

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 5th December, 2017

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

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

PRAYERS

MESSAGE FROM THE NATIONAL ASSEMBLY

APPROVAL OF THE COUNTY ALLOCATION OF REVENUE (AMENDMENT) BILL, 2017

The Speaker (Hon. Lusaka): Hon. Senators, I wish to report to the Senate that pursuant to Standing Orders No. 43(3) and (4) of the Standing Orders of the Senate, I have received the following Message from the Speaker of the National Assembly regarding the approval by the National Assembly of the County Allocation of Revenue (Amendment) Bill (Senate Bill No.9 of 2017).

“Pursuant to the provisions of Standing Order No. 41(1) of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

WHEREAS the County Allocation of Revenue (Amendment) Bill (Senate Bill No.9 of 2017) was published *vide* the Kenya Gazette Supplement No.167 of 2017 as a Bill concerning county governments seeking to give effect to the provisions of Article 110(1) of the Constitution;

WHEREAS the said Bill was passed by the Senate on Thursday 9th, November, 2017 and referred to the National Assembly for consideration and whereas the National Assembly passed the said Bill on Wednesday 29th November, 2017 without amendments and in the form passed by the Senate;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and the Standing Order No. 41(1) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate”.

Hon. Senators, in the circumstances, I will process the Bill and present it to His Excellency, the President for assent.

I thank you.

Next Order!

STATEMENTS

RISING INCIDENTS OF COLLAPSING BUILDINGS
IN THE COUNTRY

Sen. Khaniri: Thank you, Mr. Speaker, Sir. I rise pursuant to the provisions of Standing Order No. 46 (2) (b) to seek a Statement from the Senate Majority Leader on the rising incidents of collapsing buildings in the country.

In the Statement, the Senate Majority Leader should:-

(1) Explain the rampant failure by developers to comply with existing laws and/or other requirements for construction of buildings in the country as well as the failure by established institutions at both levels of Government and professional bodies to check and ensure compliance.

(2) Enumerate the number of unsafe storied buildings that have collapsed in the country from January 2013 to date.

(3) Provide up-to-date statistics of buildings marked as unsafe and demolished across the country.

(4) Explain the action taken against Government officials and building owners under whose watch and financing, respectively, such buildings have been constructed.

(5) Lastly, explain the measures taken by the National Construction Authority (NCA) to check and ensure compliance with existing laws on the construction of buildings in the country.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Leader of Majority?

Sen. Dullo: Mr. Speaker, Sir, I request Sen. Khaniri to give me two weeks to respond to his Statement. This is because the issues he has raised require comprehensive answers.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Is it okay with you, Sen. Khaniri?

Sen. Khaniri: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Thank you.

Next!

The Nominated Senator (Sen. Kasanga): Mr. Speaker, Sir, can I request permission to give a few remarks as my maiden speech?

The Speaker (Hon. Lusaka): Proceed.

Sen. Kasanga: Thank you, Mr. Speaker, Sir. I take this opportunity to thank God for enabling me to stand here today. I also wish to thank my party leader and the whole party for giving me this platform upon which I can advance my ideas, theories and champion issues that I have come across in the line of my career.

I represent the interests of architects, which is my first line of profession. I also represent the interests of arbitrators and other Alternative Dispute Resolution (ADR) practitioners. I also represent the interests of youth, who I mentor in my own capacity and, lastly, I represent youth leadership, specifically for girls.

I also take this opportunity to extend my heartfelt condolences to the families of all the citizens who died through police brutality during the electioneering period. To the women who endured abuse during this period, I say as parliamentarians, we have our

work cut out for us and this should not happen in this day and age and under our new Constitution.

Mr. Speaker, Sir---

The Speaker (Hon. Lusaka): Order. You are supposed to make a Statement and not give your Maiden Speech.

Sen. Kasanga: I thought you had given me permission.

The Speaker (Hon. Lusaka): You stand guided.

Sen. Kasanga: Thank you, Mr. Speaker, Sir.

STATUS OF NAIROBI-MOMBASA HIGHWAY

Sen. Kasanga: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 46(2)(b) to seek a Statement from the Senate Majority Leader regarding the status of the Nairobi-Mombasa Highway, a critical infrastructure to Kenya as well as the East and Central Africa Region.

In the Statement, the Senate Majority Leader should address the following:-

(1) Is he aware that the Nairobi-Mombasa Highway, which forms part of the Northern Corridor, is the busiest and most important transport route in East and Central Africa because it provides a gateway through Kenya to the land-locked economies of Uganda, Rwanda, Burundi, Eastern Democratic Republic of Congo (DRC) as well as South Sudan?

(2) Is he also aware that the highway, together with its sister road, the Nairobi-Malaba Road, moves more than 50 per cent of all goods traded in the East African Community (EAC)?

(3) Is he further aware that due to the volume of traffic and the concentration of heavy duty vehicles, the route is accident prone accounting for a large number of injuries and fatalities?

(4) What are the short term (five years), long term (10 years) and ultimate planned goals for the highway under the Kenya Vision 2030?

(5) Could he indicate the budgetary allocations for Nairobi-Mombasa Highway expansion projects, highlighting phases already commissioned and outline what is planned for the highway in the short and long-term respectively?

(6) Could he table the original designs of the highway and indicate changes if any, stating what occasioned the changes?

(7) Has there been public participation and deliberations on the project and, if so, could he table the report and demonstrate how views from the stakeholders have been incorporated in the designs and design changes?

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Sen. Moses Wetangula, do you have an intervention?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, it is normally allowed to ride on such requests to ask for further particulars and information on the Statement.

The highway from Mombasa to Malaba and beyond is the most important economic artery for this country. Uganda is our number one trading partner ahead of the United Kingdom (UK), Germany and other countries. We have seen misplaced priorities

putting Kshs40 billion on a highway from Nairobi to Thika. Right now there is a dual carriage way that is planned to start from Kenol through Murang'a to Nyeri and other dual carriage ways from Kenol through Makutano, Karatina to Nyeri, and so on.

In the answer to the question, can this House and the country be told whether the “dualizing” of the highway from Mombasa all the way to Malaba – which researchers have indicated will result in an immediate five to 10 per cent Gross Domestic Product (GDP) because of faster and better movement of goods and services to Uganda and beyond – has been prioritized, and if so when?

Secondly, I would like the Chairperson to explain why we have endless road blocks on these roads. The section between Nairobi and Bungoma, you can count about 25 police road blocks. One would think there is a crisis in the country. What happens at those road blocks is just toll collection. One is horrified to see police officers picking money from motorists and pocketing it. They block them just for that purpose. They do not have the capacity to check whether the vehicle is road worthy or not. They just collect money. This is a cost to the economy, slows down movement of traffic and is a criminal act. Could we be told why we have these endless road blocks and whether they will be removed to ease movement of traffic?

The Speaker (Hon. Lusaka): Deputy Majority Leader, before you respond, Sen. Kasanga, I saved time for your maiden speech. Any time we are discussing something substantive, you will be able to make it. So, do not get discouraged.

Sen. Dullo, you can respond now.

Sen. Dullo: Thank you, Mr. Speaker, Sir. First, let me congratulate Sen. Kasanga for this professional request on the Statement. Secondly, since the request is so detailed, I request that you give us three weeks so that we can give a comprehensive answer to that particular request.

Sen. Kasanga: Mr. Speaker, Sir, three weeks? Would that not be during Christmas? It will have to be a little faster.

Sen. Dullo: Mr. Speaker, Sir, we will try before we go on recess. However, if there will be a delay, we will request that you bear with us.

The Speaker (Hon. Lusaka): That is okay. Let us move on.
Is Sen. Mutula Kilonzo Jnr. here?

DELAYED COMPENSATION FOR PERSONS DISPLACED BY
MANOONI DAM PROJECT

The Speaker (Hon. Lusaka): Is Sen. Mutula Kilonzo Jnr. present?

The Senate Minority Leader (Sen. Wetangula): He is away.

(Statement deferred)

The Speaker (Hon. Lusaka): Okay. Let us now move to the statements to be issued.

Deputy Majority Leader, you can start.

Sen. Dullo: Mr. Speaker, Sir, many of these statements are not ready. For the few that are ready, some of the Members are not in the House. Statements for Sen. Mutula Kilonzo Jnr. and Sen. Cherargei are ready but they are not in the House. Therefore, the

only Senator who is in the House and his Statement is on the Order Paper is Sen. Wambua of Kitui County.

STATE OF INSECURITY IN NGOMENI WARD,
MWINGI NORTH CONSTITUENCY IN KITUI COUNTY

We have discussed his matter which I followed up with the Inspector General of Police and Office of the President this morning. They are working on it and we have agreed on temporary measures. We can see the Inspector General of Police tomorrow to discuss the concerns that Sen. Wambua has raised in order to get a solution to his immediate concerns.

I thank you.

The Speaker (Hon. Lusaka): Since the owners of the other statements are not here and the practice is to present them when they are here, I defer them.

STATUS OF THE *INUA JAMII* CASH PROGRAMME

COMPENSATION FOR PERSONS AFFECTED BY
THWAKE MULTI-PURPOSE DAM PROJECT

ALLEGED DUMPING OF ASBESTOS IN NGULU-KIKUMBULYU,
MAKUENI COUNTY

STATUS OF THE OIL SPILLAGE AT THANGE,
MAKUENI COUNTY

DELAYED COMPENSATION FOR PERSONS DISPLACED
BY MULIMA DAM PROJECT

KETRACO SULTAN HAMUD-MWINGI
HIGH VOLTAGE POWER LINE PROJECT

STATUS OF INCLUSION OF PWDs IN THE PUBLIC SERVICE

ALLEGED ABUSE OF HUMAN RIGHTS OF PWDs

MAINSTREAMING OF LEARNERS WITH
DISABILITY IN THE EDUCATION CURRICULUM

ALLEGED SHOOTING OF LIVESTOCK BY SECURITY
OFFICERS IN LAIKIPIA COUNTY

DISPLACEMENT OF SAMBURU PASTORALISTS
IN LAIKIPIA COUNTY

STATUS OF LAND OWNED BY THE ADC

IN LAIKIPIA COUNTY

STATUS OF KENYA REGARDING THE HAGUE CONVENTION ON
THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTIONSTATUS OF FEMALE PRISONERS AND CHILDREN
HELD IN PRISONS

(Statements deferred)

Let us move on to the next Order. Sen. Dullo, you may take the Floor.

MOTIONSNOTING OF COB ANNUAL COUNTY GOVERNMENTS BUDGET
IMPLEMENTATION REVIEW REPORT FOR FY 2016/2017

Sen. Dullo: Mr. Speaker, Sir, I beg to move the following Motion:

THAT, the Senate notes the Annual Report by the Controller of Budget on County Governments Implementation Review for FY 2016/2017, laid on the Table of the House on Wednesday, 8th November, 2017.

Mr. Speaker, Sir, this is a public document and everyone will be able to go through it. However, procedurally, as a House, we are supposed to debate this Report. Having gone through the Report, many concerns are raised by the Controller of Budget. Procedurally and annually, the Controller of Budget prepares a report on the implementation for the Financial Year 2016/2017 in accordance with Article 228(6) of the Constitution and Section nine of the Controller of Budget Act, 2016.

The budget approved for county governments that Financial Year was Kshs399.24 billion comprising 240.9 billion (60.3 per cent) of the recurrent expenditure and Kshs158.36 billion (39.7 per cent) for development expenditure. Therefore, it was noted that the total expenditure by counties amounted to Kshs319.06 billion which comprises of Kshs215.71 billion as recurrent expenditure. An amount of Kshs103.34 billion was utilized for development expenditure. Apparently, as a result, the overall absorption capacity was very low as shown in the Report. It was 79.9 per cent.

Mr. Speaker, Sir, there are certain issues that are raised by the Controller of Budget and one of them is failure by counties to adhere to fiscal responsibility principles. I remember in the last Parliament, we were really fighting for counties to get more allocation. Unfortunately, there are shortcomings. Even after getting the monies that we requested, there are many challenges. One of them is Regulation 25(1)(a) of the Public Finance Management (County Governments) Regulations, 2015, which prohibits personal emoluments from exceeding 35 per cent of the total revenue. Unfortunately, you will find most counties are exceeding that limit. For example, Bomet County is above 44.4 per cent, which clearly took away part of the monies that were meant for other purposes, especially, development.

A number of counties that exceeded the threshold include Taita-Taveta, Nairobi City, Nakuru, Tharaka-Nithi and Vihiga. As a result, these counties registered the lowest development expenditure as wages took up most of those revenues. As a House, we should not allow this to happen in those counties. In fact, in some counties, the development expenditure was less than the 30 per cent minimum requirement set by Section 107(5) of the PFM Act.

If some of the counties are actually utilising the money provided for them, the less than 30 per cent, it is really very sad. As a House, we need to do something about this. We are trying to fight and see whether we can get some facilitation so that Senators can oversight the utilisation of this money in counties. It is very sad if some counties are utilising only 30 per cent of the budget allocated for them for development purposes. I believe that we need to do something as the Senate to make sure that this will not happen in the next financial year.

Mr. Speaker, Sir, clearly, as a result of that low expenditure on development in these counties, this hindered some of the wages owing to staff. It is important to also note that unreasonable and inappropriate expenditure was in complete contravention of the law and contrary to the spirit of devolution.

Five counties emulated the spirit of devolution and allocated most of their expenditure to development. Out of the 47 counties, Mandera, Turkana, Tana River, Kakamega and Wajir are the only ones who committed their money seriously to development.

Again, the other concern raised by the Controller of Budget is that there is low implementation of the development expenditure in some counties which was caused by the Integrated Financial Management Information System (IFMIS) connectivity challenges. This slowed down approval of procurement requests and payment to suppliers. When this happens, pending bills occur and implementation of certain projects delays. This has to be dealt with.

Secondly, on this budget is the implementation of several supplementary budgets in a single financial year. You will find that some counties are requesting for three to four supplementary budgets. This clearly distorts the annual development plan of particular counties. Again, you find that some counties delay in paying bills which then accumulate and the result is changes in policy direction which should not happen.

There were delayed payments leading to pending bills; this is also another issue that was raised by the Controller of Budget. As at June 2016, 43 counties accumulated pending bills amounting to Kshs35.84 billion which in effect reduced funds available in the following financial year. This amount is supposed to be more because some counties have not actually submitted their reports for that financial year.

Thirdly, is delay in submission of quarterly reports. Some counties delayed in submission of reports to the Controller of Budget and, therefore, delay in the releases of the report by the Controller of Budget. Clearly, this is also a contravention of the law on financial management.

Mr. Speaker, Sir, there are three forms of revenue sources for the county governments; one of them being equitable share of the revenue raised nationally, conditional allocation from the national Government and development partners and then the counties' own revenue. In this case, the Office of the Controller of Budget noted that the following has happened: Underperformance of revenue collection by seven per cent.

