

I hope the country will support this initiative so that we can reach a level where our children can appreciate that education is the key to successful life.

Thank you.

**Sen. Hassan:** Mr. Temporary Speaker, Sir, I find this a very important Bill to speak to even if it is for a minute or two because I think finally this Senate is starting to implement its obligations under the Bill of Rights.

Kenya must move towards what at that time we called a human rights state. This Bill is actually in furtherance of Article 53 and the Millennium Development Goals (MDGs), to ensure that there is free and compulsory education for all the young people in the Republic. In fact, as I have said here before, the most important responsibility we have in life is to give education to our children. I think counties must be given a framework of obligations. If we do not enact this Bill, then we are going to have varying standards depending on the commitments each county will put into the ECDE centres.

I think this Bill standardizes the system so that we can ensure that as the nation grows, we are able to have a standard level of development so that we do not have people from various counties being prepared in life more than others based on lack of investment in infrastructure.

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Mr. Temporary Speaker, Sir, the most important issue to be tackled is how to keep these young disadvantaged children in school. You will realize that when you are three years old coming from a disadvantaged background and malnourished, it is unlikely that you will be able to keep the focus to study in class. Therefore, the Bill must be progressive enough to identify areas that we can invest in, for nutrition. I commend Sen. Elachi for bringing up this Bill which also touches on issues to do with nutrition. This will ensure that those children who will attend ECDE centres will also be given the benefit of being able to stay in school healthy. You can imagine a three year old who is hungry. He or she will not have the capacity to go through the rigours of learning.

Finally, the morality of the nation must be secured because this nation is dogged with a lot of immoral and unethical conduct from corruption to ethnicity and all the negative vices that we are experiencing. In Kiswahili we say: “*Mti unauwahi ungali mbichi*”, to mean that you can be able to deal with a tree when it is not yet dry. This is a good opportunity to inculcate certain value systems in our children. If it were possible, counties should embark on a process of spiritual learning and inculcating positive values so that we rid this country of ethnicity and theft.

Mr. Temporary Speaker, Sir, half of us, politicians, joined politics because we were enticed that there is theft in the political sphere. That is why you can see some of us falling by the way side on very meager bribery claims to the tune of Kshs100,000 or Kshs200,000. Some of us are going to the counties seeking contracts in a manner that is arbitrary. We think that it is fashionable to be thieves who live in big houses. This is a country that adores thieves. For example, we would claim that a particular person made it in life when he was a Permanent Secretary. These are people we should be micro-scoping on and telling our children that they are bad examples in life. We must teach our children that humility and sacrifice pays. We should build a culture where an individual must demonstrate consummate humility.

Some of the people who have left behind big legacies are not just the wealthy; we have people who have contributed in the fields of science, innovation and development. These are people who have lived humble lives but have scored big in achievements. As a country, we must tell our children who the thieves are and that they must not celebrate them. We must tell them that these people are living in big houses because they stole public funds. We should encourage them to live humbly where they toil and benefit from their own sweat to earn respect.

That is why I do not respect most of the people in public service who have homes like the State House. When I visit them, I usually have a feeling of being in a house of theft and their children are born and bred in theft. We must teach them that public service pays well and that you do not need to go to politics because our forefathers are some of the biggest land owners and, therefore, want to become big land thieves in their counties. We are creating little fiefdoms where people are becoming massive thieves. In the next few years, you will find that what used to happen at the advent of Independence in 1963 is going to replicate itself now. They should not be founding fathers of theft in the counties.

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I support this Bill and say for a fact that if it will not guide the morality of this country, we are not going to achieve much in terms of the future of our nation.

**The Temporary Speaker** (Sen. Murkomen): There being no other request for contribution, I call upon the Mover to reply.

