

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 28<sup>th</sup> February, 2018

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

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

### PRAYER

### PAPERS LAID

#### REPORTS OF THE 47<sup>TH</sup> AND 48<sup>TH</sup> SESSIONS OF THE ACP-EU JOINT PARLIAMENTARY ASSEMBLY

**Sen. (Prof.) Kamar:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Wednesday, 28<sup>th</sup> February, 2018:-

(a) Report of the 47th Session of the African, Caribbean and Pacific (ACP) Parliamentary Assembly and Inter-Sessional meeting of the African, Caribbean and Pacific – European Union (ACP-EU) Joint Parliamentary Assembly held in Brussels on 9th to 12th October, 2017;

(b) Report of the 48th Session of the African, Caribbean Pacific (ACP) Parliamentary Assembly and the 34th Session of the African, Caribbean and Pacific - European Union (ACP-EU) Joint Parliamentary Assembly held in Haiti on 13th to 20th December, 2017.

*(Sen. (Prof.) Kamar laid the documents on the table)*

### NOTICES OF MOTIONS

#### NOTING OF REPORTS OF THE 47<sup>TH</sup> AND 48<sup>TH</sup> SESSIONS OF THE ACP-EU JOINT PARLIAMENTARY ASSEMBLY

**Sen. (Prof.) Kamar:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House notes the Reports of the 47th and 48th Sessions of the African, Caribbean and Pacific (ACP) Parliamentary Assembly and the Inter Sessional meeting and the 34th Session of the African, Caribbean and Pacific – European Union (ACP-EU) Joint Parliamentary Assembly held in Brussels on 9th to 12th October, 2017, and in Haiti on 13th to 20th December, 2017, respectively, laid on the Table of the House on

Wednesday, 28th February, 2018.

#### REGISTRATION OF PERSONS WITH DISABILITY

**Sen. Khaniri:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

AWARE THAT the National Council for Persons with Disabilities was established through the Persons with Disabilities Act, 2003;

FURTHER AWARE THAT registration of persons living with disabilities is a function of the National Council for Persons with Disabilities;

ALSO AWARE THAT persons living with disabilities are estimated to be about 10 per cent of any given population;

COGNISANT THAT for purposes of registration of persons living with disability, it is a mandatory requirement for one to undergo medical examination by a registered medical officer in a registered and certified health facility;

AWARE THAT medical services are now a devolved function;

CONCERNED THAT of the nearly 4 million Kenyans living with disabilities who reside in Kenya, there is a very small fraction of the number which is duly registered;

FURTHER CONCERNED THAT without proper registration, many persons living with disabilities are denied services because they lack the necessary proof of disability;

ALSO CONCERNED THAT owing to lack of accurate data on persons living with disabilities, the government at both levels cannot plan properly for this category of people;

NOW THEREFORE, the Senate calls upon the National Council for Persons with Disabilities in collaboration with Ministry of East African Community, Labour and Social Protection and county governments, to carry out a nationwide registration of all persons living with disabilities in order to determine their exact population to facilitate effective service for this marginalized group of our society.

#### STATEMENTS

##### REGISTRATION AND PROVISION OF FACILITIES IN PRIMARY AND SECONDARY SCHOOLS

**Sen. (Dr.) Milgo:** Mr. Speaker, Sir, pursuant to Standing Order No.46(2)(b), I rise to seek a Statement from the Chairperson, Standing Committee on Education on the registration of schools and inadequate school facilities in primary and secondary schools in the country. In the Statement, the Chairperson should:-

(1) State the criteria used to approve primary and secondary schools for registration and operation;

(2) explain why some schools have been in operation without the requisite approvals for registration and operation;

(3) explain the measures that the Government has put in place to ensure that pupils who are learning in such unregistered schools are registered by the Kenya National Examinations Council (KNEC) so that they can take their national examinations;

(4) state the measures that the Government will put in place to ensure that persons found operating unregistered schools are charged;

(5) explain whether the old schools established in Kenya meet the conditions stipulated under the economic and social rights in the Constitution including health and safety standards for variation; and

(6) explain the measures that the Government has put in place to ensure that registered schools meet minimum health and safety standards and that they have sustainable facilities for conducive learning that is not prejudicial to the physical, mental and moral welfare of the pupils.

Thank you.

**The Speaker** (Hon. Lusaka): Can the Chairperson or Vice Chairperson of the Standing Committee on Education give an undertaking?

**Sen. (Prof.) Kamar:** Mr. Speaker, Sir, I give an undertaking that we shall give a response in the next two weeks.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Milgo, is two weeks okay?

**Sen. (Dr.) Milgo:** Mr. Speaker, Sir, two weeks is okay.

**The Speaker** (Hon. Lusaka): Hon. Senators, for the convenience of the House, we will come back to Order No. 8 later. I, therefore, direct the Clerk-at-the-Table to move to Order No. 9.

## BILL

### *Second Reading*

THE WAREHOUSE RECEIPTS SYSTEM BILL  
(SENATE BILLS NO.10 OF 2017)

*(Sen. Murkomen on 21.2.2018)*

*(Resumption of Debate interrupted on 22.2.2018)*

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

## MOTION

### ADOPTION OF THE 2018 BUDGET POLICY STATEMENT

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to Section 25 (7) of the Public Finance Management Act and Standing Order 174 (7) of the Senate, this House adopts the Report of the Standing Committee on Finance and Budget on the 2018 Budget Policy Statement (BPS), laid on the Table of the Senate on Tuesday, 27th February, 2018.

Mr. Speaker, Sir, pursuant to the Public Finance Management (PFM) Act, 2012, Section 25(2), the National Treasury submitted the 2018 Budget Policy Statement. The Budget Policy Statement was laid on the Table of the Senate on 14<sup>th</sup> February, 2018. Pursuant to the PFM Act Section 25(7) and the Standing Order 174 of the Senate Standing Orders, the BPS was committed to the Standing Committee on Finance and Budget for consideration and it was brought to the Senate within 12 days.

The Budget Policy Statement is an important document that sets out the broad strategic priorities and policy goals that govern the national and county Governments in the preparation of their respective budgets, both for the coming financial year and the medium term.

It contains, among others, the following:-

- (1) An assessment of the current state of the economy and a financial outlook of the medium term including macroeconomic focus.
- (2) The financial outlook with respect to Government revenues, expenditures and borrowing over the next financial year and over the medium term.
- (3) The proposed expenditure limits for the national Government and indicative transfers to county governments.
- (4) The fiscal responsibility principles and financial objectives over the medium term including limits of total annual budget.

Mr. Speaker, Sir, pursuant to Standing Order No.174(5), the Committee invited the Cabinet Secretary, National Treasury, Commission on Revenue Allocation (CRA), the Council of Governors (CoG) and the County Assembly Forum (CAF), among other stakeholders.

Further, the Committee invited the Senate Standing Committees which oversight different state departments to consider the respective sector provisions in the BPS and forward the observations and recommendations. The Committee also received submissions from the Parliamentary Service Commission, Vote 2041.

The Committee in making recommendations and the report, considered the views of all the stakeholders and made significant observations on the BPS policy proposals for 2018/2019 and the medium term, identifying broad policy issues with great impact on counties and proposals on revenue allocation.

From the perspective of the Senate Committee and the role of the Senate in protecting the interest of counties, the broad issues in the 2018 Budget Policy Statement (BPS) can be categorized as follows:-

- (1) National policies and programmes that have direct impact on economic performance of counties.
- (2) Proposals on division of revenue between the two levels of Government and among counties for the Financial Year 2017/18.

The 2018 BPS mainly focuses on the 'Big Four,' which aims at creating jobs and transforming lives in Kenya. It is important to note that three out of the 'Big Four' are devolved functions, that is, health, agriculture and housing. However, the policy was silent on the role of the counties in accomplishing the 'Big Four.'

Standing Order No. 174(6) of the Senate states as follows:-

"The report of the Standing Committee on Finance and Budget shall contain policy and financial recommendations on matters and functions related to counties and a

proposal on the division of revenue between the national and county levels of government’.

In this regard, the Committee made the following recommendations:-

(1) An amendment of Section 25(7) of the Public Finance Management (PFM) Act, 2012 to extend the timelines for the consideration of the BPS by Parliament from the current 14 days to 30 days. In our opinion 14 days was very short.

(2) The role of county government in realization of the ‘Big Four’ plan should have been explicitly stated in the 2018 BPS as most of the key initiatives under the plan are devolved.

(3) To make the ‘Big Four’ plan a reality, the National Treasury and Ministry of Planning should provide a master plan or blueprint (Medium Term Plan III) that clearly spells out the agenda/strategy/policies with results matrix for resource allocation as well as a monitoring and evaluation framework.

(4) To enable implementation of the ‘Big Four’ plan at the county level, there should be subsequent allocation to counties for new conditional grant. Currently, village polytechnics are devolved but the budget line, which shows the conditional grant, only mentions rehabilitation of the village polytechnics. We would like to include development and equipment of village polytechnics and expansion of Early Childhood Development Education (ECDE). This is because the current idea of rehabilitation only will not be there. Many counties do not have polytechnics while others have many of them. There is disparity and we need to harmonise so as to give equal attention to all the counties.

We also expect boosting of agricultural production among the small-scale farmers and pastoral communities. This must be funded. In addition, the protection of environment to address the dual problem of water scarcity and climate change must be adequately addressed.

(5) In order to reduce the pending bills in counties, because they are currently at an alarming proportion, the National Treasury in collaboration with the Controller of Budget should institute measures that will guarantee credible budgets with better alignments to County Integrated Development Plans (CIDPs), County Annual Development Plans and County Fiscal Strategy Papers. As of now, I think that all these are just papers and nobody is aligning the budget with those documents.

(6) The National Treasury should collaborate with the county governments to enhance capacity building on fiscal operation and oversight for both county assemblies and county executives. This should be done through the development partners’ support, for example, the Kenya Devolution Support Programme (KDSP)

(7) The Committee also recommends that the National Treasury should provide information on the criteria used in increasing some of the conditional grants such as leasing of medical equipment which is allocated Ksh4.5billion for the Financial Year 2017/18 in the Division of Revenue Act, 2017. This is in view of the fact that the 2018 BPS indicated allocation of Ksh6.1billion for the Financial Year 2017/18, and is proposing to increase to Ksh9.4billion of the Financial Year 2018/19.

(8) The Commission of Revenue Allocation (CRA) should fast-track the development of the second Equalisation Fund Policy to enable full operation of the fund. We also noted that this fund has not been utilized. Out of the accumulated requirement of Ksh20 billion only Ksh12.4 billion was appropriated by the National Assembly and only

Ksh1.1 billion has been used so far. This means that there are a lot of outstanding arrears. This must be properly fast-tracked for the new policy to be implemented soon.

(9) The National Treasury should also fast-track the development of a borrowing framework for county governments. There is no framework though they are getting overdrafts for salaries as they say. I think that a borrowing framework must be established. This should include short-term borrowing for county governments for payment of salaries, which is often occasioned by delays in Exchequer releases.

(10) The National Treasury should also review the design of the Medium-Term Debt Strategy (MTDS) to include county government's needs and other provisions such as county debt risk management, provision of an avenue for ensuring adherence to set county debt ratios and proposals for cost effective financing mechanisms that could lessen dependence on equitable share of revenue. The counties today depend on shared revenue.

(11) The National Treasury implements the debts strategy option proposed in the Medium-Term Strategy Paper and ensures that the Government's domestic debt does not crowd out private sector borrowing. This is likely to avail more credit to the private sector and often results to expansion of activity and eventually increased Gross Domestic Product (GDP).

(12) The Committee also recommends that the National Treasury should fast-track development of county government Own-Source Revenue (OSR) policies to enable counties improve revenue collection performance and efficiencies, especially through automation. The counties are often off target. They always target to collect revenues, but it is always below what they had set. A policy should be developed to make sure that this is properly done.

(13) The National Treasury should also ensure that the Integrated Financial Management Information System (IFMIS) is secure, reliable, efficient and fully integrated with other PFM systems, for example, revenue collection systems for county governments, enforcement of procurement laws to eliminate pilferage of public funds.

(14) The Intergovernmental Relations Technical Committee (IGRTC) should expedite the process of identifying, verifying and validation of exact register of assets for county governments and liabilities inherited from the defunct local authorities. The lag in establishing the assets and liabilities inventories is likely to affect accuracy and genuineness of those inventories.

The Committee, having engaged all the stakeholders like the CRA, Council of Governors, and looking at the BPS, recommends a figure of Ksh327.714 billion as County Government Equitable share for the Financial Year 2018/19.