You will find that most counties rely on national Government allocation. They do not care about the revenue they generate. Clearly this has to be checked properly to ensure that counties generate more revenue to ensure they supplement the national allocation.

The most underperformed was local revenue collection with the least performing being Mandera at 21 per cent, Garissa County, 23.4 per cent; Wajir, 33 per cent; Kilifi, 39.1 per cent and Tharaka-Nithi, 39.3 per cent. This is critical because in a plan, a county is supposed to raise 100 per cent. When you look at the report, some counties are actually below by 21 per cent. We really need to do something about it.

The best performing counties were: Marsabit County at 107.3 per cent - I need to congratulate Sen. Hargura for this - Turkana County, 103.5 per cent; Bungoma County – where you were the Governor then and the Senate Minority Leader was the leader in this House – you raised 90.4 per cent, which is very good; then Baringo County, 87.4 per cent and Bomet County 86.2 per cent.

According to the report of the Auditor-General, there is a great need to find and implement better strategies and ways of enhancing local revenue collection within the counties. We have spoken time and again in this House, even in the last Parliament, that accountability of the local revenue collected is challenging because some of the counties do not even bother collecting revenue. Some of them do not even account for the revenues collected. Some of the money is being used at source and that is against the Public Finance Management (PFM) Act.

Mr. Speaker, Sir, there is also need to create realistic budgets and refrain from overstating local revenue in proposed budgets. Some of the counties have overstated their budget and end up not utilizing the funds, yet they go ahead to ask for supplementary budget. As a House, we need to do something about this.

The delay in the disbursement of conditional allocation should be resolved in order to advance the county development goals. The National Treasury should also make sure that the monies are released to the counties in time, so that they can utilize money especially for development.

Non-disclosure of local revenue collection is also a major issue. Most counties do not disclose the revenue that they collect. This issue has to be dealt with by this House. According to the Controller of Budget report it was noted that some counties such as Meru County failed to disclose revenue collected through agriculture mechanization, services and agriculture training centers. Some of the counties also collected revenue and utilized it at the source. One of the counties mentioned is Isiolo County, where I come from.

Mr. Speaker, Sir, according to this report, some of the counties have utilized more than what has been approved by the Controller of Budget, contrary to Section 109 of the PFM Act. Five counties, namely, Nairobi, Kiambu, Isiolo, Wajir and Kilifi were found to have spent more funds than what was approved by the Controller of Budget for withdrawal. This is clearly contravention of Article 228 of the Constitution that requires withdrawal of funds only with the authorization of the Controller of Budget. This House needs to look into that matter because a county should not withdraw more than what was authorized by the Controller of Budget.

I would also like to raise the issue of health. There is a big problem in the health sector in most counties. Some counties have very few doctors dealing with many patients and some hospitals lack necessary equipment and medication. A lot of money that is

approved by this particular House and the national Government goes to the health sector. I do not see why this should happen. According to the Controller of Budget Report, in some cases, the machines are available, but members of staff were not in place.

I do not see why these machines are bought when there are no personnel in place. Furthermore, in other cases, the machines were dilapidated. We do not need to have equipment in hospitals that is not functioning, yet we approve a lot of money to go to the health sector. This is across the board in many counties. This House needs to do something about the health sector which is going down in some of the counties.

A total of 34 counties reported expenditure on personal emoluments that exceeded 35 per cent of the total expenditure for the Financial Year 2015/2016. Therefore, the COB notes that the high wage bill is unsustainable and will negatively affect spending on development activities. Most of the governors are becoming unpopular today because they are laying off a number of staff.

If I may give the example of some of the audit reports that we have received from some of the counties, some of the people are even recruiting their house helps as staff of the counties, and the money is paid from the taxpayers' money. This should not happen. You will find that many counties have employed staff who are not in place. A lot of money that is meant for development is utilized for purposes of personal emoluments. We need to audit this issue once we get facilitation. The county governments should ensure that the expenditure on personal emoluments is contained within sustainable levels, in compliance with Regulation 25(1) (b) of the PFM Act and The County Governments Regulation, 2015.

Mr. Speaker, Sir, the other concern raised by the Controller of Budget is delay in submission of the financial reports. I do not see why this report should delay. The law is very clear. Section 166(4) of the PFM Act, 2012 requires that the county treasury to prepare and submit financial reports to the office of the Controller of Budget not later than one month after the end of each quarter.

Further, Section 168 of the PFM Act, 2012 requires designated fund administrators of the county established funds to submit financial reports to the Controller of Budget not later than 15 days after the end of each quarter. I think we need to introduce some amendment to this particular regulation, where the counties that do not submit reports of the quarters that have passed should not be allocated more money. Unless we introduce those measures, we will still get into such problems as noted by the Controller of Budget.

During the period under review, the office experienced delay in the submission of the quarterly financial reports by some of the counties and this resulted in the late preparation of the budget implementation review, thereby affecting budget oversight by the institutions such as Parliament. This causes delays in the implementation of plans in many other institutions. Therefore, the Senate needs to do something about this.

Mr. Speaker, Sir, the county governments should ensure timely preparation and submission of the financial reports in line with Sections 166(4) and 168 of the PFM Act 2012 and Section 16 of the Controller of Budget Act, 2016. These are recommendations with regard to under-performance in local revenue collection. Article 209(3) of the Constitution, 2010 empowers the county governments to impose property rates, entertainment taxes and many other taxes that they are authorised to impose by an Act of Parliament.

During the period, the counties collected Kshs32.52billion, representing 56.4 per cent of the annual target of the Kshs57.66billion and a decrease of 7.1 per cent from Kshs35.02billion realised in the Financial Year 2015/2016. This clearly shows low local revenue performance, which implied that some planned activities could not be implemented due to insufficient funding.

As I said earlier, we need to do something about the local revenue collected by these counties and make sure that they account for it. County governments should, therefore, develop and implement strategies aimed at enhancing local revenue collection.

Also, there was delay by the National Treasury to disburse equitable share of the revenue raised nationally, contrary to the County Allocation of Revenue Act 2016 Disbursement Schedule. Section 5 of the County Allocation of Revenue Act, 2016, provides that county governments' allocation shall be transferred to the respective county revenue funds in accordance with disbursement schedules approved by the Senate. There was a delay in this financial year. I think we are contravening the law and that should not happen. It is the responsibility of the National Treasury to disburse the national equitable share of revenue to county governments, in line with the approved disbursement schedule, which sets out the monthly amounts to be disbursed.

Mr. Speaker, Sir, it was noted in this particular Report that there was so much delay, especially on the hired health equipment. Clearly, when there is a delay, it means that the counties are paralyzed. Therefore, we need to do something about that. There were also high pending bills. As at June, 2017 the county governments had accumulated pending bills, as I had indicated earlier. The figure I quoted is not the total figure submitted by all the counties. There is a bit of delay. The accumulation of pending bills erodes investor confidence, which negatively affects the business community and could result in litigation and creditors. So many investors are going to court to sue the Government and county governments. As a result of that, we will end up losing a lot of money.

The county governments should deal with the pending bills because the Government regulation is very clear; that you should not spend money that you do not have. However, this is a cash cow for some of the counties which say that they have a certain number of pending bill, but when you investigate the issue they are non-existent. The issue of pending bills should be taken very seriously by the country and the Senate. We should ensure that there are no pending bills. The county governments should ensure management of pending bills by aligning procurement plans to the cash-flow projections, as well as ensuring that all pending bills are budgeted for and paid promptly in the following financial year. You will find that some counties will not carry out any development because all the money allocated to them will go into pending bills.

Mr. Speaker, Sir, some of the counties have not established internal audit committees to oversee financial operations. This is contrary to Section 155 of the PFM Act, 2012. I do not know how such counties are operating if they do not have county audit committees in place. We should ensure that the counties that have not established the internal audit committees put them in place.

There was also failure by the fund administrators to submit expenditure reports for the bursary funds, educational development and infrastructure fund, car loans and mortgage fund, especially by the county assemblies for the MCA and *Biashara Mashinani* funds, contrary to Section 168 of the PFM Act, 2012. Having served in the

last House, most of the audit queries came from the bursary fund which some counties mismanaged. This is an area the Senate should look into. You will find that the needy children in some counties do not benefit from the bursary fund. I have heard of cases where the officers serving in those offices allocate themselves that money and even go for further studies. This should not be allowed.

There was also the failure by counties to reconcile the Integrated Financial Management Information System (IFMIS) payroll data to the Integrated Payroll and Personnel Database (IPPD) data, resulting in discrepancies between the two records. The IFMIS report recorded a total expenditure on personal emoluments for the county expenditure as Kshs1.4billion, while the data for IPPD reads Kshs1.37billion as the total payroll cost for the same period. You will find that there are a lot of discrepancies. Those who are in the IFMIS are not in IPPD, while those who are in the IPPD are not in the IFMIS. This issue has to be corrected because there are so many irregularities that are noted in many counties.

There were also operational delays and IFMIS connectivity challenges which slowed down approval of procurement requests and payments to suppliers. We are getting a lot of complaints about how IFMIS is being operated in counties.

Mr. Speaker, Sir, we need to put our foot down and carry out an audit into how most of the counties operate their Integrated Financial Management System(IFMIS) which is actually one of the areas that are mismanaged and misused.

The other issue is that counties should implement the following recommendations in order to improve budget execution:

The county should establish - as I have said earlier - Internal Audit Committee and also strengthen the internal audit function in line with Section 155 of the Public Finance Management (PFM) Act 2012. All fund administrators should ensure timely submission of the expenditure reports in line with Section 166 to 168 of the PFM Act 2012.

The county treasury should formulate and implement strategies to enhance local revenue collection which is actually an area that needs this House to look into.

The counties should reconcile IFMIS and Integrated Payroll and personnel Database (IPPD) data on a monthly basis to enhance accuracy in reporting. I think counties should be able to look into this on monthly basis instead of waiting a whole financial year or quarterly, as is normally the case.

The county treasury should liaise with IFMIS directorate for support in application of IFMIS and e-procurement model. The county treasury should also enhance vote-book and budgetary control to ensure that all expenditure is within the approved budget.

Mr. Speaker, Sir, as I have said earlier, there is a lot that is happening especially in those counties in terms of how the budgetary provision from the National Government and local revenue that is collected is utilised. The county treasury should liaise with the National Treasury to ensure the funds allocated to the county are released in a timely manner in line with the current disbursement schedule.

Having said all that, I am sure Members will be able to contribute to this Motion. I conclude by saying that as I have said earlier that in the last Parliament we really fought that we should give enough money to the counties so that they can run their activities. Unfortunately, according to this report and what we have found out as people who are

supposed to oversight those counties, whatever little is allocated is not utilised properly. I think Senate needs to put its foot down and make sure that the monies allocated are utilised in a proper manner and also take up our role as “oversighters” to make sure that the monies are utilised properly and the counties are running without wastage and mismanagement of the resources allocated to them.

I now invite Senator Cheruiyot of Kericho County to second this Motion.

Sen. Cheruiyot: Mr. Speaker, Sir, I rise to second this Motion. It is a very important document that we get here in the Senate and are given the chance to read through and get to understand the operations of things in terms of budget implementation and the overall fiscal health of our county governments.

It is important to encourage my fellow colleagues Senators, to spend time with so much keen attention to detail and read this properly prepared document. If you read through, it will give you a proper understanding of the status of devolution both at National level - because that is important to you, as a Senator - and also at specific county levels. It will tell what is happening in your county and whether the funds that you are fighting so hard to be allocated are being put to prudent use or they are being mismanaged and enriching only a few at the expense of many taxpayers.

Mr. Speaker, Sir, of great concern to me as I read through this document is the very glaring decline that has been captured by the Office of the Controller of Budget that the aggregate raised by county governments that is their own county revenue collection, dropped by 7.1 per cent. This is a very worrying trend. Since the inception of devolution, it is important to understand first that these are not figures that the office of the Controller of Budget just picks out of the moon, places before county governments and says, “Your revenue collection or target for Financial Year (FY) xyz is this amount.

This is statistical data that people sit and work out figures and check from history of what the former municipal and county councils used to raise. The same is calculated and prorated in terms of progression of years. Up to date, we have never been able to reach even 60 per cent - that is the national figure - of what previous municipalities used to collect.

This is a worrying trend because it reveals that this is one of the avenues through which taxpayers lose their money. It is something that, as Senators we need to keep at the back of our minds and find out ways in which we can encourage and put in place measures to stop people that are pilfering public resources and using the same to enrich themselves.

Mr. Speaker, Sir, 57 per cent for financial year 2015/2016 was a dismal performance. However, in the report we have before us for FY2016/2017 the same has gone down by a gaping seven per cent. This tells you that it will not be a shocker if at the end of this FY2017/2018 we are told that perhaps maybe counties nationally met only 40 per cent of this figure.

It is something we need to question as Senate and find ways of addressing because that is primarily why we have this House. Article 96 of our Constitution is quite clear that we are the first protectors of counties and their interests. There is no greater interest for counties other than to ensure that the resources that are being devolved are being put to proper use.

The main intent of devolution that we need not lose sight of is to better and improve on the livelihoods of the common *mwananchi*, the people that vote for us to

come to this House. If we can see that there is clear indication that funds are being lost and we are not addressing the same, then we are losing sight of why we exist as a House.

It is something worth also noting when you read through this report- and this is something that I had noticed informally---. Just when we were looking through how devolution either was a success or a failure in the various counties, it was worth noting that some counties took their own allocation and invested in what were then known as “grand projects”. Everybody who is a Member here understands that grand projects in the scheme of county governments have become synonymous with grand schemes of losing public resources.

Mr. Speaker, Sir, It is worth noting and the same has been captured in this report. Some county governments instead of budgeting in such a way that there is little budget to fund projects that are reaching out to almost every corner of the county, instead concentrate on big projects like building of new level 5 hospitals or the new fad which is building state of the art stadia or resort cities. As we have seen in certain counties, the same county governments, almost without fail, those governors did not make it back. That might not be primarily the main reason all of them were not voted back into office.

If you read through page 113 of the same Report and check through the recommendation, one of the recommendations is that there are projects that give meaning to devolution other than visiting a certain corner of the county and telling people to persevere because we had little funds that you used to build a monumental stadium or the governor’s House.

The Office of the Controller of Budget has given us this Report but there are questions that we need to ask the office. At the right time when we have the chance to interrogate these issues, it will be prudent to understand how they are able to allow counties to withdraw monies from their County Revenue Fund (CRF) accounts where in previous withdrawals, they do not have matching documents to show that the money that was previously withdrawn was used for the intended purpose.

Mr. Speaker, Sir, the Public Finance Management (PFM) Act, 2012, envisioned the use of public resources such that you budget how you intend to spend resources of a certain county and each budgetary allocation is allocated a certain amount of money. So, each time you come for a fresh allocation as per Article 166 of The PFM Act of 2012, you are supposed to file your quarterly reports which say, for instance, if we had budgeted Kshs100 million for road infrastructure, you are coming with matching documents to show the same; that the Kshs100 million that you withdrew has been used to pay contractors who did the same work.