**Sen. (Dr.) Zani:** Mr. Temporary Speaker, Sir, I beg to reply but before that, I will start by thanking all Senators. I have captured various ideas. As a Committee, we will go back and work on them as amendments. They include; the idea of a standardised curriculum, coordination especially at various boards and directorates and the language of instruction, whether mother tongue, English or any other languages can be used and also making sure that there is no conflict in supervision; targeting, for example, the Teachers Service Commission (TSC) and a county. The idea of devolving structure is a general idea so that counties cover both primary and secondary education not at policy level – because that remains at national level –but at infrastructural level.

The Constituencies Development Fund (CDF) also should be used for building toilets. We may not incorporate that into the Bill. Mobile schools for the pastoralist areas should be emphasized, and as the Senator who spoke last has said, our children should be given a guide in terms of morality.

Mr. Temporary Speaker, Sir, in summary, this Bill focuses on equality and inclusion, quality, capacity and partnerships. The Convention on the Rights of a Child, the UN Millennium Goals and Article 53 of the Constitution of Kenya advocate for quality education for young people in Kenya. This is what the Bill intends to do.

With these remarks, Mr. Temporary Speaker, Sir, I beg to reply.

Under Standing Order No.54(3), I request that we defer putting of the question to a more appropriate time when we will have the numbers. Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Murkomen): Thank you, Sen. (Dr.) Zani. Your request is reasonable. Therefore, I rule that the question be deferred to such a time and day which will be determined by the Speaker in consultation with the Rules and Business Committee (RBC).

*(Putting of the Question on the Bill deferred)*

Next Order.

## MOTION

### RE-INTRODUCTION OF UNTRAINED TEACHER PROGRAMME IN NORTH EASTERN REGION

**Sen. Abdirahman:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to move this very important Motion that regards the crisis currently being experienced in the north eastern part of this country and, to some extent, northern Kenya in general.

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Mr. Temporary Speaker, Sir, I thank you, once again, for prioritizing this Motion because it has come at a time when counties that a number of us in this House represent are faced with a serious challenge mainly because of the insecurity that has engulfed this nation. Unfortunately, it has affected much more---

**The Temporary Speaker** (Sen. Murkomen): After thanking the Speaker, you should move the Motion.

**Sen. Abdirahman:** Mr. Temporary Speaker, Sir, I beg to move:-

THAT, aware that the country in general and North Eastern region, in particular, currently faces an acute shortage of teachers;

NOTING, that the problem in schools in North Eastern region counties has been exacerbated by the recent refusal by teachers to report to their duty stations in the region;

CONCERNED, that the national Government has no plans to overturn the current freeze on regular recruitment of teachers;

The Senate calls upon the national Government to immediately reintroduce the Untrained Teacher (UT) programme as well as in-service training for untrained teachers in the North Eastern region as a measure to bridge the shortage of teachers in the region.

Mr. Temporary Speaker, Sir, if you will allow me, I was saying that because of insecurity that has engulfed Kenya as a country and even globally, but in particular the north eastern region lately; in 2013/2014, many of us will recall tragic incidences that happened, for example, the West Gate attack. The worst which we experienced was at Garissa University College. A number of service sectors namely health and education were affected. Currently, the education sector faces a serious crisis. There has been a mass exodus of teachers from Wajir, Mandera and Garissa counties. While I honestly feel that there is some genuineness in the manner in which things have happened, I think that the bad mouth of a number of leaders, particularly from the teachers' union led by Mr. Sossion, has exacerbated the situation.

Mr. Temporary Speaker, Sir, I will shortly provide you a statistical data on the number of teachers, both local and non-local, currently stationed at counties where we come from. That is a demonstration of the fact that as much as things have been bad, the Government has made efforts. That would have helped the situation if only the teachers' union leadership did not seriously blow things out of proportion.

Mr. Temporary Speaker, Sir, education is a right as enshrined in our Constitution. Article 43(1) of the Constitution says that every person has a right to education. Education is both a social and economic right.

Mr. Temporary Speaker, Sir, if you also look at Article 53(1)(b) on the Specific Application of Rights, it says:-

“Every child has the right to free and compulsory basic education.”