It also recommends that Kshs59.842 billion be for Conditional Grants, including allocation of Ksh5 billion for establishment of two regional cancer referral centers and Ksh1 billion for a National Cancer Drugs Access Programme.

We also found that there is need to look at the Senate expenditure, although it is not a county allocation. From a document presented to us, we saw that there should be expenditure rationalization to cater for the following:

(i) KSh2,236,399,814 as additional allocation to Recurrent Expenditure ceiling for Vote 2041- Parliamentary Service Commission.

(ii) Kshs1,075,000,000 as additional allocation to the Development Expenditure ceiling for Vote 2041 Parliamentary Service Commission.

Currently, the Senate is budgeted under that Vote Head. In fact, looking at the discussion that we had about the Monitoring and Evaluation (M & E) for the Senators and the Committee work in this Senate, there is need to expand that budget so that we can have that allocation increased.

It is significant to mention that the purpose of the proposal of this Report on the BPS is to communicate the Senate's position on the preparation of all subsequent budget documents for the next Financial Year. These documents include the Division of Revenue Bill, 2018 and the County Allocation of Revenue Bill.

Mr. Speaker, Sir, it is also important to note that Section 25 of the Public Finance Management Act 2012 stipulates that the resolutions of Parliament, comprising both Houses on the BPS must inform the preparation of the Annual Estimates. Therefore, by extension, this House's resolutions on this report will form the basis of evaluating the 2018/2019 Estimates for the various spending agencies at both national and county level.

We also noted that during the Annual Estimates process, the Senate does not actually engage the spending agencies. These are agencies which carry or have devolved functions. They are also responsible for the budget that is included in the conditional grants. Therefore, they must appear before the Senate Committees to be interrogated on how they actually disburse money and make sure it is properly disbursed.

Mr. Speaker, Sir, on behalf of the Standing Committee on Finance and Budget, and as required under the Standing Order 174 as read with the Second Schedule of the Senate Standing Orders, I hereby present to this House, the Committee's Report on the 2018 BPS for consideration and approval.

The Committee is grateful to all stakeholders who made contributions through appearing before it and written submissions, including the Senate Standing Committees, the National Treasury, the Commission on Revenue Allocation (CRA) and the Council of Governors.

The Committee is also particularly grateful to the Offices of the Speaker and the Clerk of the Senate for the support received as it discharged its mandate of examining the 2018 BPS as well as to Senators who participated in the process.

Mr. Speaker, Sir, once again, on behalf of the Standing Committee on Finance and Budget, it is my pleasant duty and privilege to table this Report and recommend it to the House for adoption.

My Vice-Chairman, Sen. Mwaura, will second.

**Sen. Mwaura:** Thank you, Mr. Speaker, Sir. I rise to second this Motion as proposed and moved by my Chair. Basically, my submissions would really be to elucidate further on the Committee's Report. From the onset, we really had an extensive consultation between various Standing Committees of this august House and also key stakeholders that fall within the ambit of our Committee.

It is very important to note that the resource envelop of this country is inelastic. Therefore, we must adequately share it within the two levels of government; that is, the national Government and the county governments.

One of the things we noted is that the role of the BPS is really to establish the ceiling. This is the ceiling which need to be adhered to as we move towards the Appropriations Bill in the cause of this financial year. However, a key plank of this BPS is the big four agenda which are geared towards food security, manufacturing, universal healthcare and affordable housing. Food security can only be achieved if we enhance our

agricultural activities. Universal healthcare will be achieved through health facilities and qualified personnel. The issue of manufacturing will be realised through industrialization. These four aspects fall under the mandate of devolved governments which will drive them to fruition.

The BPS needs to be very clear on the linkages between the big four agenda and the roles of county governments. This has to be done in partnership. This is a national vision. In the same vein, it will be important to ensure that we have a clear Medium Term Plan of the Kenya Vision 2030. That is 2018 to 2022 masterplan that clearly stipulates the theoretical and underpin things the Jubilee administration would like to see accomplished. However, we noted there is no proper point of reference. We may be aware that something is in the pipeline and county governments may use it to develop their County Integrated Development Plans. This is the only way to ensure that they also espouse aspirations of these big four agenda.

I propose that we have a sessional paper of the Third Medium Term Plan (MTP3) so that people can fully understand what it is all about the big four agenda. Why? If this is left on its own, then the ownership will be a great loss to this country.

The Chairman talked about the issue of timelines. We reckon that 14 days that is given for the BPS is not enough. After we finish our process, counties are also supposed to develop their county fiscal strategy paper. However, the practice is that officers in counties are only copying and pasting the BPS without proper digestion of the same. This is counterproductive. It becomes just a national document without necessarily speaking to the realities of the counties as it were, which is really the essence of devolution.

Mr. Speaker, Sir, on pending bills, we, as a Committee, were surprised by the ballooning pending bills in counties. Our Committee was also able to benefit from the various submissions. However, some of these pending bills were as a result of poor classification. For example, a county may have a long-term loan, but classify it as pending bill. There is a need for proper definition in law so that counties are guided on what would constitute pending bills.

We were even informed that some of the pending bills were fictitious. This is something that needs to be looked into so that it does not negate the whole process of budget making. You can then fit in what was not budgeted for before just because somebody committed the error. It is also important for governors to adhere to the procurement plans and regulations. They should not just issue roadside declarations of contracts and awards without necessarily having budgets to support the same expenditures.

There is also a need to ensure that the scope of national interest is defined, so that it also captures county government interest, especially on matters, for example, the youth. This will then enable you to allocate more resources through conditional grants for endeavours such as youth village polytechnics. This will enable you reach out to so many people and also to support the new curriculum in terms of the establishment of the Early Childhood Development (ECD) classes and the payment of teachers. This is a big concern. We need to look at it carefully if at all we are to have a successful new curriculum that is geared towards the attainment of Kenya Vision 2030.

Another key observation is the fact that counties seem to have serious challenges with regard to basic financial accounting. Through the Kenya Devolution Support Programme which is funded by the World Bank, there is need to ensure capacity of



counties is enhanced. This will ensure proper tracking of public funds for the benefit of the common *mwananchi*. If counties are not even able to have basic financial documents such as receipts and invoices, then it becomes very difficult to know whether there was value for money in the whole process.

Mr. Speaker, Sir, this House should note another key observation about the leasing of equipment programmes for the hospitals. We were not able to ascertain, for example, whether Kshs6.1 billion that was allocated in the Financial Year 2017/2018 was in keeping with an already agreed contract of Kshs4.5 billion for this equipment for the next seven years. If that were to be the case, it would require supplementary and if not, the amendment of the Division of Revenue Act which had already been passed. We are really concerned about the increasing allocation to the hospital equipment programme. We should ensure that the information and the criteria for such an increase is properly provided.

It is also of interest to this House and is part of our Report, that the second Equalization Fund Policy is operationalized. We have realized that a lot of the funds that were allocated for the Equalization Fund were not utilised in the last phase. This is important because counties continue to be marginalized. It is important that this is done so that whatever amount of money that is pending is expended and new allocations are utilised for the benefit of Kenyans.

Mr. Speaker, Sir, another key observation that we made was the fact that there seems to be cashflow challenges between the National Treasury, in terms of exchequer release, and counties. For that reason, counties have resorted to getting over-drafts from commercial banks, primarily to pay for salaries. It is the resolution of our Committee that there should be a proper short-term borrowing framework so that counties can be allowed to borrow only for salaries. We were even given an example where some counties have not paid salaries for January. This will really help so that when they get their allocation, they are able to replenish the accounts and move forward.

More importantly, is the borrowing framework for long-term purposes. We were given examples of where counties have ambitious development plans but there is no proper framework. Indeed, the Public Finance Management (PFM) law provides for a stringent framework but it is not properly aligned to the whole issue of the national sovereign debt. This is something that we need to look at as a policy statement.

Mr. Speaker, Sir, we also need to look at the issue of the Medium-Term Debt Management Strategy (MTDMS). This is important for us to ensure that we adhere to the debt ratio between domestic debt borrowing and foreign debt borrowing. This will ensure that we do not over-borrow locally and crowd out private investors because this is a key plank of development. This is something critical that we need to look at.

The other important thing is the issue of Own Source Revenue (OSR). We need to have a framework that ensures that counties are able to generate more revenue from their own sources for the sake of their development. We realised that the development budget for various counties is limited. So, it is important that counties are helped in terms of automation of their own revenue collection for purposes of their development.

Mr. Speaker, Sir, it is also important to ensure that there is a proper asset register for various counties, especially from the defunct local authorities so that the public assets are not pilfered or taken into private hands. This is critical because it appears even at this point in time that this is not yet clear. It is important to ensure that this is done so that we

are able to know which counties own what and for what reason. Sometimes, counties are incurring a lot of costs, for example, in acquisition of land for public utilities. Going forward, this is critical in our many counties.

Mr. Speaker, Sir, that is the summary of the Budget Policy Statement (BPS) Report. We hope and believe that this time round, the recommendations that we have already made as a Senate, will be taken seriously by the National Treasury and the National Assembly so that we can ensure that the input of Senators is not in vain.

Finally, it is also good to note that allocations to the Senate must be maintained and increased. They should not be targeted for any other purpose because the Senate must also function in order to strengthen devolution.

Mr. Speaker, Sir, with those many and few remarks, I second.

**The Speaker** (Hon. Lusaka): Senator, do not contradict yourself.

Hon. Senators, before I propose the question, I wish to bring to your attention that today is the deadline for approval of this BPS. Therefore, I ask that you to stay in so that you are able to take the vote.

*(Question proposed)*

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

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

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, pursuant to Standing Order No.100 and considering the interest on this matter and the desire to ensure that we have the necessary vote, I propose that you limit the time for speaking to five minutes for the Senate Majority and Minority Leaders and three minutes for the other Senators.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, sir, this House is not a rubberstamp. We cannot limit ourselves to acclaim a document that we are supposed to critic. I oppose that proposal. I am entitled to an hour and I will spend the whole of it on this document. I am opposing the proposal. You had given me the Floor and since you have not told me to sit down so that you rule, I will go on.

**The Speaker** (Hon. Lusaka): Order, Sen. Wetangula. In the interest of time, I will give the Senate Majority and Minority Leaders 30 minutes, then the rest five minutes.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, as I stand to contribute, I want to encourage Members to sit and listen to debate in this House and not to be driven by impatient and unhelpful agenda that does not help this House.

This BPS is supposed to be the philosophical foundation upon which the budget springs. It is supposed to explain to the country the manner in which the budget is being crafted, areas of emphasis, interests and why some

As representatives of the people, counties and their governments, it is an assault on our integrity for anybody – to say the least, a leader – to propose that we acclaim a document and turn ourselves into voting machines.

Mr. Speaker, Sir, this document has a lot of gaps. I belong to the Committee on Finance and Budget and I could see that my Chairperson, as he was moving, he was very shy. He tried to read very fast so that some of the issues do not come out clearly---

**Sen. (Eng.) Mahamud:** On a point of order, Mr. Speaker, Sir.

**The Senate Minority Leader** (Sen. Wetangula): That is my opinion about what you were doing.

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

*(Sen. (Eng.) Mahamud spoke off record)*

**The Speaker** (Hon. Lusaka): You are not on the HANSARD.

**Sen. (Eng.) Mahamud**: On a point of order, Mr. Speaker, Sir. Is it in order for the Senate Minority Leader to insinuate that I am shy? How does he gauge my shyness?

*(Loud consultations)*

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, it is a perception; and that is my perception.

Mr. Speaker, Sir, if you look at this document, I will quickly go through issues that Members who represent counties cannot. First, the share being proposed to be allocated to counties is too little, because the Committee is proposing that the 47 counties be given just about Kshs327 billion out of the trillions. But what is worrying me is this; for example, let us look at agriculture, which is 100 per cent devolved. The Budget Policy Statement allocates a staggering Kshs39 billion to the Ministry of Agriculture, Livestock and Fisheries at the headquarters. Assuming that the counties will adhere to the Maputo Protocol and allocate 10 per cent of the allocations to agriculture, this brings to it only Kshs37 million per county. In fact, most counties allocate less than 5 per cent, with some allocating as little as 3 per cent of their revenues to agriculture.

Mr. Speaker, Sir, agriculture employs 75 per cent of the workforce in this country, which produces food to feed the 45 million Kenyans. However, if you look at what is being put in agriculture, it makes a whole nonsense of the so called 'Big Four'. You are talking of value addition, but where is the money to engineer value addition? You are talking of post-harvest management of products, but where is the money to manage this post-harvest management? You are talking of exports, but where is the money to engineer these exports?