But how we end up having pending Bills running into billions of shillings perhaps spells a more detailed problem of what is happening in the office of the Controller of Budget. It will be interesting to call officers from that particular office to explain to us how County Governments continue accessing their funds despite them not adhering to the budgeted purposes of the same monies.

Mr. Speaker, Sir, the absorption rate is something that we also need to pay keen attention to because, as Senators, it is important for us to understand. I have gone to public functions before where I have heard the County Executive Committee (CEC) members in charge of finance speak; pick up a newspaper article and say: “we need to be proud as a county because our county was ranked highest among the counties that have the highest absorption rate.” While in the real context of how things are and what we are

supposed to be proud of, sometimes it could also be a pointer to how bad things are in a particular county.

Because if funds are arriving maybe on the first of a particular month, and by the 15th or 20th the same accounts have ran dry, it could be because work has been done or the converse could as well be true where the same money has been pilfered and work has been created.

Finally as I draw to a close, Mr. Speaker, Sir, it is still a matter of great concern to us, as the Senate, where certain counties are still struggling to maintain the wage bill to be below 35 per cent. The proper intention of devolution was to change the lives of every Kenyan in this country and not a few well connected individuals who are given plum jobs in county governments. These few people then end up enriching themselves and the poor people remain in abject poverty. To have a county government in this day and age in the fifth year of devolution still having their wage bill at 40 to 42 per cent, as is the case in some of the counties that are captured in this report, is something that should be worrying us.

As we continue with this devolution cycle, it would be important to review the provisions of the PFM Act such that we cap the wage bill to below 15 or 20% because each year, it is not a must that you increase the number of workers if the ones in office do not have anything productive to show. If there is an increase in revenue generation, for example, then it tells you the people who are in office are doing proper work, they are making the county richer and that is why they are able to collect more revenue. Therefore, it makes sense for you to employ more. But if you are employing more and more and you have nothing in to show in return, then that points to a very worrying trend.

Mr. Speaker, Sir, with those many remarks, I beg to second this Motion.

Thank you.

(Question proposed)

The Speaker (Hon. Lusaka): Proceed, Sen. Haji.

Sen. Haji: Thank you very much, Mr. Speaker, Sir. I congratulate the presenter of the Motion for her eloquence and for the good manner in which she presented. The audit report is revealing a lot of problems with our counties. But, unfortunately, there was no way in which we could correct these problems because of lack of the necessary staff to support the Senators.

Mr. Speaker, Sir, upon reading the report, there is a trend whereby the revenue collection in 2015/2016 was exceptionally good in many counties, but as they went on, in 2016/2017, there was a very serious decline in revenue collection. This is an indication that the Governors who were in charge of the counties, particularly if I speak about, for example, Garissa County, were not up to the task of ensuring that their counties were run in a proper manner.

With regard to this short fall in revenue collection, the question is raised as to where that money has gone to, because it is a lot of money. If this money was collected properly and utilized, I am sure things could have been quite different from what we see now. Most of the counties depend on the national equitable revenue allocation instead of concentrating on collection of revenue from their own resources. We hear most of the time that people are lamenting that the Government has not released money, yet they are

sitting on money which is within their reach if they were going to collect their revenue in the counties.

Mr. Speaker, Sir, looking at this report, there is also a huge vote for personal emoluments, which appears across the board. If you look at all the counties, you find a lot of money set aside for personal emoluments as opposed to development. Were it set aside for development, people would have seen it and appreciated devolution more, which we were craving for, for many years. This is brought about because, for instance, in my own area, there was no development plan that was being followed on priority terms. Most of the time, money spent on projects was agitated by kickbacks that one can get from that huge amount allocated for the projects that were given.

This trend could be corrected if we do away with local auditors – and I repeat; local auditors – and, instead, the central Government should attach auditors to monitor counties on their expenditure and also on their revenue collection. We do not have to wait for one year to read in a report like this that we are reading now.

Mr. Speaker, Sir, pending bills is a huge problem for the incoming Governors, particularly in my area. Many business people have gone bankrupt because they were given contracts in order for somebody to realize some benefit out of it; yet it was very clear that there was no money which could repay that bill. So, most of these traders who went and borrowed materials from shops have now ran into problems, both for the shop owners and also those who have been awarded the contract. Some of these things can be checked if there was a system of proper checks and balances within the counties. Unfortunately, the County Assembly is also not playing its role, because people look at the Senate alone. The County Assembly, which is the right there in the county, is not playing its role properly because they are also sometimes compromised by the Governors.

Mr. Speaker, Sir, looking at the report on Garissa County, I find that there is a lot of money spent on entertainment. This emanates from the fact that whenever a governor is going on a tour in a given area, he goes with hundreds of elders, ladies and young men who are his supporters, to show that he is a big man with a big convoy. They are paid allowances yet they are not working for the county government. This could have been nipped if there were auditors on the ground other than the local auditors employed by the counties.

In this session, we look forward to being enabled to help our counties run smoothly. With those few remarks, I support.

Sen. Nyamunga: Thank you Mr. Speaker, Sir, for giving me this opportunity to make my remarks on the Annual Report by the Controller of Budget on County Governments Budget Implementation Review for the Financial Year 2016/2017. I have had an opportunity to go through the Report and as my colleagues have said, there are many issues that have been raised.

If we look at the idea of devolution, it was put in place to cure the skewed development of the country since independence. Then there were political considerations. If you did not support the Government of the day or if you opposed some of the activities or practices of the Government, you would be marked. This is known all over the nation. When devolution was put in place, the idea was to make sure that there is proper development for everybody and in each part of Kenya.

From what I have seen in this Report and the earlier reports, it is very clear that we are carrying over some bad practices that are at the national level to the county level. If you look at the percentage of the funds that are allocated to the counties and then look at the personal emoluments or the salaries compared to development, there is a very big difference. Ideally, as it has been stated in the Regulation 25(1)(a) of the Public Finance Management (County Governments), it should be at 35 per cent. The other 36 per cent should go towards development of the counties. This is because some counties are lagging behind in development.

We need to understand why they exceed the 35 per cent limit. In Nairobi City County, for example, it is at 54 per cent. In Nakuru, it is at 49 per cent. I believe that it could be higher in my county, Kisumu. One should look at the root cause as to why they are surpassing the 35 per cent mark. Counties like Mombasa, Nairobi and Kisumu are cities. When the county governments were put in place, there were already city council employees. Later, there were employees that were seconded by the national Government to the counties. There were also the statutory employees who were to be posted.

You realize that there is a lot of replication of performance of activities based on the structures that were put. Something should be done to make sure that there is no replication of employees. There must be a way of phasing out the ones who are not required so that each county has enough employees to perform the duties that are expected.

We are not supposed to surpass 35 per cent. I wonder how it is allowed. It is from year one, two and three. If there is a rule, and it is 35 per cent, why are some counties surpassing to 54 per cent? If there is a reason one must exceed the 35 per cent, it should be brought back to the Table and be considered. Nobody should be given a lump of money like Kshs6 billion for their county yet they do not follow the budgetary regulations that are put in place. It is wrong and we do not want to carry over bad behavior from the national Government to the county governments. That is the idea of devolution. It is meant to give people real time money. It has to be real time development for our counties. It is not supposed to transfer some of the ills that we have seen at whatever level to the county level.

Secondly, is the issue of underperformance of allocation of revenue. In my view, the county governments should have three sources of funding. The first one should be from the national Government. Secondly, they should also have their local revenues. Thirdly, each county has natural resources. For example, Kisumu County has the lake. What else can we do in the lake to get funds? We can have tourism, transportation and fish farming. At the moment, we are getting our fish from China. This is very unfortunate. We have the largest fresh water lake but we still eat fish from China or the fish ponds.

I am not saying that it is wrong to eat fish from China or from the ponds but why are we not utilizing our lake? We also have rice farming in Kisumu and the infrastructure is there. However, we do not want to develop it. Water, land and manpower are there but we still want to heavily rely on the national Government. The national Government should give money and we are pushing for higher allocation to the counties but how are we collecting our own resources? How are we getting our taxes from the markets and the activities in our counties?

When we started, some counties were collecting more compared to now. We either overestimated the amount that each county can collect or the money is being collected and going into the wrong hands. Another practice that I know is going on in the counties is that they use money from the source. From my knowledge of finance, you cannot use money from the source. Money must get to the final destination before it is utilized. There are some bad practices that cannot go on at the county level. We must look at the national Government, equalization, the collection at the local level and the national resources.

I have talked of fish, rice and sugarcane and other things such as tourism. We can develop it in our own ways in each county. If you go to Mombasa, there is a lot of tourism going on. We share the lake with Busia County, they can also plant rice. There are a lot of natural resources that the county governments should enhance or develop for us not to fully rely on the national Government.

There is also the delay of disbursement from the National Treasury. If they over delay disbursing the money to the county governments, they may not work even if they are efficient. It is important that the national Government disburses money to the counties at the right time within the legal time frames. It is supposed to be three to four times in a year but it is sometimes disbursed late just like last year. I think the last disbursement was done at the end of that year. That way, you cannot be evaluated on whether you are performing or not.

The prudent way of managing our counties is very important. We need to be efficient on how we run our counties. If we fail to do that, I do not think that we will achieve the reasons we came up with devolution. That has already been mentioned but we cannot tire of saying it because the current total pending bills nationally stand at Kshs35.8 billion. Since I have not worked in the Government before, I do not even understand how I can budget for something that I do not have or give out tenders to the extent of what the counties cannot afford.

If we have pending bills totalling to Kshs 35.8 billion, it means that something is not right. Therefore, those are the things that we should correct as the watchdogs of the counties and the people. For us to achieve proper development, our approach has to be “bottom-up”, where we start development at the grassroots. For example, the situation in my county is unfortunate and I will never tire of saying it.

There is no way a county that is fed by other counties will take off in terms of development because most of our resources or the meagre resources that people get go towards food consumption. By consuming food from other counties, it means that you are building them to the detriment of your own county. It is very important that we take development and efficiency to the grassroots and curb some of these things before they get out of hand.

Lastly, there is a lot of general inefficiency in our counties. Most of the people who are employed at the county level - I may not be very right – are inefficient, whether or not it is deliberate. When the governors employ whoever they want, they should look at efficiency. There should be a track record that speaks for itself. I do not think it is very difficult to run a county. Come next time or even next year, there will be a glaring difference in the counties that are now run by women. We will be giving examples of counties run by women. I am not saying that men cannot run them, but women can do so better because we are even better managers of money wherever we are. Even in my own

house I am a better manager of resources. Therefore, more women should be voted in next time.

It is important that the Senators use the opportunity that we have been given by the people of Kenya to make sure that our counties are run very efficiently. We should guard our money and make sure that the natural resources that we have are developed for the betterment of our own counties.

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

Sen. (Dr.) Ali: Thank you, Mr. Speaker, Sir. I wish to contribute to the Report. As my colleagues have already said, the counties do not follow the regulations properly. There is fiscal irresponsibility and some counties which are stated to have followed the rules and even the 30 per cent development budget, for example, Wajir where I come from, have put up buildings which are of no use to the people of the area. They are just done for the sake of getting contracts to individuals who are supporters. For example, if you build a greengroceries store, yet you have no green groceries at all or a hay store and you have no hay, what is the use? Why build structures which are not in use? Some of them are now occupied by donkeys.

Therefore, it is unfortunate that somebody would say that they have done very well and they are among the five counties that have followed the 35 per cent rule on development expenditure, yet money has been spent on such things. When things like that happen, you cannot call that development. I would call it corruption and cheating the public.

With regard to delays in submission of quarterly reports, as my colleague earlier said, I would call it inefficiency and laziness, and it happens in most of the counties. I believe the reason for this was the decision by some counties' leadership to employ young graduates, who were also supporters and did not know government procedures run, to replace qualified Government officers who were employed by the Transition Authority (TA). Therefore, they ended up creating problems everywhere.

In the civil service, to get to the level of Job Group Q, R or S, you must have served for over 30 years. However, when you have a diploma graduate, with no experience, employed at Job Group Q what do you expect? These issues create a lot of problems in the counties; I do not know what the Senate can do about it. Some regulations and amendments must be put in place, for example, in the Public Finance Management (PFM) Act or the Salaries and Remuneration Commission (SRC), even if its time is over, I do not know whether Parliament would want to put in place another SRC given all the problems they have created.

However, the wage bills and other things associated with that are creating a lot of problems in counties because of people who are not qualified literally and do not have the experience. If at all there will be a SRC or any other commission - although I will not vote for it - counties must adhere to the rules and laws with regard to issues of structures and who is qualified for a given job group. If they do not adhere to the PFM Act, I do not know how they will adhere to any other law. However, to reduce the wage bill and make sure that people who are qualified are in place, we need to have some laws in place which will provide the experience and qualifications required for every particular job. I do not know what will happen to those who are serving and not qualified.

On the issue of disbursement of funds, we will have to support them. The Senate must support the counties, so that at least they get disbursement on time. The Treasury's

Integrated Financial Management Information System (IFMIS) causes a lot of unnecessary delays and havoc in counties. Sometimes they cannot even get their salaries because of these delays. The IFMIS must somehow be enhanced. If the Government does not have money it does not have to go and harass the counties anyway. That is a fact and the counties really suffer sometimes because of lack of money.

The counties have to reconsider implementing strategies to enhance revenue collection. As Sen. Cheruiyot said, some municipalities were raising over 60 per cent of the revenue before. But now that they are in charge of all the money, they cannot even sustain themselves. I do not even know where this money is taken. Somehow, the local revenues are not collected.

In my county, for example, the revenue officer pockets the money that is collected. The same person has different receipts for collecting revenue. How can you arrest such a person who has double receipts? Some of the receipts are not serialised. I do not know whether they resemble the case of the Independent Electoral and Boundaries Commission (IEBC), where some of the forms are not serialised and others have serial numbers. The people in those areas are illiterate and, therefore, do not know which is which. They are just being given receipts which are illegal. As a result, you will find a very junior officer driving a very big car or building houses here and there. Obviously, the county leadership, just as the former county councils, are aware but somehow, they do not want to do anything about it.

Until such issues are corrected and proper internal mechanisms are put in place, we will not be able to solve some of these issues. For us Senators, we are told we have an oversight role, but we have nothing to facilitate this oversight role. Those of us who come from very far do not even have mileage allowance. How can we oversight? You cannot manage to go to the counties without that money. You are expected to go to Wajir Country, which is 56,000 Km², for example. How do you go and oversight what happens in that county when you cannot even travel?

Parliament must be empowered to make sure that Members are able to implement what they have been elected to do. However, if as parliamentarians, we cannot even go and fight for our rights as individuals and as Members and we just want to agree to whatever we are told, then it is unfortunate. Counties and the national Government will do what they want. Members of Parliament will remain paupers from now on, whether people want it or not.