Mr. Temporary Speaker, Sir, our rights and the rights of children in the north eastern part of this country have been denied. We feel that unless a specific measure is taken through the Senate, such as this Motion, to compel the Government to help us recruit and train teachers, then, we are bound to have serious problems.

Mr. Temporary Speaker, Sir, to just help you also, look at what the TSC Act, which is very prohibitive, says in Article 26. It says:-

“A person shall be eligible to be registered as a teacher is such a person-

- (a) is of good moral character;
- (b) holds a relevant certificate issued to him or her under any law relating to education and training or regulations made under this Act.”

Article 27 further says:-

“The Commission shall not register a person or a teacher if such a person does not possess the prescribed qualifications; in this case, a teaching certificate.”

Mr. Temporary Speaker, Sir, we have quite a number of people who have formal qualifications up to secondary education level for primary schools and graduates who may not have trained in education who can fill the gap as we speak. In fact, a postgraduate diploma in education is still being offered at Kenyatta University. We should re-instate the untrained teacher programme.

Mr. Temporary Speaker, Sir, the TSC Act is limiting in terms of allowing even the TSC or the Ministry of Education to re-instate this. That is why we are calling, through the Senate, for an executive order or what I would call a presidential decree to allow us – at this particular time and moment – to recruit people willing to serve as untrained teachers in regions that we come from.

Mr. Temporary Speaker, Sir, at the beginning, I said that the bad mouth of certain leaders; the trade unionists particularly my brother Wilson Sossion led to all that. I will share with you some information in a minute. When I took the data for secondary schools, the establishment is at 492 teachers. As we speak, those on duty in Wajir are 227 against an establishment of 492 teachers thereby giving us a shortfall of 265 teachers. At the primary level, we have an establishment of 1,538 whereas those on duty are only 885 teachers. That gives us a shortfall of about 763 teachers.

Mr. Temporary Speaker, Sir, many non-locals have left although insecurity is a big challenge and is a concern for all of us. At the primary level, 218 non-local teachers have left their duty stations; and 27 teachers left during the month of May after earning their first salary. Mind you, this is the new group who were recruited as a result of the advertisements which were made last by the TSC.

In March, 2015, the Teachers Service Commission (TSC) advertised 166 slots in secondary schools, where we recruited 65 teachers in Wajir. It advertised 206 slots out of which 197 were filled. Out of those, 27 teachers left after receiving their first pay in May. We had a chance as the leadership from the North Eastern region to sit down with the TSC and their secretariat. We made a number of proposals, including the untrained teacher programme, provision of incentives for those who are willing to work in hardship areas, improving entry grades for the teaching profession and shortening the number of years that teachers have to serve in an area. I think that so far nothing has taken off the ground. That is what is compelling us to actually call for the recruitment of our local people as untrained teachers.

Mr. Temporary Speaker, Sir, I want to refer my colleagues to the Budget Statement that was delivered by the Cabinet Secretary. On page 19 it says:-

“To further support the demand for increased enrolment, I am proposing to allocate Kshs2.3 billion for recruiting an additional 5,000 teachers.”

The shortfall of teachers nationally for primary schools is 42,251 and 45,498 for secondary schools. The total is close to about Kshs90,000. Imagine if we were to recruit only 5,000 nationally every year. We would take probably 20 years to cater for staffing deficit. I am equally appalled by the allocation to the Information and Communication Technology (ICT) in schools. There is Kshs17.58 billion for learning devices to schools, development of digital content, building capacity of teachers and rolling out of computer laboratories for Class Four to Class Eight in schools throughout the country.

If there are not enough teachers, why is the Government allocating close to Kshs18 billion for ICT? That allocation is important but there are not enough teachers in schools. How can the Government allocate only Kshs2.3 billion for the recruitment of teachers? That is a mismatch of priorities. We need to put our priorities right. I urge my colleagues on both sides to demand that untrained teachers be recruited. The Government should also maybe help us through a crash programme to train students in Garissa Teachers Training College.