Mr. Speaker, Sir, I represent a county of farmers; so are counties like Uasin Gishu, Trans Nzoia, Nandi, Nakuru and many others. There is hype about free, subsidised or cheap fertilizer. The meteorologists are already saying that the rains are starting next week. But we will wait until the rains are over and then, in a purely populist caricature, you will then see leaders running to farmers with fertilizer when the planting and weeding seasons are gone and the farmers do not need that fertilizer.

The most abused people in this country are the farmers and, yet, because of their resilience, some even sell part of their land to produce food for Kenyans. Why are we not giving enough money to agriculture? The distinguished Chairperson of my Committee made no mention whatsoever, about the strangulation and starving of the agricultural sector that is so critical to the economy of this country. He is being ably aided and abated by his Vice Chairperson, who engages in a rigmarole of all manner of things that do not add up to anything economics or financial.

*(Loud consultations)*

**Sen. Mwaura:** On a point of order, Mr. Speaker, Sir.

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

**Sen. Mwaura:** Mr. Speaker, Sir, is it in order for the respected Senate Minority Leader to use words that, in terms of the dictionary and in actual sense, can be defined to be un-parliamentary because they sound derogatory? It is an abuse of his power.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, 'rigmarole' cannot be derogatory. Google it on your phone and you will know what it means.

*(Loud consultations)*

Mr. Speaker, Sir, let me carry on to the question of public debt. I am happy that the Chairperson mentioned in passing about the ballooning public debt. In fact, the public debt in this country has reached a crisis moment and yet more and more borrowing is being done. However, the question that you, Senators, should be asking yourselves is this: When money is being borrowed and syndicated through Eurobond and any other means howsoever described – money which will be paid by citizens that you represent – then ask yourselves these questions, my distinguished brother, the Senator for Garissa County. How much of these trillions which has been borrowed and for which your people are going to pay has gone to Garissa County? How much of these trillions has gone to Nandi or Turkana counties? At the end of the day, because of partisan thinking, you will all be saying: “aye,” without thinking that you are hurting your own people.

Mr. Speaker, Sir, when the Commission on Revenue Allocation appeared before our Committee, the distinguished lady---

**Sen. Mugo:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): I can see your intervention, Sen. Mugo. What is your point of order?

**Sen. Mugo:** Mr. Speaker, Sir, is it in order for the Senate Minority Leader, whom I normally respect, to mislead Kenyans and those people who will pay these loans on the Floor of this House about the money that is being borrowed without telling this House about the development which has been done? Have you mentioned all the roads that are being constructed in North Eastern and all the other development that is taking place there? Which country on earth ever developed with its own money without having to borrow? Even the great America borrows money for development. You should stop misleading Kenyans for partisan politics.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I know the distinguished lady has arrogated herself the capacity and authority to defend the manna, but---

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

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

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, you have to bring this House to order. I was watching the Senate Minority Leader speaking, and he insulted the Vice Chairperson of this Committee. The Vice Chairperson raised a point of order and you never ruled on it. If we continue like this, this House will deteriorate to a

House of insults. There must be order and that order can only come if the Speaker is firm on his rulings about respect for this House.

**The Speaker** (Hon. Lusaka): Okay. Your point has been noted. Sen. Wetangula, moderate your language and use parliamentary language.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, the distinguished Majority Leader cannot sit in his office, glue himself to the television and run here with frivolous points of order.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order, Sen. Wetangula!

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir---

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Proceed.

*(Loud consultations)*

Order, Senators! Order! Senate Minority Leader, please respect the House and moderate your language as you proceed.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, the public debt is totally unmanageable. I want to remind my distinguished colleague and sister, Sen. Beth Mugo, about what the Commission on Revenue Allocation (CRA) told us, as the Senate Committee on Finance and Budget, where Sen. Mutula Kilonzo Jnr. and Sen. Rose Nyamunga are Members; and Sen. (Eng.) Mohamed Mahamud is our Chairman.

The CRA cautioned us that that the borrowing being done in this country is not for the benefit of all Kenyans, yet the debts are paid by all Kenyans. You cannot dispute that. Equally important is that Kenya cannot get into an avalanche of borrowing simply because the United States of America (USA) also borrows. I have never heard such a flawed argument. We can only borrow if we can manage our public debt. Today, our debt to Gross Domestic Product (GDP) ratio is above 50 per cent; we are now doing close to 60 per cent. These debts are going to come round and haunt us.

Mr. Speaker, Sir, anybody who does not see that the bulk of our income is going to debt service does not live in this country. You then qualify to be a character in a book by Chinua Achebe called *The Trouble with Nigeria*. In this book, Chinua Achebe says that he heard his President say that corruption in Nigeria had not reached pandemic levels. He then says that anybody who says this is either a fool, a crook or does not live in Nigeria. I think some of us live in a paradise different from Kenya. Otherwise, even a standard one child knows that we are running a debt that we cannot manage.

Secondly, Mr. Speaker, Sir---

*(Sen. Mugo spoke off record)*

My sister, Sen. Beth Mugo, you will have an opportunity to contradict me. Just keep your cool, Madam.

**Sen. Mugo:** On a Point of Order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your Point of Order, Sen. Beth Mugo?  
(*Sen. Wetangula spoke off record*)

**Sen. Mugo:** You do not shout at me because I did not. Do not bring partisan politics here.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, there is nothing that is far from the truth. This House is partisan, and that is why we have the Government Side and the Opposition Side. How can she say that I should not bring partisan politics here, unless you do not live in this country?

Mr. Speaker, Sir, my next point is about the debts in the counties. You have been a governor yourself. Unless there is a Marshall Plan and intervention---

**Sen. Mwaura:** On a point of order, Mr. Speaker, Sir.

**The Senate Minority Leader** (Sen. Wetangula): What is out of order?

**The Speaker** (Hon. Lusaka): Let us have order, please.

What is your Point of Order, Sen. Mwaura?

**Sen. Mwaura:** Mr. Speaker, Sir, is it in order for the distinguished Member of the House to continue addressing Members directly and even misleading this House that the CRA stated that our debts are not sustainable, yet it is not on record? The Member is usually absent in the meetings of the Committee on Finance and Budget three-quarters of the time. Is he in order?

**An hon. Senator:** It is a matter of fact!

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, the distinguished nominated Senator thinks he can derail me, but he will fail. Let me carry on.

Mr. Speaker, Sir, I was on the point about county debts. We have been told that county debts now stand at over Kshs 90 billion. The Controller of Budget appeared before our Committee. I have a lot respect for the distinguished lady; she was my year-mate at the University of Nairobi. But she did not give us any evidence; she just made callous statements like 'some are fictitious, some are imagined, some are not debts' and so on, and so forth. She left our Committee without any empirical evidence that some of these debts are fictitious or are not real other than a statement she made to the Committee.

Be that as it may, even if the public debt now being owed to Kenyans by the counties stood as little as Kshs 30 billion and not the Kshs 95 billion we are talking about; that is still a worrisome situation. Why? Because the people who are trading in goods and services with the counties are the ordinary Kenyans who are now being bankrupted by banks for not being paid. These are people we represent. There are young men and women in their categories who are struggling traders in the village; who go and kneel before bank managers to borrow as little as Kshs 30,000 to service a Local Purchase Order (LPO) from the county. Yet, three years down the line, they have not been paid. Interest alone eats away everything and they are on the highway to bankruptcy. This is devolution gone wild.

Until and unless the national Government sits down with the county governments and comes up with a Marshall Plan--- As a matter of fact, the Public Finance Management Act is very clear that you cannot procure goods or services unless you have

a budget line and money to pay for it. So, where has the Kshs 95 billion gone to? What has happened to the institutions of governance in this country? The Office of the Auditor-General, the Ethics and Anti-Corruption Commission (EACC) and the Director of Public Prosecution (DPP) are not doing enough.

Everybody is sleeping on the job because those governors who have procured services knowing they have no budget line nor money and are sending Kenyans to bankruptcy, have committed economic crimes against the people of Kenya. A remedial step must be taken to arrest this situation. When I say this, some of my colleagues start behaving as if they are being electrocuted. We are not talking about their money; this is the money of the people of Kenya. We must speak for the ordinary man and woman on the streets of Nairobi.

**The Senate Majority Leader** (Sen. Murkomen): On a Point of Order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your Point of Order, Senate Majority Leader?

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I keep insisting that we are a House of honor and the upper House. Even if we were not, the age of Sen. Wetangula should not allow him to continue insulting people left, right and center. Which of our colleagues behaves like they have been electrocuted? Is that a language that must be used against colleagues in this House?

Mr. Speaker, Sir, I told you not to lose the House. We are not silent because of the absence of the ability to insult back; it is because we want order in this House.

*(Several hon. Senators stood up in their places)*

**Sen. Olekina:** On a Point of Order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your Point of Order, Sen. Olekina?

**Sen. Olekina:** Mr. Speaker, Sir, is it order for the Senate Majority Leader to caution the Speaker all the time? Yes, I would like to request you to rule on the Point of Order, but cautioning the Speaker is not right.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Okay. Order, Honorable Members! Order! Let us allow the Senate Minority Leader to finish so that we can make progress. But use parliamentary language, Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, English is a very rich language and I thank God that I have the privilege of speaking quite a lot of it. I have not said anything un-parliamentary at all---

**The Speaker** (Hon. Lusaka): Order, Sen. Wetangula. Make your point. I think all Members know English.

*(Laughter)*

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, away from pending bills, my point has been made. Until and unless there is an intervention, counties

are going to grind to a halt. This is what is going to happen: Very soon everybody will be owed money, and I advise them to go to court and enforce their rights. Everybody will have a judgment against the county governments; an order to arrest a County Executive Committee (CEC) Member, county chief officers or even the governor because of all this. We do not want to go that route. We want to see counties properly managed and run.

Mr. Speaker, Sir, in terms of prudent management of public finances, I expected my brother, the Chairman of the Senate Committee on Finance and Budget, also to lament the collapse of banks such as Imperial Bank, Dubai Bank and Chase Bank. They have gone down with billions in aggregate terms, but small monies of small savers; not the Senators that are sitting in front and behind me, but the ordinary man on the street who went to the Chase Bank and opened a savings account to save Kshs500 a month. The money has gone down the drain and the directors of this bank are still walking and eating caviar and salmon in Five Star hotels in this country.

In comparable jurisdictions, people who have brought down banks have faced very painful experiences. There is man in the US called Madoff who brought down one of the most prestigious Wall Street institutions. He was jailed for 161 years four years ago. Even when he dies his body will be kept for a 161 years before it is given to his family for burial. Here, we celebrate thieves, robbers and the corrupt, and the country is going amok.

We want the institutions of governance, such as the Office of the Auditor General, the Criminal Investigations Department (CID), the Ethics and Anti-Corruption Authority (EACC) --- The other day we saw the EACC in Nakuru act as if they had discovered a pool of water on the moon. They found that a governor had not properly banked Kshs121 million in Nakuru. What about the billions? Yet, they want Kenyans to clap for them.

Mr. Speaker, Sir, last year there was an allocation of Kshs4.5 billion for medical equipment. This year, again, there is an allocation of Kshs4.5 billion for the same. I want to encourage the Senators to go back to the counties and check if this equipment was ever delivered and is working. I do not want to go into the details of who brought that equipment and who benefited from this fraudulent transaction. Kenyans are being made to pay---

**The Speaker** (Hon. Lusaka): Order, Senator. When you talk about fraudulent purchase, you are making an allegation.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, this House called the Cabinet Secretary for Health last year and he was unable to answer questions. Why do I call it fraudulent? How can this country lease syringes, plastic gloves and the sort of things that are manufactured in Industrial Area? The whole list is in our records. If that is not fraud, then fraud has lost meaning.

If we were leasing sophisticated equipment for cancer and other diseases that are ravaging Kenyans I could understand. However, how can we lease hypodermic needles, scissors and gloves? It is a scandal and yet, each county is contributing to the aggregate of Kshs4.5 billion every financial year, regardless of whether or not the equipment has been delivered, installed and is working.

If you go to the villages our people just require a nurse to be present, malaria tablets and to be checked and treated. There are people at 90 years who have never been touched by a doctor; they are treated by nurses and lower level technicians in health facilities. Why are we throwing our money in the hands of business people in the name of



helping Kenyans? This is the big question, and if nobody wants to ask this, then we have no business being here.