You cannot do anything. I can give an example of the smallest constituency in Wajir County which is 7,000 Km². Others are 26,000 Km², and you are expected to go round and do those things and there are no resources for that. So, the Senate, wake up and make sure that you are able to implement these things. You have to function for us to survive.

The issue of non-disclosure of those revenues from the counties, unless you have young people who are able to help you on the ground, for you to have people to go round, then you need to really have facilitation. You cannot perform some of these things. If you cannot do anything yourself, how do you expect the communities to help you? The way Kenya is nowadays; if you are not able to grease people's hands to go and help you work, then nobody will do for you anything. As an individual, what can you do? So, I believe the Senate can only perform if we have funds to do those activities. Without that, unfortunately, we will just have to sit around and make noise.

I said earlier that inexperience and lack of knowledge is also one of the issues why we have failures by various county departments to submit expenditure returns in accordance with the provisions of Section 168 of the Public Finance Management Act, 2012. How do you write those things when you have never had any experience anywhere? You are told that a young man who just graduated last year, because of the powers that be, or the Governor is their relative; he is given the job of the director of planning. What can you do, my friend? Nothing!

So, counties, the national Government and the Senate here must make sure that counties do their work properly. If you just give money, and there is no action taken against misuse of these funds---. Some officers should go to jail. When people have found themselves in jail; that is the time the others fear, and they say, “*mambo yameharibika hapa*”.

Sorry, Mr. Speaker, Sir, I am mixing Kiswahili and English. When there is misuse of funds at the national, county and every level, then the agencies that are charged with dealing with corruption and criminal activities should perform their duties accordingly so that Kenya can change. If we continue with the current trend, then we will also be in trouble ourselves.

Also, there are no internal audit mechanisms in most counties. You know what the external auditors usually do. As a former civil servant, I know what they used to do. When they come to you, you just talk to them and everything becomes okay. The report is manufactured to your benefit. A country which continues like that will never progress anywhere. It will not go far. So, the external and internal auditors should be remunerated in such a way that at least, they are self-sufficient and they do not need to take bribes. However, if we continue the way we are now, then, unfortunately, we will be in trouble.

The issue of pending bills has been mentioned by many. The rules are there. You are not supposed to go and give contracts when you do not have that money in the budget. However, officers have learnt how to go around it. They put 10 per cent of the money they are supposed to give in the budget. They give a contract of Kshs 100 million when they only have Kshs 10 million in their account. Then they say they will budget for it in the next financial year. That is what happens in some of these places. Then the next government which comes in is supposed to pay Kshs 1 billion.

Wajir County has Kshs 1 billion in terms of pending bills. How do you take care of that one? The one who comes in will put that money there. The locals will suffer. Some of the jobs have been done and others have not been done, yet people have taken their 10 per cent. So, the Senate has to find a way of dealing with these things. Otherwise, we will just be wasting our time.

Thank you, Mr. Speaker, Sir.

Sen. Wako: Thank you, Mr. Speaker, Sir, for giving me this opportunity to speak on this important topic. For some of us who were here last term, when you read this report, it is a bit depressing because they are the same issues that have been raised year in, year out. Whereas it was excusable that they should have been raised during the first year; the first report of Financial Year 2013/2014 and possibly, Financial Year 2014/2015, by now these should be things of the past.

I agree that when devolution came, most people did not know what it was all about. Even most of the people in the county governments had not even worked in government. They did not know what financial regulations were. They did not know even

the issues of employment and so on. So, in a sense, some of those issues at that time were excusable. However, for them to continue up to now, and we are considering the fourth report, it is inexcusable.

I hope that under your tenure as Speaker, systems will be put in place to ensure that the weaknesses that had been identified year in, year out in this report are things of the past. This becomes very critical because under our new Constitution, the more I look at the way Kenya is going, the grievances people have, and the political situation, the future of this country depends on devolution. In other words, our county governments must really operate as county governments. They must be able not only to get the equitable share of revenue of the amount collected at the national level. However, by now, we should have begun seeing the increasing volume of the local revenue raised by the county governments.

However, what has happened? If you read the various reports; that is the element on which development of the counties will really depend. The development of the counties will depend not just on the revenue they get from the national Government that will push them to a particular level. It will also depend on how they develop their areas and are able to raise local revenue to fund that development.

Mr. Speaker, Sir, what is depressing is that if you read all these reports, instead of the percentage of the local revenue increasing, it has been going down. What is even more serious is that in some cases, the local revenue being raised by the county governments is even lower than the local revenue that used to be raised by the previous local governments. Yes, there are a few improvements, but in a number of them, the revenues have gone down. Even in my own county, it has gone down from Kshs3.34 million in the year 2015 to 2016 to Kshs2.56 million in the current year under discussion. This is a reduction of 23.2 per cent; and why should that be the case?

It should be going up by 25 per cent all the time rather than going down. When it goes down, it shows that either development is not taking place in that county, or that the amount being collected is not being properly accounted for. So, the systems that have been recommended by the Auditor-General in this report on issues of accountability of money raised locally should be looked into and all the amounts raised locally should be properly accounted for in addition to what must be done to increase that amount.

On the issue of emoluments, I intend to criticize the national Government a bit. This is because, ideally, what should have happened is that the county governments employ their staff; other staffs are seconded to the county by the national Government while other staffs were inherited from the local authorities which previously existed at that time. However, the Transition Authority (TA) ought to have audited the real personnel requirements of the county governments to make them operate efficiently, which they never did. Secondly, they did not audit the employees, most of whom were inherited from the local authorities and who had grown up with bad habits of employment.

Therefore, the county government and Governors in, particular, found it very difficult for them to terminate those employees for political reasons. If you sack so many employees within the county, would you be elected again? There would be a lot of hue and cry that you are now raising unemployment within the county. So, those were the difficulties experienced, and so on. But those are some of the things that must be confronted. I might be wrong, but the law was that after the auditing has been done, any

extra employees whether inherited from the local authorities or those on secondment from the national Government were to be reverted to the national Government. However, this was never done and so, we continued with the problem of a bloated workforce and ghost employees, which ate into money that ought to have been spent on developing that county.

Mr. Speaker, Sir, it becomes even more depressing to read that in some counties, that apart from basic salaries and other things, personal emoluments account for more than 51 per cent of the overall total expenditure. I would like to know what the Salaries and Remuneration Commission (SRC) has done to rationalize some of these personal emoluments. What made the cost to go up? Or is it a case where employees go on a trip, they do not account for that money? In other words, I would want to know the percentage of unaccounted for per diems for employees of county governments. If you go into that, you will discover that there is a lot of money which has gone into the pockets of employees and which cannot be recovered but which ought to be recovered.

Mr. Speaker, Sir, on the issue of raising national development, one day I was driving from Busia to your county and I knew that I was in your county by the nature of roads. You made a lot of effort to ensure that the roads were good, but on the other end, the roads were not there. However, we have now resolved to work harmoniously together to ensure that the infrastructure of Busia County is improved so that the standards of our people improve. But one would have thought that Busia County, having two border towns of Malaba and Busia, the revenue collected would be quite enough to address some of its developmental needs.

Mr. Speaker, Sir, the other issue is about the absorption rates of most of the counties, which is ranging between 60 per cent and 63 per cent. You then wonder why we have this very high absorption rate of counties *vis-à-vis* the developmental needs, which everybody knows are there. Why should we have this high lack of absorption rate? In other words, it means you cannot utilize the money, therefore, it would be carried forward to the following year, and so on and so forth. These are the issues that we ought to look into.

But, overall, Mr. Speaker, Sir, my message and my hope is that in the next Auditor-General's report, some of these things would not be there because we would have dealt with them. Definitely, in our second term, they ought not to be there so that the counties can now focus on the proper developmental needs. The counties which will achieve development in this country will be those that do not rely on the equitable share of revenue, but on the local revenue which they can raise through their development efforts.

With those few remarks, I beg to support.

Sen. (Eng.) Hargura: Thank you, Mr. Speaker, Sir. I would like to join my colleagues in noting the annual report by the Controller of Budget on County Government Budget Implementation Review for Financial Year 2016/2017.

First of all, I would like to commend the Controller of Budget because these reports come on time. This is considering that there are other reports, like the Auditor General's Report, which are actually supposed to give us more information on what the counties do with these monies. But if I am not mistaken, we could be two years behind in dealing with the Auditor-General's reports.

The Auditor-General needs to work hard in this area. If the Controller of Budget is realising the reports on time, then the Auditor-General should also be doing the same so that we can have timely interventions on how these funds are being spent. The Controller of Budget's report does not give us itemised expenditure so that we know where these funds are being spent. We need to know, per county, if monies are being spent for development and so on. Having the report on time also gives us an opportunity to look at the challenges which the counties have.

The first issue is the expenditure performance where we are told that the counties have 79.9 per cent absorption of what they receive. If you look at that, first of all you have to check why or where these funds are delaying and why it is that the counties do not receive all the funds. The culprits could be the counties themselves. If you look at the funds received for that financial year, the equitable share was all released by the national Government which released the Kshs280.3 billion approved under the Division of Revenue.

There are also many areas where the conditional grants were not released. We have to look at where these delays are and why these funds were not released. However, if you look at the local revenue, that is where the counties are supposed to make an effort and generate funds. However, that is where almost Kshs25 billion was not realised. When you look at it and talk of 79 per cent absorption, you have to see that even the releasing was not 100 per cent. Where is the problem? That is where we need to see changes.

Mr. Speaker, Sir, when it comes to local revenue, I think it is the counties which set their ceiling. If a county says it can generate Kshs300 million in a given year, then there should be no reason why they should generate 40 per cent of that target because they had the capacity and know their capability. So, it has to be something else.

These funds are being collected but the issue is how they are being accounted for. The requirement is that any county generating any funds must submit that money to the County Revenue Fund at the Central Bank of Kenya. It is from there that they can now request for expenditure of those funds. However, if they do not, then the money will not be captured. That is why the Controller of Budget is talking of only Kshs32 billion against the projected Kshs57 billion.

We need to follow up with the counties and make sure that whatever they collect, they actually remit to the County Revenue Fund because these funds form part of the budget. This fund is also included as part of what they have budgeted for. When you check the percentage received, it is against even that local revenue. Therefore, that one squarely lies with the county governments. Right now they do not have any excuse because they are better than the county councils and municipalities which were there. This is because they have better staff and more funding and can develop better mechanisms of collecting and accounting for that money.

If there are loopholes, as has been alluded to on the issue of receipts, then they can introduce technology so that citizens can actually pay directly to their account. They can get receipts but they have to pay directly to the account. That way they will seal all these loopholes. However, it does not seem to be that way. Maybe the county itself is the culprit. That is why we have cases of spending money at the source. Instead of remitting to the County Revenue Fund, they have local bank accounts in their counties where they deposit and then spend from there.

Mr. Speaker, Sir, from the expenditure you will find that less has been spent on development. This is because when they receive their money, the personal emoluments, operation and maintenance always have to be paid first. However, on the developments aspect you will find that a contract has been awarded and has to wait to be paid. If the funds are not released, that is where the casualty will be. That is why we are having less absorption even in development, in some cases of some counties.

That aside, there is the issue of adhering to the financial regulations such as the PFM Act where some targets or ceilings have been set that the personal emoluments should not exceed 35 per cent. However, you will find some counties going up to even 40 per cent as in the case of Bomet where I am seeing 44.6 per cent. There must be some way of penalising some of these counties because this involves maybe employing a lot of personnel while service delivery is less. These counties need to be penalised. May be it might require that when their budgets are being approved, they have to be forced to be within that limit. This is because laws are there to be followed. We make laws here such as the PFM Act and somebody just flouts them the way they want. They have to be penalised for that.

In case of development, you will find some counties also not following the Act because they are not supposed to have less than 30 per cent of their funds set aside for development. However, you will find that there are some counties which are having more funds than others. For example, if you look at Mandera and Turkana counties, because of the amount of funding they receive, percentage wise, much as they may have the same staff, their personal emolument and operation and maintenance will be less. We even have to look at how much a county receives against the personnel and operation cost. We have to look at how to take this into account maybe in the formula of sharing these funds.

From the Report there is also the element of frequent supplementary budgets without an emergency. For example, I remember in my county last year we had serious drought so we had to have the county assembly pass a supplementary budget so that we could have emergency funds. Unless in that kind of a situation, a county which had sat down, had a County Integrated Development Plan (CIDP) and annual plan cannot be changing its budget three times a year as is the case in some. That shows that the county government was not serious in the first place when they budgeted for that because they cannot be having their priorities changing three times in a year. They also need to be having some penalties on that so that the county governments can follow the law as they are required to.

The Kenyan expectation is that when we gave ourselves a Constitution whose main item is devolution, then more funds need to go to the counties. Further, most of those funds need to be channelled to development and not operation, maintenance and personal emoluments. What is of direct impact to the local population is the service you deliver, not how many people you have employed from those communities.

Mr. Speaker, Sir, from the Report, there is this element of pending bills. My understanding is that when you have been given Kshs6 billion to budget for and that budget has been approved and is almost fully funded, then if there is any pending bill it should be the deficit in terms of funding. This is unless that county was not following the budget the way they have passed themselves.

I had the benefit of working in the government in the old system where at the end of the financial year on 30th June; whatever you had not expended would not be available

for you the next year. In this case, whatever is in the County Revenue Fund will still be available. For example, if I look at my county's budget for the year under review in the Report, it has Kshs5.59 billion as equitable share; Kshs160 million as conditional grants; Kshs120 million, local revenue and Kshs939 million carry over. If there were any pending bills in that county then Kshs939million should be the maximum because that is what was not delivered in the other financial year.

Therefore, there must be some way of naming the aspect of carrying over, because they could be expenditures which were incurred without having any provisions for them. This is a case where the money was in the account, but by the close of the financial year, works had been procured but not paid for. So we have to get a name for it, because we know what pending bills are and the challenges we had before with them, where everybody was spending without any budgetary provision. At the end of the day, this country went through a lot of exercise trying to clear these pending bills. But this is not actually what is being referred to here. If my understanding of this Report is correct, these could be the funds which were not expended by 30th June.

We have also learnt that sometimes counties do not get their funds on time. Therefore, the low absorption rates could be because of the timing. In the last financial year county governments were getting money even as late as 30th June. We know that the IFMIS closes by the midnight of 30th June and, therefore, that money will not be spent. But the Controller of Budget Report will say that, that money was available to the counties. That is being defeatist. They should give the money on time. We have approved the disbursement schedule and do not have anything on 30th June. The Government also should follow what we approve from this House.

Lastly, there is the issue of how the counties are spending. It may appear that they are spending on development, but what actually is that development? They may have the benefit of doing a County Integrated Development Plan (CIDP), but where I come from basic infrastructure is not there. I am talking about water, health facilities and roads. There must be a prioritized way of spending, so that at the end of 5 years, we can say that, for example, in the water and health sectors, we started here and we have now moved to this level. At least, we will have something to build on.