Mr. Temporary Speaker, Sir, there is misreporting in the Press that the Garissa Teachers Training College students ran away. This happened because of incitement by the teachers union. The teachers union must mind the welfare of the students in this country, as much as they mind about the welfare of teachers. Close to 100 students have left and I want to thank the Cabinet Secretary, Prof. Kaimenyi, for making sure that the college does not close down.

People must go back because Garissa and Wajir are safe now like any other part of the country. Except for isolated incidents everything else is running well. If we do not want to work as one nation, then ethnicity will continue to thrive and things shall fall apart. But, God forbid, that will not happen. The Senate is the voice of reason. I want to urge my colleagues to actually support this Motion, so that we can actually move together.

Mr. Temporary Speaker, Sir, I wish to conclude by saying that what we are facing currently constitutes a crisis and an emergency.

I beg to move and call upon my brother, Sen. (Prof.) Lonyangapuo, to second this Motion.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I stand to second this Motion and thank my brother, Sen. Abdirahman for standing in the gap at this time for the sake of Kenyans who have suffered.

We all know, Garissa, Wajir and Mandera are three peculiar counties. Earlier, these counties had a shortage of almost 50 per cent of primary school teachers. Before terrorism attacks, they had problems. These counties have been hit hard by the attacks of terrorism. Some teachers died while others have not resumed duty.

These three counties and by extension the neighbouring counties in the north have been hit hard. This Motion calls upon other Kenyans to stand with our brethren who have suffered. The Kenyan child in those counties is not going to school because the mentor

is absent. Who has killed the mentor? Terrorism has done it. Now, do we blame these counties for this terrorism? No, this is an evil spirit which has visited our country.

As we address it, we must know that there is nobody else who can help us. That is why in this Motion we are urging the national Government to avail resources to address the problem. For example, in this case, you can remember that for those of us who are older, we were taught by the untrained teachers in those days. Now, we have trained teachers. However, this problem has taken Mandera, Wajir and Garissa counties back to those old days of the 1960s and 1970s. We must approve this Motion so that the national Government can step in and address this problem.

My brother blamed this man called Mr. Sossion. Mr. Sossion and company champions the interests of teachers just like I do for West Pokot County. You, as the Senator for Elgeyo-Marakwet County even if you are a bit wrong--

**The Temporary Speaker** (Sen. Murkomen): Order, Sen. (Prof.) Lonyangapuo! Why are you imputing improper motives on the Temporary Speaker? Am I wrong for being the Temporary Speaker?

**Sen. (Prof.) Lonyangapuo:** No, Mr. Temporary Speaker, Sir. When you are not sitting on that seat, you are my neighbouring Senator.

Let us not focus on Mr. Sossion and others. We need the Government's assistance to address this problem. As I mentioned last time, we have Kshs2 billion to employ 5,000 teachers. This is just a drop in the sea whereas Kshs37 billion is wasted in the "Lower House" in the name of Constituencies Development Fund (CDF). This money can be utilized to employ 92,500 teachers which is the national shortfall. We should do away with this fund which is being wasted by people pretending to be building classrooms and we employ more teachers to take care of our children.

Without losing focus, I support this Motion. Moving forward, we need a law compelling the Ministry to go further and engage the untrained teachers.

Every holiday, the untrained teachers can be trained on how to teach. They have the concept: Do not be surprised that Standard Eight graduates can be very good teachers of Standard One, Two and Three, if they are taught how to teach. Similarly this can be done to Form Four graduates. We have enough of them in Garissa, Wajir, Mandera, Kitui and all the others.

This Motion has come at an appropriate time. We want to see it being implemented next week.

I beg to second.

*(Question proposed)*

## ADJOURNMENT

**The Temporary Speaker** (Sen. Murkomen): Order, Hon. Senators, the first contributor shall have his or her time when the Motion is listed next week.

It is now 6.30 p.m.; it is time to adjourn the Senate. The Senate stands adjourned until Tuesday, 30<sup>th</sup> June, 2015 at 2.30 p.m.

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The Senate rose at 6.30 p.m.