We represent county governments and their interests. It is our duty, regardless of where we sit, to continuously wrestle with the center to get resources to the counties. That is what we are here to do. If you think you are here to defend the indefensible, then you are in the wrong place and business. You are the wrong person in the wrong place!

I want to urge this House to scan through this---

*(Sen. Mugo spoke off record)*

Mr. Speaker, Sir, when I am on the Floor, I cannot raise a Point of Order. Could you restrain Sen. Beth Mugo from interjecting while I am speaking? I will throw a boulder at you.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order, Members. Sen. Wetangula, withdraw that statement and apologise.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, a boulder is not a stone. I withdraw, but a boulder is not a stone; it is a strong word.

I withdraw but want to urge---

**The Speaker** (Hon. Lusaka): And apologise, Sen. Wetangula!

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I withdraw and urge that when a Member is on the Floor---

**The Speaker** (Hon. Lusaka): Order, Sen. Wetangula. Withdraw and apologise.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I have withdrawn but do not think it worth an apology.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Sen. Wetangula, withdraw and apologise.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I withdraw the use of the word 'boulder.' I apologise for using that word, but would want to say that I will use very strong language if she continues interjecting me.

**The Speaker** (Hon. Lusaka): Sen. (Prof.) Margaret Kamar.

**Sen. (Prof.) Kamar:** Thank you Mr. Speaker, Sir, for giving me the opportunity to add my voice to this Motion on the adoption of the 2018 Budget Policy Statement. As the Senate Committee on Education, we went through this document and keenly looked at the sectors that touch on education in the Senate in relation to the areas that are devolved.

Two areas are fully devolved in the Constitution of Kenya, 2010. One is what we used to call the village polytechnics, which are now called youth polytechnics or vocational training centres and the other is the Early Childhood Development Education (ECDE) centres.

Mr. Speaker, Sir, I will go straight to the points we observed and say something about going forward. We did appreciate as a Committee that in this Policy Statement an

allocation of Kshs2 billion is being given as conditional grants to the counties in favour of rehabilitation of village polytechnics. The only observation we made out of that is the fact that when we talk of rehabilitation of village polytechnics, it assumes that they are there to begin with.

It is our assumption that this Ksh2 billion has been allocated to rehabilitate polytechnics across the country. However, observations by many Senators was that there is no balance as far as the village polytechnics are concerned in our counties. Some sub counties have village polytechnics while others do not. As we looked at this, we asked ourselves; What will some of these counties rehabilitate?

Mr. Speaker, Sir, it was our considered opinion that, firstly, the allocation meant for rehabilitation needs an expansion beyond establishment and equipping of polytechnics. Even with these funds allocated to the counties, some of them will prioritise water and roads. Therefore, village polytechnic always becomes the victim. Again, this was an observation shared by various counties in this country.

Many governors did not prioritise rehabilitation of polytechnics. They had other urgent priorities to put in place during the five years they were in the office. We expect them in the second five years to help the Jubilee administration to realise its big four agenda as well as initiate other projects in their counties. We are happy with this village polytechnic agenda because it does touch on one of the big four. That is the industrialisation sector which is the future creator of jobs.

I urge hon. Senators to take stock in their own counties to see whether our observations were correct. A number of locations in the sub counties do not have polytechnics. We proposed that beyond rehabilitation, there is a need to equip the existing village polytechnics in our counties. Many of them have classrooms without equipment.

With those few remarks, I support.

**Sen. Mutula Kilonzo Jnr:** Thank you, Mr Speaker, Sir. As a Member of the Committee, I request that you give me an extra two minutes because there are several issues I want to bring to the attention of my dear colleagues here.

I am glad there are two commissioners here present. These are our representatives in the Parliamentary Service Commission (PSC). I urge them to read our report. The Committee on Finance and Budget has looked at the Senate budget. It is apparent that our budget has been reduced by Ksh1.4 billion. They will fail us if we do not get that Ksh1.4 billion because I am aware there is an intention to reduce it even more. I have seen a HANSARD report where the National Assembly Majority Leader says if we get our kitty, they will reduce our budget even further. We intend to sit outside Nairobi although we are severely incapacitated in terms of motor vehicles and many other issues. I urge them to defend this Senate a little more than they are doing now. If they have any problem, they can call us because we are ready to support them.

Sen. Mugo raised an issue with regard to borrowing. However, our borrowing is unsustainable. We are tottering around ceilings; it is like a seesaw. The concern is that we are borrowing to refinance. That is the problem that has been pointed out by the Committee on Finance and Budget. At some point, it will become impossible for us to pay because we are doing what they say in English, 'we are digging holes to fill other holes'. That is the problem we are having about debt sustainability.

Sen. Mugo, the point is that before money gets to counties---

**Sen. Mugo:** On a point of order, Mr. Speaker, Sir.

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

**Sen. Mugo:** Mr. Speaker, Sir, addressing the Speaker and the House is not the same as addressing Sen. Mugo. This is the hon. Senator's second term; he should know that.

**The Speaker** (Hon. Lusaka): Sen. Mutula Kilonzo Jnr, address the House.

**Sen. Mutula Kilonzo Jnr:** Mr. Speaker, Sir, I should have said; "point of information".

Hon. Senators, including Sen. Mugo, the point is that by the time we do the Division of Revenue Bill, the first consideration will be public debt. My dear Senators, at some point, even if we pass the County Revenue Allocation, there will be no money because half of it will go to debt. About 66 per cent of Kenyan debt is to China. I call it the road to Shanghai. It is a problem. If we do not talk about it, nobody will talk about it. That has been said and the Committee is here.

I want the Senate Majority Leader to listen to this. Under the PFM Act, Section 25(7), the recommendations on this BPS are supposed to be the recommendations of Parliament. In the last Session, all our recommendations were ignored.

Allow me to suggest the following:

(1) The recommendations that go to the national Treasury from Parliament must include the recommendations of this Committee. If not, we call for a mediation. That is how decisions of Parliament are supposed to go to Treasury. Otherwise, they will continue ignoring us.

(2) Possibly amend the Standing Orders. Hon. Senators, these Senators did a good job, except one chairperson who did not appear in terms of analysing the BPS. However, none of them interrogated the respective departments of national Government with regard to matters concerning counties. What Sen. (Prof.) Kamar talked about are just observations that they extracted from the report. Can we amend the Standing Orders so that we summon the concerned persons?

Mr. Speaker, Sir, please, give me two more minutes.

**The Speaker** (Hon. Lusaka): Okay, two minutes.

**Sen. Mutula Kilonzo Jnr:** Thank you. We have proposed to amend the BPS on two accounts:-

(i) Our health workers in your counties through the Kenya Medical Dentist Practitioners Board (KMDPB) and the nurses have accumulated arrears of Ksh11.6billion since 2013. That money has not been included in the BPS. We have proposed to amend this.

(ii) The medical equipment sum of Kshs4.5billion was to run for seven years. However, Treasury amended it to Kshs6.1billion in the 2016/2017 Financial Year. This was not in the County Division of Revenue Bill and a sum of Kshs9.4billion for the following year. We did not know where it came from. We have amended it for the benefit of the counties.

Lastly, the Roads Bill is in the National Assembly for debate. They are proposing 20 per cent in the conditional grants. However, we are unable to give our counties 20 per cent to do their roads from Class D downwards because we do not have proper legislative framework. Could you get us that Bill so that we discuss and pass it?.

**Sen. Olekina:** Mr. Speaker, Sir, I would like to make a few remarks because of the time. Hon. Senators, if we do not critique the reports brought before us, we might end up handing over our airport to the Chinese because we will not pay our debts. It is imperative that as Senators we play our role here in protecting the interest of county governments. Where it is wrong, we raise concerns.

Mr. Speaker, Sir, we are unable to live within our limits in this country because of our desire to borrow. In most counties, businesses are collapsing. The amount of unpaid bills is worrisome.

Mr. Speaker, Sir, these counties overestimate or overstate their collections. They either do that intentionally so that they can show that they have a lot in their budget or there is a lot of laziness in terms of collecting revenue from the counties. It is important that when we look at this Budget Policy Statement (BPS), we try and focus on how our county governments can improve on local revenue collections.

Earlier on, the nominated Senator alluded to our assets and liabilities. When you look at the Auditor General's Report or the Controller of Budget's Report, the amount of assets listed to generate revenue for counties is not what they end up getting. So, I want to reiterate that we must ensure that all the unpaid pending bills have been captured in the Integrated Financial Management Information System (IFMIS). A lot of businessmen, youth, women and Persons with Disabilities (PWDs) who have been given contracts by county governments are not paid; when they go and claim their money, their details are not found in their systems.

It is important that when we look at the BPS as Senators, we must interrogate it and ask questions like: How is this going to benefit my constituents? Unless we do that, we are just going to be reduced to voting machines and rubberstamps.

So, I want to encourage the Majority Side that even though this Bill has been brought in the last minute and we must vote for it, it is imperative that we become patient by listening and interrogating the document. Otherwise, very soon in our lifetime, this country will be divided and sold to other countries so that we are able to pay our debts.

It saddens me when I hear that every year when a child is born; they come in owing this country, the Chinese mostly, over Kshs100, 000.

*(Loud consultations)*

Mr. Speaker, Sir, I need your protection. The consultations are loud. It is interrupting me.

**The Speaker** (Hon. Lusaka): Proceed, hon. Senator. You are on the Floor and your time is almost over.

**Sen. Olekina:** I agree, my time is almost over, but the Members are busy consulting.

Mr. Speaker, Sir, it is even over.

**The Speaker** (Hon. Lusaka): I call upon the Mover to reply.

**Sen. (Eng.) Mahamud:** Thank you, Mr. Speaker, Sir. I beg to reply.

*(The Speaker consulted with the Clerks-at-the-Table)*

**The Speaker** (Hon. Lusaka): Hon. Senators, before I put the question on this Motion, I wish to determine that the Motion concerns counties.

I now order that the Division Bell be rung for two minutes.

*(The Division Bell was rung)*

Order! Hon. Senators. I now direct that the doors be closed and the bars be drawn.

*(The doors were closed and the bar drawn)*

Hon. Senators, please, log in. I will give you only 30 seconds to vote.

Proceed to vote now.

## DIVISION

### ELECTRONIC VOTING

*(Question, that pursuant to Section 25(7) of the Public Finance Management Act and Standing Order 174(7) of the Senate, this House adopts the Report of the Standing Committee on Finance and Budget on the 2018 Budget Policy Statement, laid on the Table of the Senate on Tuesday, 27<sup>th</sup> February, 2018, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi County; Sen. Iman, Garissa County; Sen. (Dr.) Kabaka, Machakos County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. Lelegwe, Samburu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Dr.) Milgo, Bomet County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaruma, Taita-Taveta County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. (Prof.) Ongeru, Kisii County; Sen. Outa, Kisumu County; Sen. Poghisi, West Pokot County; Sen. Wambua, Kitui County; Sen. (Rev.) Waqo, Marsabit County; Sen. Wario, Tana River County; and, Sen. Wetangula, Bungoma County.

**NOES:** Nil

**The Speaker** (Hon. Lusaka): Hon. Senators, the results of the Division are as follows:

**AYES:** 32

**NOES:** 0

**ABSTENTIONS:** 0

The "Ayes" have it.

*(Question carried by 32 votes to 0)*

**The Speaker** (Hon. Lusaka): I direct that the Bars be drawn and the doors opened.

*(The Bars were drawn and the doors opened)*

Next Order!

## BILL

### *Second Reading*

#### THE WAREHOUSE RECEIPTS SYSTEM BILL (SENATE BILLS NO.10 OF 2017)

**The Speaker** (Hon. Lusaka): Hon. Senators, at the request of the Senate Majority Leader, I wish to defer Order No.8 to Next week.

*(Bill deferred)*

## POINT OF ORDER

#### PROCESSING OF BILLS IN THE HOUSE WITHOUT THE BENEFIT OF PUBLIC PARTICIPATION AND COMMITTEE REPORTS

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, allow me to bring to the attention of the House, through you, and seek your direction that we seem to be processing Bills and debating them during First and Second Readings. We then move to Division and then Third Reading without public participation and committee reports.

The general procedure is that when a Bill is read, it is automatically committed to a committee that would do two things: First is to conduct public hearing and secondly is to prepare a report that can help Members in debating the Bills in a more informed manner.

By going to Division without going through the stages, we may be missing out some technical support from the committees and any other members of the public that can enrich the laws that we pass.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I agree with the Senate Minority Leader. Perhaps, this is something that we ought to discuss in the Senate Business Committee (SBC). Although it is possible that we are trying to generate work on the Floor of the House, it is important that we do not ignore the public. When Bills are completed and before Division and the Mover being called to reply, you should either give a committee a week or less to give a report, so that when the Mover is making their reply, they can reply to the contributions of the Senators and those who come to give their views.