According to this Report, there is the question of what they are spending this development funds on. That is why one of the Senators referred to projects and big buildings which actually do not impact the rural person in the village. If it is the health sector there must be a systematic way of planning. There should be a dispensary at the village which must have a maternity wing. At the divisional level there must be a health centre which should have some bed capacity. Then there must be a hospital at the sub-county level which feeds into a Level 5 hospital at the county level. That way, we will have a systematic way of developing. For the last five years most counties have been receiving between Kshs15 billion to Kshs19 billion, but that systematic development it is not there.

The current governor in my county has to start that exercise of doing a proper CIDP, starting from the village. This will ensure that water and health facilities are available. Otherwise, if we do not check what counties are spending these monies on, we will be going round in circles. We get reports indicating that a certain percentage went to development, but if you go to those counties you will not find that money was put into good use, to benefit the citizens of this country.

I wish to end by saying that other than just receiving these reports, there must be some way of penalizing the counties which do not follow the Public Finance Management Act, 2012 and the minimum set out percentages. At the end of the day, we should not just receive reports and read them, but make recommendations that will reduce violation of the law in the following year.

Thank you, Mr. Speaker.

The Nominated Senator (Sen. Sylvia Kasanga): Thank you, Mr. Speaker, Sir I had requested to make a Maiden Speech.

The Speaker (Hon. Lusaka): You can.

The Nominated Senator (Sen. Sylvia Kasanga): Mr. Speaker, Sir, actually, very much of it is in line with the Report that we have received today on the annual county governments implementation review.

I wish to start by asking ourselves where our hearts are when it comes to the youth. The youth are very concerned with the state of the nation as it is today. Having received this Report, I am not sure how to report back to the youth who are very worried about their future. We have to question ourselves as leaders and legislators. What are we doing for our youth? What examples are we setting for our youth? Are we aware of their dreams and aspirations? As my very able colleagues, who are very seasoned have said, there are some key areas our counties could improve.

One of them is the local revenue generation. I believe it is a major avenue for creating jobs for our youth. As we know, many of our youths today are jobless. My colleague here gave an example of how Kisumu could be doing a lot more if they were to implement some of those recommendations. We would create more jobs for our youth. I am wondering what this House can so that we do not just oversight the budget, but also help with ideas and creation of wealth within the counties. I stand to be guided, but if we could have a bit of a hands-on in that area, it would help our Governors and Cabinet Secretaries to come up with programs that can help our youth in the future.

I am a champion of alternative dispute resolution. I believe that the current Constitution has embraced the alternative dispute resolution mechanisms. I want to champion this going forward because I believe that counties could save a lot of money if they adopted some of these mechanisms. That is just part of what I would say would be my maiden speech. I look forward to support from this House as we try to implement some of these things for the youth and also the alternative dispute resolution mechanisms.

Lastly, I wish to comment on the internal audit that is missing in some of the counties. How can this House take charge of such anomalies? I stand to be guided, but how can there be lack of internal audit, yet we are supposed to be over sighting? It is time that the House takes charge. If we have to seize power, like some of my colleagues usually say, we need to get the legislation that gives us the power to do some of these things. My concern still remains; what country we are handing over to our youth. What examples are we setting to our youth? This House being the 'senior' House has the power to do all these things and set the future straight for our youth.

Thank you very much, Mr. Speaker, Sir.

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

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

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Cherargei.

Sen. Cherargei: Thank you, Madam Temporary Speaker. The annual reports of the county governments have come against the backdrop of the issues that have been raised. Devolution was meant to bring a lot of development and changes at the county level, especially from the level of wards up to the county level. It is very sad that as we look at this Report, there are so many issues that have been raised in the last five years. Some counties have done somehow well, but others are still lagging behind in terms of ensuring that there is proper development.

It is shocking that we are having high amount of pending bills of around Ksh35.8 billion. This shows that our counties need to be diligent. We need to look at the Public Finance Management Act again so that our counties do not spend what they do not have. Some of the projects that we have in our counties do not make sense. In Nandi County, you will find that they have constructed isolated markets in every trading centre yet those markets are not being used. You find that they are overgrown. This means that most of the counties have not gotten their priorities right. The Controller of Budget has captured that very well.

I wish our counties can come out strongly and prioritize their key areas for our people to get value. It does not make sense to construct some of these projects that our people cannot use or see the value of. We can allow them some leeway because there was never a governor before; neither had one run a county government. However, I do hope and believe that we need to relook at the priorities that our counties are having.

The other aspect is duplication of projects in most counties. We have a lot of tussle between the roles of Kenya Rural Roads Authority (KeRRA), Kenya Urban Roads Authority (KURA), the feeder roads that are being run by the county governments and the Kenya National Highways Authority (KeNHA) roads. We need to resolve some of these issues for accountability to be brought up quite high. This is because you find that some roads are constructed by the National Government Constituencies Development Fund (NG-CDF) and others are constructed by KeRRA or the county government. I think that it is high time that we harmonize and rationalize some of these functions. Going forward, we should look for a way of avoiding this duplication of projects. When we have duplication of projects, there cannot be proper accountability.

What is shocking among the various counties is that the defunct municipal councils were collecting more revenue than the county governments yet most county governments have better infrastructure. They also have resources to help them establish more revenue collection in our counties. We hope that as devolution grows, it will benefit our people at the lowest level possible.

One trend that we saw in the last five years is that there was dangerous political patronage and corruption. We should look out to protect our counties from political patronage. Before we went to the electioneering period, there were so many allegations that were being raised. Some of these allegations were that some counties were being politically patronized for the political gains. The governors were being arm-twisted to give money to some of the political honchos in this country. We need to look at this so as to protect some of these counties and ensure that money meant for development is used for the intended purpose.

Finally, I want to raise the issue of employment. You find that most of the counties like Bomet and even Nandi were releasing task force reports on the issues of employment. We need to rationalize this because we have three types of employees at the county level. We have those belonging to the defunct municipal council, Transitional Authority (TA) and those who have been employed by the governors as a reward because they campaigned for them. We are, therefore, having a bloated wage bill, contrary to what is provided by the Public Finance Management Act.

I want to agree with Sen. Cheruiyot when he says that we need to reduce the wage bill to below 15 per cent for us to ensure that more money goes to development. Sarah Serem's term has come to a close today. No one would wish that the Salaries and Remuneration Commission (SRC) continue with its work because of the bad blood that they had with the Members of Parliament. However, we hope that they developed salaries and remuneration guidelines for county governments and the National Government so as to avoid this issue of payment that is being made for three people instead of one.

Nowadays, you will find that in a situation where the county government is supposed to employ one person to perform the job of a sweeper, tea girl and a cleaner, they employ three people. One person will be a cleaner, the other person a tea girl and the other will be a sweeper. We should look at how to harmonise and rationalize this so as to save the cost of employment and remuneration of salaries for our people to get value. That will help us to channel more resources to development and avoid unnecessary spending.

As the SRC Chairperson's term comes to an end, there are so many proposals that they have put on the table. We hope that Sarah Serem's exit report or handing over notes will assist the reconstituted team in the near future for us to protect our counties by ensuring that we do not use a lot of money in recurrent expenditure. Instead, we should channel more money into development. What the SRC has done might be laudable in terms of providing guidelines on employment at the county level because the National Government has always been sorted. I think that Sarah Serem has done extremely well. We should ensure that we utilise her handing over notes on policy guidelines of employment to protect our counties.

Going forward, I want to call upon my fellow Senators to ensure proper oversighting of these funds. That will help us to track the projects that have been given. We should also ensure that the Senators from the 47 counties can be able to track some of these projects that are submitted to the Controller of Budget. That will help us to ensure that the developments are realized across the country for the benefit of our people. We should also ensure that the development rate goes high as we try to bring down recurrent expenditure.

Sen. Mwaura: Thank you, Madam Temporary Speaker. First of all, I would like to appreciate the good job done by the Office of the Controller of Budget. This is a very comprehensive report that will guide the Senate when looking at how much money has been expended in the various counties.

Just to note that it would have been good to have an abridged version, a popular version of the same, to flag out issues. You can imagine the "digestibility" of going through this whole booklet, if there is such an English word, for us, Senators. It becomes quite an uphill task. Of course, our collective responsibility of going through means that for this report to be this bulky, a lot of material has been condensed.

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Sen. Mwaura. Maybe, you are not aware that there was a smaller version called Unpacking of the County Budget Implementation Report which was done by our Parliamentary Budget Office. For your information, there is a smaller version.

Sen. Mwaura: Thank you, Madam Temporary Speaker. I did not get a copy. I just got the big book but it is okay.

From what I have got, there are very interesting trends that are emerging here. First, we are not seeing budgets that are gender disaggregated. We do not see that even when we look at the development expenditure from various counties. I am yet to see projects that are flagged out to address disadvantaged groups of people, in this case, persons with disabilities and other marginalization groups that are inherent within various counties.

Looking at the global budgets, I have been surprised to note that if you go at the summary of the report, you will curiously find that Machakos, Wajir, Bomet and Isiolo counties have the highest absorption capacity when it comes to development expenditure. That is found where counties are listed where the absorption capacity of development expenditure is enumerated on page XVI of the report. This is of concern to Members of the Senate and, of course, to Governors. When you go down further, you will see that under the lowest absorbers of development expenditure, there is Lamu, Nakuru, Nairobi City and Taita Taveta Counties.

Madam Temporary Speaker, this is quite curious because it seems to suggest, to a certain degree, that the level with which one is able to implement development may actually somehow influence whether a Governor is re-elected or not. Why am I saying so? While the Governors of Wajir, Bomet and Isiolo Counties clearly seem not to have been re-elected, it is curious to note that all the Governors who least expended on development; that is Lamu, Nakuru, Nairobi City and Taita Taveta Counties were actually voted out. So, this is really an indictment to the seating Governors – though not wholly but to a certain extent – that members of the public are actually keen to sit, wait and see that they have Governors who are able to implement development.

In the same vein, Madam Temporary Speaker, if you look at the percentages with regard to absorption capacity, you will realise that there are a lot of resources that are used for the recurrent expenditure against expectations of having a higher absorption for the development expenditure. This is obviously because of issues to do with procurement and other delays that are well articulated by this report. This is quite telling because overall, the non-absorption of funds to the counties – that is about 35 per cent that you see in the report – is largely attributed to development expenditure not being well utilised. There is, therefore, the need to ensure that county governments are, indeed, able to take up the monies that are allocated to them for purposes of development.

Madam Temporary Speaker, a curious point that comes out clearly is that just like the national Government, county governments are starting to live way beyond their means. I remember when we had the induction retreat for Senators in Naivasha, I did pose a question to the Cabinet Secretary (CS) in charge of the national Treasury, Hon. Henry Rotich, about pending bills. According to him and even other agencies that were represented, county governments are not supposed to have pending bills because they are supposed to expend that which is allocated to them. However, you can clearly see from this report that there are many pending bills and counties have challenges of borrowing, if

I am not wrong, up to Kshs 35 billion. Therefore, there is a challenge in terms of counties spending monies that they do not have.

Interestingly, if you go to, for example, Kiambu County, you will find that the over expenditure within that county is not even on development, which may be understandable, of course, because of the delivery of goods and if you like services, but also recurrent expenditure. The 41 per cent of these monies generally are going to personal emoluments. What does that mean? Does it actually occasion the fact that counties have become employment bureaus, where people are employing individuals who are not well factored in the various staff establishments or departments and agencies under the county governments? I think it seems to suggest the answer. Is it because of spending monies on per diems and other personal entitlements like allowances for the staff of the counties? So, this is a matter that needs to be looked out for very clearly.

When you look at this report, you can also see that there is a lot of non-compliance to the already existing laws such that, for example, you will find that counties have been able to spend over and above the approved budgets or the withdrawals that the Office of the Controller of Budget has got mandate over. So, the Public Finance Management Act is not being adhered to. If you look at even the ceilings around the development and the recurrent expenditure are not being properly followed. This raises a pertinent question that keeps on recurring in our debates; whether we want to have some form of legislation either by having general guiding legislation at the National Parliament, and in this regard, the Senate; or maybe within the individual county assemblies, where you may want to dictate the ceilings upon which the county assemblies can approve expenditure or can pass budgets.

Clearly from this report, it is quite telling that county governments are having an open hand in terms of how they allocate resources with regard to the priorities of development. Why am I saying this? It is because we must be able to measure our development priorities with regard to how much monies we are apportioning and also, of course, in terms of international standards such as the Sustainable Development Goals (SDGs).

Another very curious and interesting observation that is coming out of this report is that counties are actually spending their Appropriation-in-Aid (A-i-A) at source. That means that counties are collecting money and spending it where they are collecting it. This is totally unheard of because how then do you account for the monies that have been collected?

Madam Temporary Speaker, this is an issue that needs to be looked out for because the County Revenue Fund must be seen to be working. Yes, we know very well even at the national Government, that the Consolidated Fund is fictitious; it does not really exist. But then, can we also, in the same spirit of what we have agreed on at the national level through the Public Finance Management Act, implement a single Treasury account at the county treasuries? This is important so that then, there is proper tracking of the monies that are being raised at various sources.

We do agree that our counties are yet to be fully exploited economically to benefit those very counties and also the national revenue. So, it is important to ensure that the only way we can show that there is credence to such endeavours, is to fully account for the resources that are being collected at source and also used in a consolidated way. That also helps in terms of budgeting and also forecasting in terms of the Medium Term

Expenditure Framework (MTEF) for the various counties so that the various plans and, indeed, the County Integrated Development Plan (CIDP) is fully implemented within the ambit of Vision 2030 and other guiding planning documents.

Madam Temporary Speaker, there is also another emerging trend that is quite telling from this report; that in the year running up to the general election, during the 2016/2017 Financial Year, there is a market decline in terms of how counties had projected how to raise their local revenue and the figures thereof. For example, clearly like in Kiambu County, which I have been able to peruse, there is a decline of 17 per cent. That 17 per cent of revenue that was raised in the Financial Year 2015/2016, was not raised in the Financial Year 2016/2017. This is such that they were able to raise Kshs 2.47 billion before, but for this year, they were only able to raise Kshs 2.03 billion.

That is quite informative because it shows how – and we have all witnessed this even at the national level – how the economic activities are highly affected by our politicking. It is important to ensure that we put in place measures to safeguard the same. This country should not just be seen to be politicking forever to the detriment of everybody as we see currently, where everything is slowing down. If you go to the columns in the national newspapers, you will see that the pages on auctions have really increased because of this political activity.

In the same way, if a county will not collect revenue enough to sustain the various vote heads under its budget, it also shows that the citizenry will suffer with regard to delivery of services. It also reeks of corruption. Why do I say so? If you reduce the official receipts of collections it, therefore, means that maybe these monies could be diverted. People are collecting money, but they are not remitting to the various official accounts so that they can be used for political purposes, maybe for mobilisation of incumbents. If you talk about Kshs2.03 billion against Kshs2.47 billion, you are talking about a difference of Kshs 430 million. That is quite colossal.

Also, maybe it goes ahead to show the manner in which we, as politicians, sometimes give some tax waivers. For example, telling people in the markets not to collect monies just because we would want to make political capital out of it and of course to consolidate voting blocs.

These are issues that may look mundane and superfluous, but indeed they have a bearing upon the proper implementation of our development plans in various counties. This directly affects the dividends of devolution.

One of the other things that have also come out very clearly in this Report is that there is a failure of the National Treasury to ensure that the County Allocation of Revenue Act is properly implemented. There are serious challenges around how much money was disbursed. Indeed, the Report has said very clearly that there are issues of connectivity to the Integrated Financial Management Information System (IFMIS). This is an issue that we need to look out for very clearly.

If the exchequer release has a problem, directly of course, it means that the counties are not able to access these funds. Why is it that this has not been fixed? There is a general discussion around connectivity around this country. However, I would want to imagine, based on my past experience in the National Assembly, where every year we were allocating not less than Kshs1 billion for the upgrading of the IFMIS, that this problem should have already been fixed.

We want to ensure that we have a proper e-government and that counties do not resort to manual systems of accountability where maybe sometimes it is subject to the human agency. This is an issue that the National Treasury needs to look out for once and for all so that it is not used as an excuse to ensure that there is improper conduit of public funds.

The other issue I would want to address is pending bills. It means that counties are giving contracts to various contractors without necessarily looking at whether there is enough money to conduct those projects. It is important that the Council of Governors guide the new members because of the various promises that we as politicians have made in a quest to get into political office. These promises must be properly guided. If you remember, at the national level, when the National Rainbow Coalition (NARC) Government took over, they had to clear many pending bills. In fact, a vetting committee was established to realise the veracity of such pending bills.

This is important because we know very well that such avenues have been used even for people to supply air and substandard goods. Issues of control, warehousing and store keeping are administrative matters that county governments need not to ignore. They need to make sure that indeed as and when something is procured, it is properly delivered, and as per Article 227 of the Constitution which calls upon all of us to ensure that the public is not deprived of its own value for money. This is also supported well in Section 31 (2) and (3) of the Public Procurement and Disposal of Assets Act, 2005 which has also been subsequently amended.

Generally, as I conclude, this Report is quite enlightening. We, as Members of the Senate should take more time - maybe we need to get more time for such reports so that each county represented by the Senators and also those of us who represent the other special interest groups can really comb through this and inform the country on what needs to be done. I imagine that such a Report should really be the content that should permeate all our public discourses in radios and televisions. We should put our money where our mouths are. This is quite telling. We need to know how, for example, we as a country have charged over Kshs 300 billion which is more than 30 per cent of our ordinary sharable revenue to the counties and whether we are benefiting from it.

If a country would want to have a conversation with itself on matters regarding devolution and the clamour for the strengthening of devolution, it starts and ends with the periodic and annual reports of the office of the Controller of Budget. Indeed, this is a very germane Report that gives us the outlook of the actual status of our people in various counties.

Madam Temporary Speaker, I appreciate. I want to now take notes and support that we need to take measures to remedy whatever needs a solution.

Sen. Seneta: Thank you, Madam Temporary Speaker for giving me a chance to also contribute to the Annual report by the Controller of Budget on County Government Budget Implementation Review for the Financial Year 2016/2017. Having said so, I will now point out a few issues that I have observed. This is a very insightful and enlightening Report. We needed more time to go through it, so that as we speak to the citizens of this country, we do so with informed minds on what is going on in our counties.

In the Report, in most of the counties, there is a low absorption rate. This is possibly due to ineffective county treasury staff. This should be noted when there is

recruitment of the staff because we need to have a workforce or a human resource that can do their reports and request for money at the right time.

There is also very high recurrent expenditure compared to development expenditure. That means we are not putting a lot of money into development of our counties. As Kenyans, when we were fighting for this new Constitution, we were looking at devolution as a solution to our problems.

We thought that once monies are channeled to our particular counties we would prioritize our expenditure. However, according to this Report little money is going to development. That means that we spend a lot of money paying salaries and allowances at the expense development.

Madam Temporary Speaker, there is also the issue of county assembly trips. The amount spent on personal emoluments is very high. Therefore, we need to get advice from the Salaries and Remuneration Commission (SRC) in collaboration with the public service boards. They should advise our counties on salaries to be paid and the labour laws, where people are paid according to their grades.

I also believe that some of the county governments are engaging in projects that do not help the citizens. So, we also need to look at the issue of public participation, so that priorities can be set when considering projects. There are also many pending Bills as my other colleagues have said. This could be due to procurement procedures that are not being followed or giving out contracts without looking the budgetary allocation. Now that we have the second county regimes in place now, I would recommend that we do more on capacity building of the county treasuries' staff on issues of the Integrated Financial Management Information System (IFMIS) and Public Finance Management (PFM) Act.

Instead of allocating the counties more money, the national Government should also highlight the absorption of development monies. We should also encourage the county government to conduct public participation on project priorities. We should also encourage automation of local revenue collection since what is collected does not reflect the true picture on the ground. On the ground our constituents complain of being charged a lot of money for licenses and taxes, but it is not reflected on the percentages that are collected by the county governments. Therefore, we need to encourage automation of the local revenue collection systems, so that these monies go back to develop our counties.

Madam Temporary Speaker, I was looking at the report on Kajiado County Government and there is a blanket allocation with regard to water and irrigation. We are not told which irrigation project was allocated which sum of money. In terms of water, it is not indicating how many boreholes were drilled or how many dams were done and at what cost. With regard to agriculture there is also a blanket allocation. There is no specific project showing the sum allocated to a particular agricultural project.

The same case applies to gender, which is my great concern. There is a blanket allocation. It does not show, for example, how much was allocated for women empowerment in how many wards or sub-counties. Therefore, there are no specific allocations in those particular functions. The same applies to land, physical planning and environment. Wildlife was allocated Kshs177 million, but details were not given on how the money was spent. Therefore, in the next report we need to be told the total cost allocated to which project.

Finally, at least, there was one issue that encouraged me when I was reading the report on Kajiado County Government. They were able to meet budgetary timelines, which is very important. They were also able to do automation and that is encouraging. I would pray that this time round - in the second term - they should do more with regard to absorption and allocating monies, particularly to functions that can help the common mwananchi in terms of water, natural resources and drought mitigation. Every other time we complain loudly during the dry spell. Therefore, we need to look into that, so that we can ensure development in our counties.

Thank you, Madam Temporary Speaker.

Sen. Farhiya: Thank you, Madam Temporary Speaker, for giving me this opportunity. There are so many issues that if I were to comment on each one of them, I would need two days in terms of analyzing them properly. However, I will touch on a few of them.

There is the issue of non-disclosure of local revenue collection. We, as Senators, should not just be told that there is non-disclosure of revenue collection by counties every other year. There is also need to consider some motivation for governors. Honestly, some action needs to be taken as this is a big accountability issue. They then question the role of Senators in terms of dealing with such issues yet governors are violating this year-in, year-out. Taxpayers' money is being used to pay Senators to oversight the counties in terms of financial appropriateness and all other issues.

I keep asking myself whether it is value for money to have Senators in this country. Otherwise, these things should not continue to occur. First of all, there should be adequate ways to deal with such issues. The whole idea of devolving money to counties was to address the issue of service delivery and equality in terms of revenue distribution. However, if that same revenue is not disclosed, it means that it has been misappropriated. I ask myself the question whether there is need to have counties. I am indicting everybody so that people feel the gravity of the issue that we are discussing.

One of the ideas that comes to my mind that will help deal with such issues is that knowing well that different counties have different capacities to collect revenue, the budget allocation should factor in the fact that if a particular county has continuously collected higher revenue depending on its capacity, such a county should be rewarded, for example, by being given more budget allocation for doing what is right.

The other issue that I want to discuss is the high wage bill. Are all the workers genuinely employed or some of them are ghost workers? If indeed some of them are ghost workers, the right machinery should be used to ensure that this issue is addressed conclusively so that counties do not continue to suffer from a huge wage bill.

We appreciate that there is a lot of unemployment and probably due to that, governors are employing a lot of people to address this. I believe this is not the right way to address this. If there are right development projects that are addressing the right places, then, I believe that employment positions will just follow naturally. Therefore, my advice to the county governments is to ensure that they invest in development projects with capacity for future employment in mind. They should also look for better strategies to enhance revenue collection depending on each county's capacity. There also should be strategies that will enhance counties that do not have capacity to generate more revenue.

The other issue is with regard to the challenges related to the Integrated Financial Management Information System (IFMIS). As I was reading this report, I was surprised

to find out that there are IFMIS connectivity challenges in Nairobi County. If there are connectivity challenges in Nairobi, what do we expect of other counties? Is this genuine or is this a user-bug problem? People do not know how to use IFMIS.

I am seeing a lot of expenditure on training. Is this training focused on the wrong direction? If there was good training which is beneficial to the county staff, why is there a problem? Sen. Mwaura told us that they used to approve about Kshs1 billion every year to address some of the IFMIS challenges. Is this a bottomless pit that we are just putting money and there is no benefit for Kenyans? In that regard, what improvement or enhancement can they put in place to ensure that IFMIS works? If that is not possible, then how much more of Kenyan taxpayers' money do we need to waste for them to realize that it does not work and that we need a better system than the IFMIS system?

The other issue regarding IFMIS is that in terms of connectivity, most of the counties, especially, Nairobi County, are more connected. So, is this a connectivity issue or what is the real issue? This is an area, as the Senate, we should not ignore. Otherwise, we will be singing the same song, year in, year out with no solution in sight. The other question is, is there a policy to deal with the issue of over-expenditure where counties spend more than what is allocated to them? Our Deputy Minority Leader has mentioned that some of the records between the IFMIS and other manual records have discrepancies. How does that arise? Any financial system should make everybody's life easier including all the stakeholders, those who want to audit, those who are using it and those who are over-sighting. Everybody should benefit from a financial system. Over-expenditure by counties should not have happened if this financial system is working well the way it ought to work.

In terms of the connectivity, is there a possibility of developing an offline system whereby when there is no connectivity, a person can continue to use the system so that when there is connectivity, he or she can upload whatever they had entered when the system did not have connectivity so that next time when there is connectivity, it can be uploaded to the system and reflect appropriately?

Our budgets are either financed through collection of taxes or debt. If the money is being wasted through the national Government or the counties, then how is Kenya supposed to develop because debts need to be repaid back? As we review our future budgets, one of the things we need to consider is the ability of those counties to generate income so that there is sustainability within the counties in the near future.

When I was in school, the last five students who took last positions in the class were required to bring their parents the following term because they did not perform. We knew each term there would be the five people even if people have performed very well. Given that analogy, is it not time for this Senate to punish the lowest rating governors by giving financing for forensic audit that will generate enough evidence to put people behind bars so that it will be punitive for people to stop stealing? This will also enable the Senate to be more effective and have enough evidence to support us even when it is time to impeach governors so that our cases are not thrown out by the courts and also obviously reward the counties that are doing better.

Sen. Wario: Thank you, Madam Temporary Speaker, for giving me a chance to add my voice to that of my colleagues. Revenue collection is very crucial at all levels, be it at the National or county level. Having gone through this report, I have seen some few things to speak about.

If counties sleep on their jobs and fail to collect revenue and then we go through and pass legislation in this House saying that every county should go and undertake development or what they want to do using whatever they collected, then that means that some counties will be stuck. Therefore, it is high time we appealed to counties to pull up their socks this financial year and collect revenue so as to undertake their projects effectively.

The Integrated Financial Management Information System (IFMIS) is a big problem and a disease where I come from in Tana River County. You will see people gathering at the county headquarters just to tell you that IFMIS is not working and, therefore, there is no disbursement of money. As a result, you will see them stuck. The County Treasury reports here that “IFMIS enhances fiscal transparency, accountability and improves efficiency.” Yes, it does all these things; but when it comes to our rural areas, where most of us come from, IFMIS is a problem and it is making us to lag behind.

Madam Temporary Speaker, I have discovered from the pending bills that are reported here that some of our governors undertake projects of their own creation which are not approved by the county assemblies. Therefore, they remain with so many projects which have not been undertaken. The county assembly deliberates on and gives out what needs to be undertaken. In that regard, the governors come up with what they call “the most appropriate”, according to their decision. They come up with their own creation which exceeds the funds allocated, and this pushes them out of what they could do, leading them to, therefore, remain with pending bills. This is something that can be overcome if the governors just work on what comes from the county assemblies.

Thank you, Madam Temporary Speaker. I beg to support the report.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, hon. Senators. There being no other Senator who has made a request to contribute, I would now like to invite the Mover to reply.

Sen. Dullo: Thank you, Madam Temporary Speaker. I wish to thank all the Members for the contribution they have made to this Motion this afternoon. There are so many pertinent issues that have been raised in this Report.

Previously, we just discussed our reports without implementing them. I think this is a critical report that touches on our mandate and also on devolution in this country. I wish, therefore, that the Senate implements the concerns as raised in this debate regarding the Report. We need to put structures in place to make sure we have mitigated the issues raised by the Controller of Budget so that we do not have similar problems, come next financial year.

Madam Temporary Speaker, the issue of Monitoring and Evaluation (M&E) that facilitates Senators is very important. A lot of work has been put in place regarding this facilitation, but it is something that the Senate needs to take very seriously if we are to deliver on our mandate.

Finally, I take this opportunity to thank all the Members for the contribution made and as the leadership of the House, we should implement whatever has been canvassed.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, Standing Order No.73(1) states that:

“When the Senate is to vote on any matter other than a Bill, the Speaker shall rule on whether the matter affects or does not affect counties.”

I, therefore, would like to rule that this is a matter affecting counties, pursuant to Article 123 of the Constitution, and voting shall be by County Delegation. Let us have the Senate Majority Leader?

Sen. Dullo: Madam Temporary Speaker, given that we do not have the numbers and pursuant to Standing Order No. 55(3), I request that you defer the putting of the Question to a later date.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I accede to the request by the Senate Deputy Majority Leader and direct that the Question to this Motion shall be deferred and shall be put on Wednesday, 13th December, 2017.

(Putting of the Question deferred)

Next Order!

ADOPTION OF SESSIONAL PAPER NO.6 OF 2016
ON NATIONAL URBAN DEVELOPMENT POLICY

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Sessional Paper No. 6 of 2016 on the National Urban Development Policy, laid on the Table of the House on Tuesday, October 10th, 2017.

This is a very important policy that is anchored in our new constitutional dispensation.

Madam Temporary Speaker, you served in the Cabinet before and you remember there was a time that we had the Ministry of Nairobi Metropolitan Development which basically not only encompassed the management of Nairobi City but also the adjacent towns that have made Nairobi City County what it is. These towns are: Machakos in Machakos County, Kitengela in Kajiado County, Githurai in Kiambu County and even Thika Town.