I thank you.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, there are few instances that I agree with the Senate Minority Leader in his language and everything. As you may be aware, I have been requesting your Office to postpone my Bill because of the interest it has generated for the committee to first complete public participation so that by

the time we come to debate, we have the report. It is important Bills be quickly committed to committees after First Readings. Clerks assisting committees must always organise for the meetings but also it is the proactive responsibility of Chairs of committees to understand the importance of public participation as an informing tool for this House to carry out certain responsibilities.

Sometimes I bring Bills here as the Senate Majority Leader with all honesty that I have not had a chance and I am not an expert in the area. A good example is the Bill on irrigation that we had here. We were waiting for the report of the committee to inform this House some of the things we need to amend at the Committee Stage. It becomes more useful if the issues come up at the Committee Stage, so that during the debating, we incorporate them. I think that is a practice that you as the Chair of the SBC should adopt. Before any business is enlisted, one of the things that we must confirm is whether a committee completed its process for public participation.

**The Speaker** (Hon. Lusaka): It is so directed. That is a constitutional requirement and all that should take place so that we minimise a lot of the exchanges that come on the Floor of the House. They should have been dealt with at the committee level and other stages.

Next Order!

### MOTION

#### ADOPTION OF SESSIONAL PAPER NO.2 OF 2016 ON THE NATIONAL SLUM UPGRADING AND PREVENTION POLICY

THAT, this House adopts Sessional Paper No. 2 of 2016 on the National Slum Upgrading and Prevention Policy, laid on the Table of the House on Tuesday, 10<sup>th</sup> October, 2017.

*(Sen. Dullo on 27.2.2018)*

*(Resumption of Debate interrupted on 27.2.2018)*

**The Speaker** (Hon. Lusaka): Sen. Pareno, you still have 15 minutes.

**Sen. Pareno:** Mr. Speaker, Sir, I am happy to proceed from where I left yesterday since I was stopped because of time. As I said yesterday in my contribution, slum upgrading should lead to elimination of slums with a holistic approach.

As I indicated, it will not be easy for us to have a policy about housing without talking about putting food on the table for those who will be relocated to better housing. It is not just about housing but you also need to consider things like employment, clothing and other basic needs of a human being before you talk to people about relocation or upgrading them to better housing. It is also about land rights and that is also what the policy seeks to address. I have looked at it and it seeks to address the issues of land tenure systems in our slums. It seeks to address the issues that touch on land rights, ownership and tenants in the slums.

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

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

I do not know what happened to Sessional Paper No.3 of 2004 on National Housing Policy for Kenya, Sessional Paper No.3 of 2009 on National Land Policy. What happened to the programme that was named Kenya Slum Upgrading Programme (KSUP)? What also happened to a programme that was named Kenya Informal Settlement Improvement Project (KISIP)?

Mr. Deputy Speaker, Sir, in this country we are good at making policies but not good at implementing them. A good example is the blue-print of the defunct Kenya Meat Commission (KMC). This blue-print was copied by Rwanda, one of our partner States in the East Africa Commission (EAC). It is now a leading exporter of meat in the region while KMC blue-print policies have not been implemented and it is still under-utilized as we speak. Therefore, we are not lacking in policies in this country but the goodwill to implement them.

I mentioned two Sessional Papers in 2004 and 2009 and this is even mentioned in this document. There were two other initiatives that were considered projects. Also, it was clear in this document that some of these initiatives failed because of corruption. What happens then with this current policy if we still have not rooted out the problem of corruption in this country? I am worried that if the trend continues like this in this country, the KSUP would just be another hopeless project. It will be bogged down by the usual corruption scandals that we are used to and would not eliminate the slums areas. It will be another conduit for us to plunder public resources.

Mr. Deputy Speaker, Sir, my submission is that as we prepare to implement this policy, we should look at its sustainability. Let us learn from our previous mistakes and eliminate corruption so that, eventually, we succeed in upgrading the slums in this country. As we prepare to approve this Sessional Paper, we need to look at the checks and balances that have been put in place for us to implement it.

With those remarks, I wish to support this Motion. Let us ensure that the necessary funding is not only amalgamated but also be taken care of so that we do not lose money as we have lost in many other projects.

Thank you.

**Sen. (Prof.) Kamar:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to add my voice in support of the Sessional Paper No. 2 of 2016 on the National Slum Upgrading and Prevention Policy.

Slums have become an eyesore because of lack of planning and movement of people into cities. I support this policy because of the outline and the fact that it is not only going to address the issue of removing the slums but also creating a housing system that will save our people. According to the Constitution of 2010, it states that every Kenyan has a right to a decent living, a decent house, water and livelihood.

In my brief contribution, I would like to touch on how slums are created. If you want to have a policy that upgrades slums, we must ask ourselves why we have the mushrooming of slums in the country. There are many causes to slum creation. This is due to lack of planning and immigration of people from rural areas to urban areas.

I will talk about upgrading since the Senate Minority Leader is still here and I can see he is planning to leave. Yesterday, I supported one statement he made on the need to



eliminate and not upgrade slums. However, the situation we are in now is not a *ping pong* where you can say you will eliminate, and it goes. It is going to be progressive. When you go to the causes, we need to avoid anything that can create slums in the future.

Mr. Deputy Speaker, Sir, there are two groups of people that we have in our towns that easily create these slums for us. There are street families and hawkers who do not belong to the city that they have moved to. For purposes of living, these people have to use Government land to create shelter for themselves which eventually become slums.

I did not want to mention this because the Leader of Minority had mentioned in a statement yesterday about Eldoret Town and what is going on in our towns currently. This is not happening only in Uasin Gishu County. There is a move by our governors to relocate hawkers and at the same time to deal with the issue of street children. To some extent, I support this. The reason is because these children must be given decent homes and, therefore, cannot be allowed to live on the streets.

We cannot allow them to stay and create the slums that we are trying to eliminate now or allow them to loiter in the streets. These are children born from Kenyans and we must take responsibility. We can either get the parents to take responsibility of their children or as a society we take the responsibility as a Government. I believe that the Government can develop homes for these children.

If for some reason some parents have not been able to take care of their children, they should not be offloaded to the streets. But if they have been left in the streets, there is a Clause in our Constitution that says that if you find a child that is eight years and below that does not seem to know where they come from, they automatically become Kenyan citizens. The only way they can become Kenyan citizens is to create homes for them.

What has been going on in Eldoret, Nyeri and currently in Nairobi counties is also going to take place in Mombasa County. This is something that can be done in a dignified manner so that our children can live in dignity. Therefore, while we talk of eliminating or upgrading slums, let us eliminate any action or behaviour within our society that will recreate the same slums that we are talking about. It is important to note that there are many religious organizations that would like to take care of street children.

I would like to encourage our governors that as they do this very noble task of removing the symptoms of slum creation, they need to create public utility areas with facilities where the interested religious organisations can build homes and schools. We know that there are many generous Kenyans and organisations that are ready to take care of orphans, street children or any needy child. It will be a disaster for us to ignore a child who is below age, as stated in the Constitution; or ignore street families because they have chosen to go to the street. We should ensure that they are all in a safe abode.

Mr. Deputy Speaker, Sir, as the Senate, we need to ensure that these people must be relocated to places where they can be taken care of properly. So, we need to look at the creation of affordable housing as per the principles of the 'Big Four' agenda. This Senate and Senators should help to identify areas of operation within their own counties where we can house these street families and hawkers.

Mr. Deputy Speaker, Sir, I would have loved to mention one or two things in front of the Senate Minority Leader, because he personally seemed hurt with what was going on in Eldoret. But I wanted to inform him that it is not right to also imagine that children can be dropped nowhere. If these children can identify their homes, it means that they are

also desperate to be in their homes. If a child can tell you that I belong to a certain town, it means that they know where they came from. It also means that they can explain the conditions under which they moved. That is why I believe that these children who can identify where their homes are need not necessarily be forced to stay in their homes. But they should be taken to the children's homes that we have in this country.

As I said earlier, we also have organisations that are ready to rebuild the lives of these children. We should also be ready to offer that kind of support to these people. I am saying this because the contribution that we get from the street children and hawkers towards the building of slums is increasing. How can we be talking about the elimination of slums if, at the same time, we have no solution for these two categories of people? We must create solutions to the problem and menace of hawkers and street children because if they do not have a place, they will have to build something. When they build the shelters, sooner or later, these shelters will grow into slums.

Mr. Chairman---

**Mr. Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. (Prof.) Kamar! These are not Committee proceedings.

**Sen. (Prof.) Kamar:** Mr. Deputy Speaker, Sir, I apologise.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Proceed.

**Sen. (Prof.) Kamar:** Mr. Deputy Speaker, Sir, I have seen a slum grow in Eldoret and that is why I am very passionate about this topic. I saw a tiny slum grow when I was a Member of Parliament in the year 2008. I moved in and started a nursery school, because the children had nowhere to go and learn. But *changaa* and *busaa* were being brewed around the children. We tried to eliminate it, but because we were creating facilities, we seemed to be attracting more people.

Eventually, we had to go to the SOS Children's Home to look for space for these children to be moved. That was the only way we managed to reduce the slum. Further, we had to create other amenities for the slum while ensuring that the children are out of the place. I am saying this passionately because I saw it grow and I saw people migrate into town. Whenever they came to town, they never moved to any other place; they instead moved to where they had seen others build the structures.

Therefore, it is very easy to attract a huge population and create a slum. So, let us not talk about slum elimination and at the same time encourage the street children to remain in the street. It is inhuman for us to allow them to be in the streets. It is very important and it is their right to be in decent homes according to our Constitution.

With those remarks, I beg to support.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well; thank you.

Proceed, Sen. Cheruiyot.

**Sen. Cheruiyot:** Thank you, Mr. Deputy Speaker, Sir, for giving me this chance. From the very onset, I want to state that I support the Motion on the Adoption of Sessional Paper No. 2 of 2016 titled 'The National Slum Upgrading and Prevention Policy'.

This is a very important and well thought out document although, in my opinion, it is coming out quite late in the building of our nation. These are things that we should have done a long time ago, the minute we realized that our capital city was getting overcrowded. This should have been done when people moved out of the rural settings, set foot in this city and realized that it was not all rosy as they may have thought. As the

Government, such policies should have been set out early. If that had been done, we would have prevented many of the things that we face as a city.

Mr. Deputy Speaker, Sir, the unfortunate thing is that these challenges are not only being experienced in Nairobi, but in almost all of our 47 counties. If you go through most of our county headquarters, without fail the hallmark of what defines the county headquarters is the presence of a slum; which is quite unfortunate. It is important that the Government has thought through and come up with this Sessional Paper and we should support it.

But we should support it with the hope that they have put prudent thought to it and that they have the will and the intention to push through this information that they have set out in this Sessional Paper. They should ensure, first of all, that we reverse the ills and the difficulties that we continue to experience in most of our cities. Secondly, we should prevent a recurrence of the same.

The most unfortunate thing about us and the people who, at many times are in positions of leadership and management of different organisations and even cities like our own, is that they do not seem to learn from history. When Nairobi was being set up, there was good thought that was put to it by the initial batch of city planners. These planners even considered that in any growing developing country like Kenya, you will have various strata of society; the well to do and the not so well to do.

It is in that context that we had the initial Nairobi being set up with places where the extremely wealthy could live and estates where the not so well to do members of our society could find a decent home, connected to clean piped water and good social amenities. However, what happened over time is regrettable because we did not match the initial intention, realizing that we had a growing population. We have let people to crowd in these settlements. The nature of human beings is such that when there is struggle for natural resources, then humanity and consideration of other basic facilities that people are supposed to share becomes secondary. People then begin to adapt to the hard life.

It is unfortunate that we have the kind of situation that we find ourselves in. Urban poverty is one of the most dehumanising things that exist in the 21<sup>st</sup> Century. Many of the people who have lived in the slums are not decent, not because of their choice, but the kind of life that they have faced. They end up choosing a life of crime, drugs and doing other things that we would not wish to associate anyone with.

I have read through part of the document and it is my humble opinion that when we have very important Sessional papers or information, they should be availed to the Senators in advance so that they can get a chance to read through. May be it was available in our very usual manner, but I did not get a chance to read it in advance. But I have taken my time to familiarise myself with a few areas in this document and I must say it is well thought out. There are things that I support. However, I will also make a contribution on the areas that I think the drafters of this Sessional Paper need to improve on.