Management of urban areas is not an easy thing. It has also been complicated by the new boundaries that we demarcated after the promulgation of the new Constitution. The new Constitution – I do not know whether it is still new seven years down the line – is very clear that every county is an autonomous management unit. These autonomous management units have a responsibility of delivering on the functions that are in Schedule Four of the Constitution. That includes waste management, management of roads and issues that are related to the uniqueness of every county, whether it is a county that has farming, fishing, cultural attachment or tourism.

All these are provided for in our Constitution; that it is the county governments that will perform the functions provided for in Schedule Four, Part II. Some of these functions are concurrent while some are exclusive. Sometimes we have a function like gambling, which happens in many cities. It is a function that is regulated by both county and national Governments. It falls within the purview of what is called concurrent functions.

The Urban and Metropolitan Development Directorate at the national level came up with this National Urban Development Policy. This Policy has various important chapters. However, I need to hasten to say that although this Policy talks about various

issues that need to be done to create a legal framework, it came after the establishment and passing by Parliament of the Urban Areas and Cities Act which already captures most of the issues that are being suggested here.

However, there are other issues that still need to be discussed in so far as inter-county management of a city like ours where there is a connection between Nairobi County and Machakos County, being like a continuum of some sort. For example, many people think that the Jomo Kenyatta International Airport (JKIA) is in Nairobi County but it is in Machakos County. Some people tell you that they stay in Nairobi City County but they only work in Nairobi City County and live in Kajiado County, which is in the former Rift Valley province and now Kajiado County. Some people live in Kitengela, Githurai, Uthiru, Kinoo and they say they live in Nairobi City County. All the time, we must appreciate that all these adjacent counties – whether Kiambu, Machakos or Kajiado – are putting pressure on Nairobi City County.

Madam Temporary Speaker, it is said that Nairobi City County has a population of four or five million people but that is only at night. During the day, the population of Nairobi City County could be about seven million because of the traffic that comes from Thika. That is why the Thika Super Highway was built, expanded and broadcasted to be a big project. People thought that there would never be traffic on that route. No sooner did the road get completed than we already had traffic on that Highway. The same is true on Mombasa Road. Most of the people who work in Nairobi City County are living in Machakos County; whether it is Mlolongo or Athi River where beautiful houses are coming up there.

That is actually what it needs to be because the obsession of owning a house within or adjacent to the Central Business District (CBD) is not necessary, if we can have Kenyans living in Machakos in cheap houses that they can own and working in Nairobi City County. That way, they can save the rest of the money to take care of their families and other family concerns such as education.

The other day, I saw Gov. Mbuvi sitting down with the President and Cabinet Secretaries (CSs) discussing the management of Nairobi City County. I saw some people who were ignorant speaking on social media saying: “President Uhuru Kenyatta is micro managing Nairobi City County. Why is he doing so? Why is he directing Gov. Mbuvi on what to do? Why are his Cabinet Secretaries sitting and discussing the infrastructure with Gov. Mbuvi?” Those people have never read the Urban Areas and Cities Act, which makes it very clear that Nairobi City County is a unique in the sense that it is the capital city of Kenya.

Other countries which have devolved systems of Government have demarcated the capital city and created a management structure at the federal level. The national level is able to manage the capital city. That is why in Australia, for example, the capital city is an entity that was created purely for management of the country and, therefore, the national Government has a role in running the capital city. In Washington DC, parts of it were hived off from Virginia and Maryland to create an entity that is useful for purposes of running the 50 States in America by the national Government – the Federal State.

Now, in Kenya, because of how we conceptualised our devolution, originally, Nairobi City should not have been a county. It should have been an entity being run by the national Government. It should have actually been the place and the seat of Government and, therefore, left to the management of the national Government. It would

then have been easy to discuss all these other issues. Once we made Nairobi City a county – of course, we believed that our Constitution was right to do so because we cannot doubt or second guess what we have already passed.

It was then necessary to provide under the Urban Areas and Cities Act to say that in matters of management of urban infrastructure, security and so on, since this is the seat of the national Government and the diplomatic headquarters of the country, it was necessary to provide that the Nairobi City County Government will have agreements with the national Government to ensure that infrastructure, security and so on will be taken care of in a manner that will ensure the national Government makes contributions.

Madam Temporary Speaker, the problem with the first Nairobi City County under the 2010 Constitution was that people expected Governor Kidero to always be bickering with the President. Even when Gov. Kidero became a reasonable man and tried to work with the national Government, there were many people who tried to say that he was a mole. It was not because he has a choice but because the law says he has to partner with the national Government and no matter who is the President of Kenya, Nairobi City County has to be managed jointly with the national Government. That is why I commend Gov. Mbuvi, his Nairobi City County Government and the President with his Cabinet Secretaries for immediately putting together a framework that is more transparent to ensure that Nairobi City County is developed.

This city is not an easy place for anyone to manage. The population pressure that the rest of Kenya is putting on Nairobi makes it a challenge. But it is not Nairobi alone; we have Mombasa, Kisumu cities. One of the areas in the Urban Areas and Cities Act, 2011 that has never been operationalised was the one that says we must demarcate what is a municipality, city, town and village.

For example, in my own county of Elgeyo-Marakwet someone would tell you that he has gone to Tot town. Actually, Tot is not a town but a small shopping centre, but it may be a town in future. You would hear people talking about Mosoriot city or town, yet it is just a small centre where Sen. Cherargei used to exercise his political prowess before he was elected the Senator for Nandi County. So, there must be clear demarcations of these entities as per the Urban Areas and Cities Act.

This policy provides a basis for anchoring future legislation and actions that will be implemented by national and county Governments. The first part of this policy talks about urban governance; that there is need to promote effective governance and management of the urban area. The issue here is to ensure that there is qualified urban political leadership that is able to run the city.

Already people are impatient with Gov. Sonko and he has been in office for only four months. Most people voted for him because they thought that fixing the dirt in Nairobi City and making it what it used to be; the City in the sun, would take place quickly, after we have mismanaged the city for so many years. The Governor of Nairobi has a big responsibility to ensure that he deals with the issue of cartels and dumping of waste. These are big issues in this City that cannot be dealt with by one person.

There must be stakeholder engagement and civic education. Citizens must be sensitized because throwing dirt everywhere is not good manners, but it is being done by grownups; people who are above 18years. We cannot “dirty” the city and expect the national Government or county government to clean it. What is important is to ensure that the citizens themselves are at the forefront in doing the right thing. The county

government of course has a responsibility to provide the framework, whether it is providing the dustbins, the vehicles that carry the waste or a system for buying incinerators.

Madam temporary speaker, I have heard that the Governor of Uasin Gishu County has partnered with one of the development partners and countries to assist in buying an incinerator for Uasin Gishu County, so that it can deal with the question of burning pathogenic waste, among other kinds of waste, to ensure that Eldoret becomes a clean city. This will deal with places like Huruma and Langas which are almost becoming slums. This needs political goodwill and that is why governance and management is an important thing.

The problem is that a governor, for example, Gov. Sonko, who has just been elected, will wait for the day he will be re-elected in 2022. So, he has to walk a tight rope between radical surgeries, to ensure that he solves the problem--- When Gov. Sonko assumed office everybody thought that he would chase all the hawkers, but it is the same hawkers who voted for him. So, there is a balance between what you promised the hawkers on how they will do business in the city and whether you will create an avenue or place where they will do business, and the days they can come and do business in town. On Sundays in many countries in the world, because there is no huge traffic, a street is designated. For example, Koinange Street, can be designated as the place where hawkers will sell their merchandise.

The issue here is that without proper governance structures and political goodwill, you cannot solve the problems of urban areas and cities. My advice to Gov. Mandago, Gov. Joho and Gov. (Prof.) Anyang'-Nyong'o is that they must find a way of doing the right thing. For instance, Gov. Joho and Gov. Mandago have a very good opportunity since they are serving their second terms. They will not be asking to be governor in 2022. They need to use this opportunity to do something that they will be remembered for. People would remember that there was a governor who served for two terms and solved the problems of Eldoret in terms of congestion, slums and planning. The issue of *kiosks* in every corner blocking traffic or *Tuk Tuks* and motorbikes using all the roads and walkways must come to an end.

That is why governance is the first thing. Do we have a governance structure in our counties that ensures that we shield the citizens from the expediencies of the politicians? For example, can we create the municipality of Eldoret, the person in charge of the municipality and give him the power to do the job, because the Urban Areas and City Act talks about it? Let them do the job that the politician would not have done; execute the mandate that is already given by the people through the constitution to ensure that those cities are attractive.

Madam Temporary Speaker, we must change. If you go to Kisii it is supposed to be a city, but it is scattered all over. You do not know which part should be the city centre or where residents should be. There has to be planning, but it is the biggest problem in this country. That planning requires proper governance structures. It needs a county government and governance structure at the local level that will not be compromised. It is corruption that has made our cities to be what they are and those county governments must be ready, not to take bribes to give out a plot here or there or to give them to the wrong person to develop.

Most of the drainage in Nairobi has been messed by houses that are constructed in wrong places; waterways and seasonal rivers. When it rains it blocks the water, causes flooding in this City and destroys infrastructure. We need to talk about this governance structure and that is why this policy recommends that there must be participatory policy formulation in every county, where we have cities and urban areas.

There is need also to establish the National Urban Coordination Council, so that people can discuss urban areas. In the previous County Councils there were the urban councils which faced challenges. There must be room for the county government of Mombasa to have a person who can link with the person in charge of urbanization in Nairobi, Kisumu, Nakuru, Uasin Gishu, Kitale, Iten and Kapsabet. There will be need for exchange of ideas. For example, what partnerships can take place in Eldoret, Kapsabet and Iten? What experiences can we learn from other places? For example, even when developing stadiums, can these three counties come together and agree on what to do for their urban areas?

If North Rift were to host CECAFA games, for example, it would mean that there would be fields in Iten, Eldoret and Kapsabet. It becomes easy to do that kind of partnership, exchange ideas and work together. That is why our Governors who are talking about North Rift economic bloc, South Rift economic bloc and Lake Region economic bloc must use that opportunity to think about the issue of establishing coordinating frameworks.

With regard to promoting public/private partnerships in the urban developments, we need also a broad-based management of the city. If you look at the Urban Areas and Cities Act, it provided even for a resident of the urban area to be part of that management; to sit in a committee. Whether it was an urban area, city or a municipality, there were provisions of persons to be involved in the management of those urban areas. We need to strengthen the capacity of county governments to engage in urban management and development. There is need to develop guidelines to improve stakeholders participation, provide equal and relevant information in the urban community.

Madam Temporary Speaker, the other issue that is very critical in the management of urban areas is the part of urban finance. The county governments complain so much about lack of enough money from the national Government going to the counties. However, they forget that they also have a responsibility to collect a lot of revenue. The urban areas collect huge amounts of money.

For example, Nairobi City County's collection as the Governor told us, has improved by almost 200 per cent. If you calculated what an urban area can get in an area like Nairobi City County, it gets more than what can be allocated from the sharable revenue. It is therefore important that financial management systems of counties, particularly in the urban areas must be such that they promote transparency. Otherwise, if people are going to collect money and later bank what they want, take parking fees, account for some and leave out some, we will not make progress. Financial management systems of urban areas must be strengthened.

We must develop mid-term plans and strategies for infrastructure development and service provision; a strategy for investment promotion. How do you promote these urban areas? How do you create a city in Elgeyo-Marakwet County? Instead of

congesting Eldoret town, we can create another town in a place called Chepsikot in Elgeyo-Marakwet County because oil is almost being explored there.

Madam Temporary Speaker, you are very familiar with that area having been born and brought up in Elgeyo-Marakwet County. You have that duality. It is important for us to think of how we can make Kerio Valley a city? Can we buy land or put aside 1000 acres and call upon investors to invest on the land to put up a new town, city or investment hub? That is exactly what is happening in Konza City. That is part and parcel of how to develop new cities and create an incentive for investment promotion in those areas.

Madam Temporary Speaker, as I said, there must be adequate accountability mechanisms particularly because of the amount of resources raised from those areas. There must also be institutional capacity. Do the people who are running the urban areas have the capacity to run urban areas? Are the people trained enough? Are counties hiring people because of competence? I hear governors now insisting that people can only be hired from their counties claiming that even national companies must only hire people from that county. They insist that 70 per cent of the jobs must be given to the locals.

That is good politics for local politics. What about harnessing on the competence? There are not so many people in this country who have trained on urban areas management. Therefore, counties must be willing to tap into the resources that are in place and take advantage of how we can make our urban areas to become better.

Nakuru County, for instance, has Nakuru, Naivasha, Mai Mahiu and Molo towns. Those are towns that to a great extent have potential of creating a lot of resources for the county and develop the other parts of the county which is agricultural. To do so, they must have clear policy on how services and resources are going to be used and proper fiscal management. We also have fiscal decentralization in the sense that we must ensure that all the resources that come from the national level get to the lowest unit so that for example, money is not collected in Nakuru County and used in Nakuru town at the expense of the other parts of the county.

Madam Temporary Speaker, the other important chapter is on the urban economy. Some of the things that I have discussed relate to the formulation of the urban economy, orderly development of the urban areas, interconnection and the corridors. One big project that must be done in this country to start with in Nairobi, is the issue of light rail trains. I know that the Ministry of Transport, Infrastructure, Housing and Urban Development is already working on light rail train that will operate from Ngong up to Githurai through Kibera. We will also have one from the city center up to Machakos. There will also be another one from Githurai to Thika another one to Kajiado from the city center.

There must be these trains because countries with urban areas like ours have interconnections across three counties. If you go to cities like New York or Washington DC, which I am familiar with, you will discover that a place like Washington DC, has about six or seven lines; green line, red line, orange line and the rest that take people from Maryland via Washington DC to almost the end of Virginia. When you go there, you do not have to drive. You leave your car somewhere at a train terminus, enter into a train and go to the city.

That is the reason why people are able to read books in those countries. I was wondering how people are able to finish the novels that they buy to read. That is because

they are in a train for about 30 or 40 minutes in the morning and evening. That way, they just sit and read. The trains are comfortable and well lit. When they get to the end of their journey in morning, they go to work and in the evening, they read their books going home. Life becomes a little bit easier for them because they are not dealing with the hustles of traffic, running around, hooting and getting angry.

You reach home when you are so angry for sitting in traffic jam for two hours. Some motorists get so impatient, that they end up climbing on pavements or driving on the wrong side. Consequently, motorbike riders hit their side mirrors or many others incidents that make you insecure. By the time you get home, you are so stressed. You take the stress to your family. Some of the stress that is experienced in Nairobi is contributed to by traffic that is caused on the road or by just walking on the streets.

Madam Temporary Speaker, a city like Beijing, the city alone has about 30 million people. However, you cannot see all those people. When you go there, you will wonder where the people are. People are operating underground. They use the trains to get to their work places and once they have worked for the day, they go down the building, get back in the underground trains and go home. You do not see them crowded in the city because there is a good transport system.

I look forward to the time when a proper planning of the economy of the three or so counties in what is usually called Nairobi metropolitan city will provide a framework that will be borrowed in Nakuru, Eldoret, Kitale, Kisumu and Mombasa. In fact, by now, if we were serious, the light rail trains would have been operating in Mombasa, Nairobi and Kisumu as we work towards the other cities.

What is the point of landing in Mombasa at the airport? If we had the light trains, one would just land at the airport, enter the train and stop at the basement of the Sarova White sands Beach Resort and Spa. We would forget all about the fighting; that there is a lot of dirt in Mombasa County.

I do not know what is happening to Gov. Joho. When you enter Mombasa, you are greeted by terrible waste that smells so badly. I had already talked about that but allow me to mention this in passing. If we had the light rail trains that operate from Mombasa-Malindi- Kwale, we would proceed in a way that is very modern and our people would enjoy. I had talked about urban planning but there is also urban land environment and climate change.

There is a problem in so far as land matters are concerned in urban areas; we have cases where title deeds get lost or somebody “going away” with somebody else’s land. There is a problem. I always hear of so many cases and Senior Counsel, Sen. Omogeni, will tell you that he must have dealt with at least one land issue where there are two or three titles for the same parcel of land in an urban area like Nairobi. There must be a clear inventory of titles. I am happy with the work being done at the Ministry of Lands, Housing and Urban Development with regards to the digitization of title deeds and the land register is going to help us to deal with matters of land.

Pollution is a problem that we must deal with. Why can we not just create the Nairobi River Commission, just like they did for the Thames River in London? There was a time when Thames River was so dirty that they had to form a Commission to clean it. The River is now one of the most celebrated rivers in London. It has clean water because people cared about the environment. You should see how dirty Nairobi River is. We are dealing with diseases that we should not be dealing with.

If you follow this river to Machakos County, you will see that people are growing vegetables on its banks. When eating *sukuma wiki*, you hope that it has come from Eldoret, Elgeyo Marakwet County or Nyandarua, somewhere in the forest. This is because you can easily eat all kinds of waste because of what is planted along Nairobi River or at the lower part of this river. It is terrible. I wish we could form a commission in this Republic that includes membership of the National Government, Nairobi County, Machakos County and all the other counties where the river passes. We should just focus on cleaning Nairobi River.

The late Minister, John Michuki, did a fantastic job in a very short time. There are a lot of trees along the banks of Nairobi River. I think Madam Temporary Speaker also had a hand in the matters of environment at some point, for that is what you are more conversant with. We have to do something about cleaning the environment in this country. It was good that we banned polythene papers and nowadays, they are very few around here.

One of my family friends is a veterinary doctor and she was once interviewed about slaughtering animals at the Dagoretti Slaughter House at that time. She said that they would find so many polythene papers inside the stomachs of the animals that were slaughtered there. The things we eat in this country are not good; it is only God who has kept us alive thus far. As a country, we must find a way of focusing on the environment and dealing with matters of climate change, especially in our urban areas because that is where there are a lot of problems of air, river pollution, and so on, and so forth.

I have talked about urban infrastructure. There is also the question of urban housing and there is a lot of scarcity of housing in the urban areas in this country, yet we can tap into Private Public Partnership (PPP), as this policy recommends. We need to increase allocation for housing infrastructure and we might need to reduce taxes. The President ordered that the National Construction Authority (NCA) should not levy any charges anymore on persons constructing houses in this country, including in the urban areas. This is because of the scarcity of houses in the country.

In his speech during his inauguration for his second term, the President said that he is going to work towards creating 500,000 houses annually and he will work with the private sector to ensure that we have proper housing. Housing is a problem and it is expensive. A flat in a place like Lavington would go for about Kshs20 or Kshs25 million; while the same in Langata would go for Kshs13 or Kshs14 million. Where would a person who left the university five years ago get Kshs15 or Kshs14 million?

Housing goes together with infrastructure. If we had a light railway system, people can stay in Kitengela, where they can buy their own house for Kshs3 million or Kshs4 million. They would live there, save the other money to progress their personal development and that of their families.

Madam Temporary Speaker, I have utmost respect and total concern for social issues, particularly sports facilities. Sports facilities are not taken seriously in this country. Sports should be taken as a way of culture, to ensure that we exercise regularly so that the people are fit and healthy. This is very good, but where are the sports facilities? All the public lands have been grabbed and the ones that are there are not developed.

When I went to study abroad, as you did, we would study during the day and then go to the field in the evening at around 7 p.m. or 8 p.m. We would play in the field for

about two hours and then go back to shower and continue reading. This was possible because we had a stadium or a small field that is owned by the community and we did not have to pay anything. It was well lit with floodlights.

I am a member of a small club of retirees – I do not think that we should call it a club of retirees but they are people who retired from playing football when they were young – we play on Friday evening. We have to queue because there is only one good field in Eastland's in a place called Toyoyo Camp. We have to queue because our group plays from 10.00 p.m. up to midnight. But if there were ten Toyoyo Camps in this city, we would get the chance to play. However, there is only one and there is one group which booked to play from 7.00 p.m. up to 8.00 p.m. Another group then books to play as from 8.00 p.m. up to 10.00 p.m. and that then leaves our group with the option of playing between 10.00 p.m. up to midnight.

That would not happen if we had the necessary training facilities in this town, like ten Toyoyo camps. I want to thank the former Member of Parliament (MP) famously known as "Bena" for doing a very good job. I hope his successor in Makadara Constituency will do a better job because sports facilities are very important.

I have talked to some of my friends who are MPs in this city, telling them that they can borrow something from Toyoyo Camp so that our children can have a place where they can go and play. Similarly, the rest of us can also have a place to go and exercise so that we can avoid certain kinds of diseases and live a healthy life because of those sports facilities. We also need to develop sportsmen – footballers, athletes, tennis and golf players – to ensure that we progress as a country.

Therefore, Madam Temporary Speaker, we need to deal with health facilities in the city. You cannot leave Nairobi County Government alone to deal with health issues; there must be partnership with the National Government. This is because the pressure of providing services to about seven million people at any given day is not easy. People blame the Governor of Nairobi County or those who run Nairobi County Government.

If about two million people come to this city every day, dumping their bananas from Kisii and Thika; their potatoes from Nyandarua and cabbages from Kiambu, they then go away and say that Nairobi is dirty. Nairobi is not just dirty because--- Can you imagine having two million people coming to this city every day; how many toilets do they need? Toilet facilities must be provided for. There is a lot of waste that they bring from outside this city. So, we are all culpable for making Nairobi dirty. We should, therefore, support Nairobi City County Government. I am giving Nairobi as an example because the same happens in Mombasa. Mombasa has a big population during the day and so does Eldoret.

Eldoret Town, for example, attracts people from Kitale, West Pokot and Elgeyo Marakwet, who come with all kinds of farm produce such as bananas and mangoes from my place in Tot in Elgeyo Marakwet County. There is also produce from Sen. Cherargei's Nandi County. They come and dump them in Eldoret, go away and say that Gov. Mandango is not cleaning the town. These are the challenges that we must deal with because of the pressure that comes from what you have as a city. I just wanted to mention the uniqueness.

Finally, we also have the issue of dealing with the marginalised groups. How do you deal with, for example, the Nubians who live in Kibera and who call Nairobi their home? There are people who are called Nairobians. There are others who sojourn in

Nairobi while others are visitors. If you ask someone whether he is going home, he will refute and say that he is just going to the house because they do not regard Nairobi as a home.

However, we have a few of our children or a certain generation may be of my age and below who were born in Nairobi and call Nairobi home. We also have people who are indigenous like the Nubians who live in Nairobi and other parts of the country where we have indigenous communities. How do you take care of their concerns as part and parcel of the communities that live in the city? How do you also take care of the women and Persons with Disabilities (PWDs)?

The biggest issue with the marginalised groups or persons with disabilities is infrastructure. Do all the buildings provide the ramps that will ensure that everybody can access them? People are just building houses and nobody cares about the interests of persons with disabilities. It is not even about whether they care that there will be someone with disability who will want to access the building, they do not care that they might also be the ones who would need the ramps.

Even a simple act of playing football can lead to an injury that can easily make you immobile for sometimes just like the hon. Member who got hurt the other day when we were in Dar es Salaam. It may not be permanent, but it can make you disabled for two years. How will you access your house, office and other places that you work in?

That is also a very important issue when it comes to marginalised communities and groups. How do you deal with gender mainstreaming in management of public urban areas and the concerns of people in urban areas? How do you protect children because they can easily get lost or get abused? The acts of defilement are many in these urban areas and towns because there are people of different types, it is easy to hide and it is a place where you deal with matters of crime and social problems like drug abuse. Those unique challenges require that every county must adopt mechanisms that can respond to the challenges that are here.

Therefore, once we approve this policy which is nice, but just a skeleton, we have to go back to the Urban Areas and Cities Act and see if there are more areas of response that we need to provide in this law to ensure that it is responsive to the challenges that people are facing? How can we be enabled by county governments by sharing their experiences for the last five years on the management of urban areas, so that we can have a unique way of dealing with these issues? How can we protect people who live in urban areas?

Sometimes you have an urban area having, for example, a unique business community, that is, people who are not necessarily many in the county itself, but they live in areas which are ignored because the politics of the area do not favour them. The politician, for instance, the governor, will decide to put services where there is a bigger population and forget about these people who are living in this corner.

They will just promise to upgrade their slums in future and tell the national Government to take care for them if they intend to. How do you ensure that it is a matter of right that those people are given services and their environment is clean for the purposes of human habitation?

Madam Temporary Speaker, I can speak on and on since this is a subject that I really value. I know I still have some time to talk, but allow me to stop there.

I beg to move this Motion and ask Sen. Omogeni to second. He must be very careful when he seconding so that he does not contradict the mover.

Thank you, Madam Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Yes, Sen. Omogeni.

Sen. Omogeni: Thank you, Madam Speaker. Right from the onset, this is one area where I am fully in agreement with the Senate Majority Leader. Fully!

In seconding this Motion on the National Urban Development Policy, this is one area where this country really needs to put a lot of effort to ensure that we catch up with the countries where the Senate Majority Leader went to study. I have listened to the Senate Majority Leader give examples of the problems that face the city of Nairobi, but I want to state that even from our own counties where we come from, we have serious challenges. You cannot believe that in Nyamira Town, in the county where I come from, we do not even have a sewage system.

When you walk around or want to park your car, you will not get the slots for people with disabilities. However, many of our governors have never come to the realization that in planning our towns in our counties, we need to take care of these very special categories of people who have some disability. Therefore, this is a very noble idea. It is something that this House should take seriously.

I heard somebody say that at one time – late 1960s or early 1970s – Malaysia was given a grant by the late Mzee Jomo Kenyatta. If you go to Malaysia now you will be surprised by the planning of that country. You will not believe that there was a time when we were almost at the same level. This is one area where the leaders who have been before us failed to be proactive and ensure that we do proper planning for our cities.

I usually travel to my county of Nyamira through Narok County. Anytime there are blessings of rainfall in Narok, you are not sure whether you will cross over to Nyamira. Last week we were forced to seek alternative means of travelling to Kisii because there were floods in Narok. Anytime there are floods you cannot cross that beautiful town called Narok. Why is this so? It is because the people who planned that town made a provision of just one street.

People who have no business in that town must cross the middle of the town, where there are banks and supermarkets. If we had proper planning, if I want to cross Narok and go to Kisii, we would do what I saw in the United States of America. If you are going to Washington DC from New York, there are some cities you do not need to drive through. You will get a bypass, drive outside the city and proceed on. This is what we want to cure by this National Urban Development Policy. If leaders and the Government of the day are serious, this is something that should see the light of day.

Do not even get concerned about the two million people who come to the City of Nairobi. You will be surprised that if you go to a town like Nyansiongo, which is a fairly big urban town with a tea factory, there are no facilities like common toilets for people doing business. If I was to be a governor of that lovely county called Nyamira, those are some of the issues that I would address. I hope that once we pass this policy, our governors and leadership at the county level will start to address some of these mundane issues. They look small, but mean a lot to our people.

Talking of even provision of piped water, how many of the 47 counties have full connection to piped water? I am sorry to say that most of the county headquarters do not even have a functioning piped water system. People are still living in the Stone Age era,

where they have to go to the river. No wonder, in most of these county headquarters you rarely get women with *curly kit* because they have to carry water on their heads from the river. Therefore, it is a high time that the leadership, us included, became proactive to ensure that we have urban cities that we can all be proud of.

I once travelled to Hong Kong and you will be surprised. People there live in skyscrapers but in the evening, they all stream to some fields which have been designated for training. You would find people who are as old as 80 years streaming to those fields to walk. There are designated places for young people to play football or basketball and that is what we call proper civilization

Madam Temporary Speaker, I fully second this policy and I want to state that the timing is right because we want to transform this country. Devolution was meant to ensure that we attract more professionals, investors and business people back to our counties so that we do not crowd Nairobi City County. There is no way this would be achieved unless we also make those urban cities attractive. I do not need to borrow what the Senate Leader of Majority has said. I do not need to drive all the way to Nyamira County if we had good connections in terms of the train network and airports.

The only way I can reach my people in Nyamira County is unless I drive all the way wasting a whole five hours. However, if we had trains connecting us, I would simply make my payment and at about at 7.30p.m. get a fast lane train. I would then find myself in Nyamira County and mourn with my constituents and the following day, I will take a train back to the city. That is the kind of vision that we us leaders should have for this country so that devolution can have a meaning to our people who live in the countryside.

On the issue of naming of streets, for example, you cannot even be given an address of a county headquarters when you want to go and great somebody. In Nyamira County, we do not even have one named street. So, if I want to invite the Senate Leader of Majority to Nyamira County, I cannot tell him that find me in a hotel which is in a street called *abc*. Can you imagine? We should not have that situation as a country. We need to have proper planning for our citizens.

I would also suggest the naming of streets in Nairobi City County. There was a time when I was in one of the cities in the United States of America (USA), San Francisco. There, streets would lead you to a place. For instance, if somebody is at 23rd Street and you are at 14th Street, you would be directed to walk up the street and you will find a restaurant. That is what we need to see in this country.

Madam Temporary Speaker, on the issue of dumping sites, we must value our hardworking women who everyday wake up and go to the markets and sell to us *Sukuma Wiki*. However, after they finish their business, look at the conditions of these markets. They sell their *Sukuma Wiki* and whatever remains is just dumped there and we do not have any clear policy of ensuring that the areas that they are operating in are environmental and health friendly. That is why you find people admitted in hospitals every now and then suffering from diseases that could be avoided.

We must also take care for the less fortunate in the society. Not everyone of us work in offices. Therefore, those people who work in the markets actually ensure that the level of poverty is reduced. These women work so hard to educate their children for them to have a better future and would not want to see their children working in the same markets.

Therefore, I second the National Urban Development Policy as laid by the Senate Leader of Majority.

(Question proposed)

ADJOURNMENT

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until Wednesday, 6th December 2017 at 2.30 p.m.

The Senate rose at 6.30 p.m.