When you read through this document, it is the thinking of the drafters and the people who will be implementing these policies that one of the things we need to do to stop this challenge of people living in extremely difficult conditions and informal settlements, is putting up amenities such as good toilets, connection to piped water, *et*

*cetera*. While that is one of the things that we need to do, I do not agree with them that it ends there.

The first thing to do to stop these kinds of challenges is to work on the software of those who have lived through these kinds of challenges. What will happen, for instance, if we pick Kibera and come up with policies of ensuring that the people that live there are provided with good housing? Have we not seen what happened in the first phase of the slum upgrading projects that have been done? You go to the slums and build decent houses for them, but when the time comes for you to relocate the people who were living in the slums to go and live in those houses, they go and rent out those houses and return to the slums.

The challenge is the problem of the software which, unfortunately, the drafters of these policies do not seem to understand and address. They should take time to socialise and familiarise themselves with the challenges that these people are living with, train them and let them know that it is their right to live a decent life. It is not God's intention for anyone to face the kind of difficult life that those who live in the slums do. Upon that realisation that God did not create two worlds; one for those who want to enjoy life and the other one for those who want to struggle, you will find people beginning to appreciate some of these efforts.

If you have lived the first 20 years of your life knowing that a toilet is not a basic facility, then when somebody gives you a house, you will look at it as an opportunity to have an extra income. Therefore, the implementers of this policy should look at ways of, first, mentally and socially empowering the people who dwell in these informal settlements, before even thinking about moving them to better amenities.

The other area where I feel this document falls short in terms of the issues that it needs to address is that I do not see ways in which our county governments are being encouraged to respond to this menace and challenge that is so fast catching up in our counties. It is no longer even a challenge in our county headquarters alone. When you return to your village, and I know many of the Senators in this House will bear me witness, most of the structures are coming up in trading centres are, by and large, slums. This is because when you have 50 to 100 people sharing one toilet facility that is not connected to clean water, you can only refer to such kind of a housing settlement as a slum.

It would be important to generate policy and send it to the counties, saying that the people who will be in charge of urban and physical planning in our county headquarters should give out tough measures that will stop the coming up of slums in many of our counties. I do not see recommendations in this Paper because many of the things are about ensuring that we do not have more slums coming up. But there is no particular policy directing, say, Kericho County which I represent here, what is to be done to ensure that more slums do not mushroom in other parts of the county.

I want to question the drafters of this policy because they do not seem to address what got us to where we are today. The many people who come to this city and live in slums do not do so for the love of it. They are trying to chase a livelihood. It would have been important for the drafters to also tell us the enticing policies that they are setting out as a Government, to encourage these people to seek a livelihood out of Nairobi.

For instance, investors should not be allowed to set up more industries in Nairobi because it is already overcrowded. They should even be given tax breaks if they set up

factories that will employ 2,000 or 3,000 people somewhere in Kitui, Kisumu or other counties, so long they put up decent housing units for workers. This is because the reason people come to this City is to look for a livelihood. We are encouraging those who have the means to go and set up decent housing, so that we do not have this problem continuing.

The billboards that we see on Uhuru Highway as we drive advertise good houses, but they are beyond the reach of 90 per cent of Kenyans. They are going for between Kshs5 million and Kshs10 million. How many Kenyans can afford that kind of money? Less than 10 per cent can afford. The private developers should be enticed to build housing units for the poor urban dwellers through tax breaks. This will encourage people to put up such kinds of housing units. These private developers will be able to build decent housing units and save on the cost of the building materials. They will sell them at only Ksh400,000 or a cheaper amount.

I support this document for the overall good that it will bring to this country. I only hope that somebody will have the decency to consider the thoughts that we will raise, as Senators, in this House. They should consider what the representatives of the people said when this National Slum Upgrading and Prevention Policy was presented to them. They should incorporate our thoughts, so that we can have a better functioning programme.

With those very many remarks, I beg to support.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Cheruiyot, congratulations for being freshly elected as a commissioner of the Parliamentary Service Commission (PSC) of the Republic of Kenya. I also congratulate Sen. Khaniri and Sen. Beth Mugo in their absence. *Pongezi.*

**Sen. (Dr.) Musuruve:** Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to add my voice to this debate on adoption of Sessional Paper No.2 of 2016 on the National Slum Upgrading and Prevention Policy.

Mr. Deputy Speaker, Sir, I did not have time to interrogate the Sessional Paper because it was not availed to me in good time. The first time I interacted with it was yesterday. I had a glimpse of it. Therefore, I am standing here as a friend of the people living in the slums. That is why I want to contribute to this Motion.

I have been a neighbour to people living in the slums of Kibera for almost seven years. There are many things that I have learnt from slum dwellers. I realised that, one; they are there because they are looking for space. Everyone in Nairobi and all other urban areas is looking for space to call a home. It is much in order for people to look for space to live. I was looking at the Maslow hierarchy of needs which states that housing is a basic need. Everyone wants to have shelter, food and clothing.

Mr. Deputy Speaker, Sir, people are not in the slums by choice, but they lack alternatives. Some people have found themselves in the slums because their parents lived in the slums. They were brought up in the slums and eventually because of the cyclic nature of poverty, they did not have good education and they were not able to branch off from the slums.

This Sessional Paper is anchored on Article 43(1)(a) to (f) of the Constitution. It clearly stipulates that there is need for everyone to have shelter, clean water and education. However, even as we think of adopting it, there are issues to be addressed. For example, I mentioned that some people are not in the slums by choice, but they found

themselves there. When it comes to slum upgrading, there are pertinent issues that we need to consider.

In the event of upgrading slums, what will happen to the families living there? Will they be accorded units of houses in the upgraded scheme? For example, I know of a situation when Majengo Slum was upgraded. The people who were supposed to benefit from that scheme ended up not benefiting at all. When their houses were upgraded, their fathers sold the units. The children were left homeless and they went back to slum life.

Even as we upgrade, there is need to find out how we will help people living in the slums to possess the units that have been upgraded and, thereafter, be the rightful owners. The children also need to be protected so that they can eventually get an education and move away from the slums.

Mr. Deputy Speaker, Sir, there are people who would be very annoyed if the slum of Kibera went on fire. That slum is a hot business place for some people. There are some people who come from as far as Europe to see the slums and how poor Kenya is. It is like a tourist attraction. Upgrading the slums will stop the menace of people coming all the way from the West to visit them. People should only visit the slums if they genuinely want to eradicate poverty. It is also a hotspot for many people who have many briefcase projects.

I support the upgrade. However, there is also need to avail clean water for people in the slums because it is a constitutional requirement. When I look through my window, especially when it is raining, I wonder how people in Kibera Slum manage. There are usually a lot of floods which prevent them from moving with ease from one place to the other.

Mr. Deputy Speaker, Sir, you will always find a slum in every well-to-do estate. Most of the time people living in the slums service the people living in the well-to-do estates. For example, there are very good skillful plumbers and masons in Kibera. Many of them are engineers, but they are misused by working in the big construction companies owned by Indians. We have a lot of skillful labour in Kibera that ought not to be wasted. We, as a nation, need to utilise these skills. Even as we upgrade people living in the slums, we need to support and help them to be economically productive.

As I mentioned, in the Maslow hierarchy of needs, shelter is one of the basic needs. Once these people have shelter, they will aspire to go to the second level of needs, for example, the need for security. However, if they do not have food and clothing, they will not care much about security. When the slums will be upgraded, they will want to be secured. There is also need to have social amenities like hospitals and schools. This will enable children to get quality education and eventually make it in life. This will end the cyclic nature of poverty that could, probably be running in their families.

Mr. Deputy Speaker, Sir, there is need to support this programme and protect the people living in the slums. The minute the slums are upgraded, well-to-do people will want to live there. A case in point is the upgrade of Highrise Estate which was intended for the low-income earners. What happened? The middle-income earners are the ones who are staying there. There is need to support people in the slums.

I want to clearly state in this House that crime is not caused by people living in the slums. For example, people in the slum of Kibera never complain of crimes or that their property has been stolen. Crime is committed elsewhere and not within the slums.

We need to upgrade the slums to have decent houses and social amenities. We need to also look for a programme to ensure that people in the slums are productive.

If people lack food and clothing, they will look for a way out in the neighbouring posh estates. People in the slums can service the posh estates positively or negatively. For example, if people in the slum steal from people in the posh estates, that would be a negative relationship. It is possible to have an arrangement where the slum dwellers are also helped because it is not by choice that they are in the slums.

Even if we are talking about upgrading the slums, it should be a temporary measure. If it is not, then the slums will forever be there. It should be a temporary measure and then we look for a situation where we want to eliminate all forms of slums so that we are in line with the Sustainable Development Goals (SDG) No.1; as in, eliminating all forms of poverty in all ways.

Mr. Deputy Speaker, Sir, this upgrade can be there, yes, but there has to be a visionary way of sorting out this issue. I also suggest and insist that we should not just mislead this House and say that because these people are living in the slums and are poor, then they are murderers and thugs. No. the thugs that come from the slums come from very far. When they come to steal, they do not even steal from the slums where they live. By the way, if you go to the slums of Kawangware and Kibera, if a thug is found, he is lynched. They do not condone that.

In any case, I have had an opportunity of walking into the slums as I have been raising awareness about very many issues to do with disability and cancer. I realised that in the slums, they are highly religious. There are so many churches there where they are taught the value of spirituality but the issue that comes at hand is poverty. When people are poor, it does not mean that they are thugs. If people do not have basic needs, it does not mean that they have negative impact to the society. I suggest that even as we adopt this Sessional Paper, let us look at conclusive measures in the end that will ensure slums will not be there.

Mr. Deputy Speaker, Sir, I just remembered that we had the slum upgrade programme but what worries me is that even when you are looking at slum upgrade, it is usually not conclusive. There is a section of Majengo slums that was upgraded and the project did not continue. It was just a pocket of it. It is the same case with Kibera slums. So, there is also need to push on and be highly objective in this Sessional Paper. We need to insist that if there is going to be slum upgrade, then it should be continuous. It should be followed up until there is elimination of slums in all forms, as stipulated in SDG No.1; that we want to ensure it goes through. That is, eliminating all forms of poverty.

I support this Sessional Paper with the various reasons that I have given. I also support it hoping that it will just be a temporary measure but we will have a visionary measure that will help eliminate all forms of slums in all our counties and especially in Nairobi City County. This is because the other counties that are saying that slums are coming up, it is just a pocket of slums. They have not experienced what is happening in Kibera, Kawangware and Majengo slums.

We should try to ensure that we upgrade all these areas so that we do not have slums at all. This way, we will not have people come from far to take pictures in Kibera and Kawangware slums and say: "We have a project that we are supporting", and use pictures of the residents of these areas. It is an abuse of people's rights when people

pretend that they are supporting the less fortunate and yet they are using them as a rubberstamp to enrich themselves.

Mr. Deputy Speaker, Sir, thank you, for giving me an opportunity.

I support this Motion with the conditions that I have given.

Thank you.

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

**Sen. Kibiru:** Thank you, Mr. Deputy Speaker, Sir. I think some people have stolen my points. However, I support the Sessional Paper.

Let me start by asking this august House to try and change the word “slum”. The word “slum” is insensitive to me, as far as I am concerned. I happen to have worked at a water company and whenever we talked about giving water to the slums and going to the slum area to see how they are getting water, it created a lot of uneasiness. We then adopted the term; “informal settlement”.

If we were to adopt a better word for that matter, I am almost sure we will also expand the horizons of the intended purpose of this Sessional Paper. I have in mind that the Government is constructing infrastructure. If we look at the so called Super Highway, as you drive from Nairobi to Thika, ---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator. What do you mean by “the so called Super Highway”?

**Sen. Kibiru:** Mr. Deputy Speaker, Sir, it is called a Super Highway but somebody from a developed world told us that it is not a Super Highway. Super highways have more lanes. If you drive along the Thika Super Highway, I think we did a good job but we forgot that infrastructure is not just a road but it includes offering other services like water, electricity and sewerage. Informal settlements have started coming up along the Super Highway including even the bypasses. So, we need to expand the thinking of this Sessional Paper so that we can accommodate that.

As we do that, I have in mind my County of Kirinyaga, and I would not want it to be left out in the Sessional Paper just by way of looking at the Kiberas, Mukuru Kwa Njengas and others. This is because we have villages. If you drive to Mwea, there are about 52 informal settlements. The people in these settlements require decent houses and infrastructure that go with good living.

So, we need to ensure that we bring on board even the rural areas especially the counties where we come from. We should not just talk about the towns. We should also look at the villages like the ones in Mwea and see how we can improve them.

I have travelled extensively in China where we are borrowing a lot from. If the Chinese Government one day wakes up and decides that the informal settlements need to be upgraded, they just come and develop a modern housing estate. This is something that we need to borrow and benchmark with the best practices. In South Africa, they are trying to do that. It may not have been very successful, but at least they made an attempt.

When you talk of provision of these houses and decent living, we may want to look at the informal settlements as gated communities where we develop homes and houses for our citizens and provide them with the necessary services. It is easier to offer services like security, water, and other infrastructure when people are settled together in a gated community. I support the adoption of the Sessional Paper and ask that we expand it so that we capture the interests of the people we represent in the counties that we come from.



Somebody mentioned about the participation of the private sector or the business community. When we talk about the gated community, one looks at the various people who will come and develop decent homes that will go for an average of less than Kshs1.5 million if only they were given rewards like tax rebates. If the Government can develop the infrastructure like sewers and roads, and then ask a developer to build the houses, it will make the houses cheaper.

When we talk about the slums, I have a problem looking at a place like Zimmerman and Githurai 44. If you look at those places, they should be better organized. The way they are developing, they are moving towards informal settlement. Fortunately, I happen to have lived there many years ago. Lack of sewer and road services are some of the serious problems that people who live in such places face. More often than not, when I pass there, I have always had this idea that the Government may want to buy off such big lands, demolish the houses, put in place the necessary infrastructure and then sell those plots back to the owners at a concession.

Mr. Deputy, Speaker, Sir, the Sessional Paper needs to expand. It needs to look at the various issues of provision of housing. In that case, it will give the citizens of this country decent living.

With those few remarks, I do support the adoption of the Sessional Paper.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Kibiru. The remarks are many. Nevertheless, they are well put.

Proceed, Sen. (Prof.) Samson Ongeru.

**Sen. (Prof.) Ongeru:** Thank you, Mr. Deputy Speaker, Sir. I rise to contribute to this rather belated Motion for the adoption of Sessional Paper No. 2 of 2016.

I happened to be Kenya's Ambassador to the UN-Habitat and this Sessional Paper was meant to be in place to input to the new urban agenda which was with the world body organisation being held in Quito in October 2016. Therefore, this House ought to input in this slum upgrading and informal settlement of this county with the sole purpose of creating the new urban agenda and the new paradigm shift where the resources of this nation and the entire global system will contribute towards slum upgrading.

A few statistics might help this House to understand what this slum upgrading is all about. When you take into consideration the percentage and the population of people living in slums in our cities, towns and urban areas, it is almost 5.3 million Kenyans. There is no county which is exempted from slums. Even some of the urban centres within the sub counties may also be having slums.

If we embark on improving the livelihoods of 5.3 million Kenyans by 2020, then we need to put into place all the aspects of slum upgrading policies.

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

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

Unfortunately, there was a memorandum signed between the Kenyan Government and the UN-Habitat to deal with this problem. I happen to know that at the end of the new urban agenda which was passed in Quito in Ecuador in 2016, subsequently, the General Assembly was seized with the matter. For now, this has become a global policy.

What does the new agenda look like? What does it mean in this country, Kenya? What are the dimensions of this new global agenda or what does it entail? One of the shocking figures is that, the growth and development of new slums is at the rate of 4.4 per cent. If we are not careful as a country, we will turn the entire nation into a slum-dwelling land and region.

Thirdly, one should understand that in order to stem off the rural-urban migration, we must be in a position to set up goods and services that will attract investors to these rather informal settlements. What does it entail? The communities must be mobilised. You cannot be talking of settling the informal settlements without mobilisation of the community. You must have very clear and adequate spatial planning for any urban centre, town or city. This has double effects. When you have clear and adequate spatial planning and not the kind of planning we have today which is haphazard, inefficient and cannot attract anything, then you have a gold mine in that kind of planning.

If you look at the characteristics of a town these days, people are running in for the plots in the frontline. They will have no regards with the plots which are in the second or third line. I am hoping that our Konza Techno City will take advantage of the new urban agenda in planning. I took the trouble, some two months ago, to go to Konza. I do not know where it belongs; whether it is in Machakos County or Makeni County where Sen. Mutula Kilonzo Jnr. comes from, but I believe they are all integrated counties. In order to enhance the value of that land, attract better investments to that land and avoid the development of slums in a new upcoming city, we must do proper spatial planning.

The infrastructure that we develop and the amenities that we create in any settlement scheme, whether formal or informal, must be such that the people who are staying there feel comfortable. Infrastructure like roads should not be in the sorry state that they are in today. The other day we had fires in *Kijiji* slums in Langata, in Kawangware and in Mathare and fire hoses could not reach there to quench the fires; people perished.

It must be very clear on what we are planning for; there must be water. I remember when I was the Minister for Local Government; we had to enter into a program with the World Bank to provide simple piped water to informal settlements. This is because if we did not do that, the development of diseases and other vagaries of health would have made that slum uninhabitable.

Mr. Temporary Speaker, Sir, simple effective toilets can ameliorate the lives of the people. There should be schools and provision of properly connected electricity. I am not referring to those haphazard, dangerous and illegal connections which are the cause of many fires and disasters that we experience these times.

Mr. Temporary Speaker, Sir, one of the major problems that we face in the informal settlements is solid waste management. Passing through slums then becomes a sordid affair. The stench that comes from there makes the informal settlements uninhabitable, considering that all these people staying there inhale it day in day out, twenty-four hours a day and seven days a week. Therefore, the development of diseases is a major problem.

It is no wonder then that when we are talking about climate change, we should know that this is not only contributed to by just one factor, but multiple factors. But for the purpose of this debate, I think it is important that we should put it that in anything we

do, solid waste management must become one of the most important functions that must be implemented in these slum upgrading systems.

Mr. Temporary Speaker, Sir, there should be creation of income generating activities. Do not just put people to sit there, only having a house. There must be some economic activity going on around that place that forms the vibrancy of that slum. Then, of course, the lending and micro-finance institutions must have their way into these informal settlements. We must also take care of the many other things that are preventable such as HIV/AIDS, Tuberculosis (TB), cholera and many such social diseases that are largely preventable in this kind of population.

I will give the example of the Kibra Slum Upgrading Scheme. We were there when I was at the United Nations Human Settlements Programme (UN-Habitat) Kenya. Together with the Government of Kenya, we generated a policy and a support fund to ensure that the 900 units were developed there. One of the functions I did before we left was that they were opened up for habitation and they are actually very decent. However, we must maintain the people who have been moved from the slums and allocated those houses from going back there. That is why I am saying that we should create incentives within those slums that will give them a decent income so that they can stay there and be happy with it. Those are very decent, simple and effective houses with all the facilities that they need.

Mr. Temporary Speaker, Sir, I have already said that Kenyan cities and towns are centres for industry, education and culture. For your information, 34 per cent of Kenya's population resides there. Therefore, if we do not stem off rural-urban migration, the net effect is that this percentage will go up. If it goes to 50 per cent or beyond, then we render those towns and cities ineffective. They will be reduced to just a mass of people in a settlement with so many problems, difficulties, no services, educational institutions, health centres, water provision and electricity; it will just be a sordid state.

We should, therefore, be very careful in handling these slum developments and particularly in stemming off rural-urban migration. There must be a balance. What does that mean? It means that we must equally generate development agenda for the rural people who are agricultural. This will enable them to also occupy and create centres of employment for our youth in the agricultural sector and other amenities that may stem up at the rural level.

Mr. Temporary Speaker, Sir, it is these towns and cities which contribute 60 or 65 per cent to our Gross Domestic Product (GDP). So, if we run them down, our GDP will drop. Sen. Nyamunga will then know that there will be no income being generated from these ineffective, mass informal settlements or from these slums. They will just be living a subsistence life without generating any income.

Mr. Temporary Speaker, Sir, the 900 units in Kibra have 230 business stalls, a nursery school, a social hall, toilet blocks and a boundary wall, thus making them secure. One of the things that we want to do is to make sure that the inhabitants of those upgraded slums have a secure stay in their residences. But if it is a place that is vandalised left, right and centre, it then becomes a centre for hooligans coming to harass peaceful citizens, making them unproductive in whatever they are doing.

Mr. Temporary Speaker, Sir, what does this policy then mean? Although it is late and the new urban agenda is already in place; our work is now to enrich it so that it becomes a living document for this country to shop around for international support. This

is because the fund which is going to come from the new investors, if we take on board spatial planning, infrastructure, provision of schools, social centres and any other goods that I talked about earlier, the investment coming to these centres will be important. They will then add value to the general GDP that we are talking about because they will be centres of raising our GDP because they are involved in economic activities. But if they are just mere slack slums, their input will just be to generate solid waste which then becomes a big hazard for the society staying there.

Mr. Temporary Speaker, Sir, I therefore want to commend this Policy Paper so that we can enrich it as a shopping basket for international funding through the Global Cities Initiatives and many other willing supporters of these kind of programs. The supporters who are willing to come on board to upgrade slums are available so long as we have sound proper planning that will take into account some of these things that we have already proposed in this Policy Paper.

I would expect that sooner or later, the government will come up with the Bills within our counties to bring spatial planning not only in Nairobi, but also cascading it down to our county capital centres, urban centres, towns and municipalities that are within our counties. We will then give meaning and effect to this global fund and tap into it.

The governors were involved in this conference in Kyoto. They were also involved in the general assembly meetings. So, they are seized of the issues that are alive. As the Senate, we must demand that within their own respective assemblies we build capacity for them to legislate on land issues, so that land becomes an asset rather than a problem. Land should be a goldmine rather than a solid waste management tool. Therefore, through this fund we need to generate the resources and planning even in our own markets within our counties.

Mr. Temporary Speaker, Sir, I was able to help Homa Bay and Thika markets when I was in United Nations Habitat. I am sure that this program can be cascaded to go to all other major towns and cities within our counties, so long as we have proper land legislation and planning - particularly spatial planning - and all the instruments required in an effective habitat where people will settle.

With those few remarks I support this policy. Although belated, it has a value because it will become a shopping basket for this country for resources from external sources.

**Sen. Mutula Kilonzo Jnr:** Mr. Temporary speaker, Sir, I rise to support the National Slum Upgrading and Prevention Policy, 2016. I have a few points. First, I agree with my colleagues who say that this is late, but welcome.

The unfortunate bit is that all slums, particularly in Nairobi, happen to be next to very opulent neighbourhoods. Githogoro slum is next to Runda, Kibera slum is next to Lang'ata, Mathare is next to Pangani and others; I cannot remember all of them. The people who live in slums serve the people who live in upmarket areas or what we call the urban suburbs. The ones in Runda and Lavington are leafy suburbs.

Mr. Temporary Speaker, Sir, it is a question of bad planning. History has caught up with us and the issue of slums has become a national agenda when it should not be. Now that we have done so, we can prevent it. When you drive along the bypass towards Kikuyu Town, you will see good looking buildings of up to five to six floors. I wonder whether we are helping these poor Kenyans by creating such elaborate infrastructure.

What they need is just nice looking accommodation, not skyscrapers. This is because it creates a cost in terms of sanitation and cleaning.

I have seen this in Malaysia and Mumbai. If you visit the high-rise buildings in Kibera, they are most likely in such disturbing state in terms of cleanliness. This is because we have not upgraded the incomes of the people living there; we have only upgraded where they sleep. They do not have money to cater for cleaning of common areas. So, we are actually robbing Peter to pay Paul.

In countries with huge urban populations like Brazil, they have built brick houses and in so doing upgraded the slums. They have made them live in a much better state without necessarily increasing their cost. If you go to Kibera, you will be surprised that it has more water than most estates in Nairobi because of what they call the 'spaghetti' connections. Kibera has got more connections to power than most other living quarters because, for some reason, they find a way of connecting to these facilities. They are not suffering much; what they do not have is proper facilities. They can live much better lives.

Mr. Temporary Speaker, Sir, there are people who have made money from these urban slums. It is called the 'kadogo' economy, where you have Blueband for Ksh10. For Ksh100 you can have a decent meal. There are people who are making money from these slums. When you talk of upgrading of these slums, there are people who will suffer. There are businesses that will close down because they thrive on this sort of settlements.

A Kenyan in Nairobi should live in a better standard. There is no reason we should have the bulk of Nairobi residents living in such squalor conditions. In 2006 – and I repeat this all the time - when I was president of my rotary club, I went to a place called Silanga in Kibera. I had a grant of US\$300,000 from the Rotary Foundation to build ten modern ablution blocks. The only space available were the dumpsites where they do the flying toilets. Even when I got to do them, they were asking me whether the local Member of Parliament at the time had given me consent to clear their dumpsites.

It took me and the Rotary Club of Langata three weeks to clear the dumpsites that were four feet deep of polythene bags and lots of waste, some dating up to 1970s. The Rotary Club did absolutely first-class ablution blocks. As we think about upgrading and making sure these people live well, some basic amenities are missing. When I saw the former Cabinet Secretary for Devolution and Planning building toilets in Kibera I thought they would come back after a while. Those are the things we need to face.

I have built toilets in Mathare. I saw them during a by-election for one of the Members of Parliament. There is a school called Kiboro Primary School that is next to St. Teresa's in Pangani. As we consider upgrading the slums and where people are living, we should also include the schools that are within the area. I would have been happy to see us create a fund. Since, this appears to be part of the 'Big Four' agenda, we should start considering funds for making sure that the Kenyans in informal settlements can start living a better life; eating well, sleeping well, medical care, access to fire engines, ambulances and good schools.

There is no point of upgrading where they sleep and yet, the schools that are within the slum are terrible. The schools have not been upgraded. Once we create a fund and an Act of Parliament, beginning the following year--- I will now speak to my colleagues on the other side. When you push the 'Big Four' agenda, do it with money. Unless there is money this 'Big Four' agenda is for lip service. If we are to make this a

reality, it must be in the budget. So, we must have a budget for this in the next financial cycle.

Therefore, maybe in another ten or 20 years, we should take pride that Nairobi has no slums. That is what we should take pride in. If we need to create a proper structure, whether it is the Government and counties, to ensure that we can help these people, so be it. For once, we seem to be doing the right thing; we are considering the bottom of the pyramid. Majority of Kenyans in this City and maybe other cities do not live well, yet the centre of power in Kenya, the economy, the leadership, each one of you live in this City.

The workers who work for you are living in such squalor conditions. Remember that we are defending the people who are taking care of your children when you are here and guard you when you are asleep. When they go back home they sleep in such terrible conditions. This should be a national agenda.

I support.

**The Temporary Speaker** (Sen. Lelegwe): Sen. Okong’o Omogeni. He is not in. Let us have Sen. Naomi Waqo.

**Sen. (Rev.) Waqo:** Thank you, Mr. Temporary Speaker, Sir. He is just reminding me of the queue. That is true with the queue.

Thank you for the opportunity to contribute to this important Motion on the Slum Upgrading and Prevention Policy. I came to Nairobi a few years ago. After a few months, because of the Ministry I was involved in, I visited Kibera Slum which is highly populated. It took me one whole week to recover from what I saw. I sympathised with the people who were there. I concluded that it is better for one to be in a village like where I come from than to be in Kibera Slum or any other slum in the city.

The right to shelter is a just constitutional right. For that matter, all Kenyans are supposed to be sheltered and live in a dignified way. Kibera is one of the biggest slums in Africa with close to a million people. What you see in that slum or any other slum, is pathetic. The young girls and school going children are unable to continue with their education. The population is high. There are no facilities. This affects them their entire lives.

As I worked in church, I also realized that young girls are at risk because they are exposed to a lot of danger. Funny things happen there like young girls being exposed to prostitution. A disease like HIV-AIDS is rampant there. A child takes care of a mother who is HIV positive. In the end, they all get infected. This is something that Kenyans should take seriously.

The Sessional Paper is now before this House, we should all support it so that transformation in the slum areas can take place as soon as possible and ensure that our people living in the slums live well like other Kenyans.

As I went through this policy paper, I realized that its objective is to promote, secure and protect dignified lives and livelihood of the poor and the people living in the slums. It is the duty of the State and us, as leaders, to protect the lives of our people and also provide for their basic needs in terms of education, health and shelter.

When you look at the many slums in our city, you will appreciate the poverty level that we are in. The number of slums in the city exposes the other side of our country. My understanding is that most of the people who live there have their rural homes, but prefer the city because of the work they do. That means that they need

economic empowerment. If we upgrade the slums by building nice apartments, the best thing they can do, as they have done in the past, is to lease them out.

To prevent people from moving to other places to start slums, the Government should ensure that the apartments in the upgraded slums are affordable. It should plan well so that the people who were in the slums are the first beneficiaries. More often when such projects are done, it is people like you, Mr. Temporary Speaker, Sir, and me who invest in them and end up leasing the houses. Therefore, protection of the poor man's welfare is paramount.

On management, even for the existing apartments, there is no difference with the other places that the poor live. It makes no difference and it does not improve the lives of the poor. So, proper management should be put in place so that after the construction of the apartments, they are well taken care of. As this is planned, the health sector, the education sector and other sectors will be considered. It will be good to have proper financial plans so that all the institutions are supported to be in place.

Mr. Temporary Speaker, Sir, if we all support this policy and its implementation is done, then, the lives of Kenyans can be improved. If not, we will be embarrassed as leaders when we see the miserable lives that Kenyans will be living. It is by taking a bold step that we can support them. This policy may not be supported by some people who are benefitting from the current status. However, it is high time we supported it to make a difference.

**The Temporary Speaker** (Sen. Lelegwe): Sen. Ledama Olekina, the floor is yours.

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir. I arise to make my contribution to this Policy Paper on the Slum Upgrading and Prevention Policy. The reason why we are here is to support devolution. I have looked at the overall policy objective of this Sessional paper. I support it. However, there are questions that we ought to be asking ourselves on why we have these problems. I would also argue that this Sessional Paper No. 2 of 2016 is quite old. We may be debating it now for various reasons, but the best way to stop the influx of rural-urban migration is by fighting for the increase of the allocation that our counties receive so that we are able to stop a lot of people migrating to the city.

With the gap between the rich and the poor in this country widening on a daily basis, there is no way we are going to stop people from boarding buses with one-way tickets coming to settle in Nairobi. Slums are sprouting on a daily basis. Even if it were me, I would ask myself the same question of why there is free land somewhere yet I have nowhere to live.

Mr. Temporary Speaker, Sir, the thing that we ought to be talking about is, how do we stop the rural-urban migration? Many people come to the city believing that, that is where they will get jobs to support their people in the rural areas. The reason why we fought so hard for a Devolved Government System was so that we are able to curb the growth of slums in this country.

One of the things that we might do in line with this Policy Paper is to try and promote subsidised housing and giving tax incentives that can help us, as a country, to reach the overall objective of this paper.

In the United States of America (USA) where I lived, there were slums but they had a much better name and called them "projects". The government there tends to

recognise the needs of poor people to have better housing. If this policy is not implemented, it will be a big waste and an insult to the poor people.

The reason why this policy paper was thought out in the first place was to give poor people who cannot afford to pay high rents in Nairobi or stay at home without a job a way for them to have a good life. In this country, everyone wants to come to Nairobi. As such, it is imperative that they have access to the basic things such as clean water and proper sanitation systems.

As we think about how to improve this by providing basic necessities to our brothers and sisters who live in the slums, we should set up a proper legal framework that will recognise their needs and the importance of them being fully accorded with everything that they need in order to make a good living. As I support the adoption of this policy paper, I would like us to concentrate on the need to devolve more funds to the county governments. If we do not devolve more funds to county governments, then we may never solve this problem.

If you ask any Kenyan who lives in the slums of Nairobi where they would love to live, they will tell you that they would like to live back in their rural home. It should not just be that people end up back home in caskets. You should be given an opportunity to choose where you want to live and all services should be accorded to you. Very soon, Nairobi City will end up having more slums than it can manage. In fact, the amount of mushrooming apartments in middle income areas like Kileleshwa will make people leave and go to other areas and that area converted into a “project slum area”, just to give it a fancy name.

Mr. Temporary Speaker, Sir, I fully support the adoption of this paper but we must ask ourselves what we will do to curb the rural-urban migration. In fact, with the devolved government system, I would have been happy to hear that more counties are setting up areas where they can invite people with brains. You might hate the slums of Nairobi but as my able nominated Senator representing people with special interest said, you will find that the best carpenters in this country live in the slums. It is important for them not just to come to my house to build for me a two hundred thousand shilling dining table and then they end up going back to slums where there are no services. They need basic housing that they can call home and enjoy all the services.

With those few remarks, I fully support but encourage the Ministry to consider giving heavy tax incentives to people who can build more affordable housing not only here in Nairobi but also in our 47 counties. If any developer says that they can build houses to be sold at Kshs1 million or Kshs1.5 million, then it would be imperative for the Ministry of Finance to come up with low mortgages as well that people can afford.

What happens in this country is a bit different from other countries although we are slowly getting into that system. In other countries, your access to credit is based on your ability to pay whatever you borrow. But in this country, the more money you have or rather your pay slip is what determines how much you can access in terms of credit facilities. The system of financing in this country makes it very difficult for anyone, even a Member of Parliament (MP), to use his or her own pay slip.

It might be very difficult for an MP to choose where to live. You will find that most MPs end up living in a place where they can only afford about Kshs20 million mortgage and they will also benefit from the same. So, any developer who comes up and



promotes affordable housing, which is similar to slum upgrading, should be given heavy tax incentives. Our financial sector should also consider lowering the mortgage.

We get a lot of money from the International Monetary Fund (IMF) and the World Bank. We should come up with a system that encourages people who earn very little money to borrow at almost 1 per cent or even less than that to afford to live anywhere in this city.

Mr. Temporary Speaker, Sir, with those few remarks, I fully support the adoption of this belated Sessional Paper on National Slum Upgrading and Preventive Policy. I thank you.

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, just for record, I also want to first congratulate our two able Senators; Sen. Cheruiyot and Sen. Khaniri who were sworn in today as commissioners of the Parliamentary Service Commission.

I also want to be on record supporting this Sessional Paper No.2 of 2016 on the National Slum Upgrading and Prevention Policy. The problem of slums has largely been caused by our successive governments. Though we want to lay the blame of the uprising of slums on people who migrate from rural areas to urban centres, I put the blame squarely on the doors of our successive governments.

The first breeding ground of upcoming of slums is when we as a government or a country fail to have proper planning. If one was to visit Kibera, you would realise that the people who live there have never known what it means to have a government that can provide infrastructure for its own citizens. Those people do not even know that in this city we have firefighting machines because there are no roads. If there is a fire breakout, firefighting vehicles cannot drive through to the deep part of Kibera because there are no proper roads.

The people in Kibera have never known what it means to have street lights. You will be shocked that the people of Kibera have never known what it means to have sewer connection. They miss what I would call basic fundamental human rights. As a people, we have treated people who live in slums in the most inhumane manner. I want to submit that the best way to move forward as we discuss the National Slum Upgrading and Prevention Policy is for the government to recognise that those who are less endowed in society are also human beings and they have a right to enjoy some basic human rights from their own government.

Mr. Temporary Speaker, Sir, as we discuss the Sessional Paper No. 2 of 2016 on the National Slum Upgrading and Prevention Policy, the Government must go back to the drawing board and ask itself how they are going to ensure that people who live in slums can also be recognised as Kenyans. They deserve good access to essential services like infrastructure; roads running through the slums, street lights, connection of sewer and clean tap water. If we deal with these issues, then we can succeed towards the first essential step of upgrading those slums.

Secondly, Mr. Temporary Speaker, Sir, we cannot lay a lot of emphasis on wanting to concentrate on dealing with slums in the City of Nairobi and forget about the various county headquarters. With this new concept of county governments, there are people in the rural areas who get attracted to settling in the headquarters of various county governments. So, if we do not put a lot of emphasis and supervision on our county governments to check new settlements, we would be trying to come up with a solution in Nairobi but also creating another problem in our county headquarters.

This country has a very good legislative framework but we are missing enforcement. We have the Physical Planning Act that should essentially be dealing with approvals of all developments that are coming up in various cities.

Mr. Temporary Speaker, Sir, there are good development projects that are supposed to take care of the middle class. However, our county governments have this chronic problem of not checking on planned developments in their cities and they turn out to become slums. For example, Buru Buru Estate was well designed; it was meant to cater for the middle class. It was built with beautiful houses with infrastructure like roads and water. But if you drive through Buru Buru Estate, of late, because of failure to enforce the provisions of the Physical Planning Act, it is fast turning out to be another slum.

This is because people have been allowed to construct and even encroach on pavements and feeder roads within the estate. Therefore, we need to drum this into the heads of our county governments that they contribute a lot to these unplanned developments by failing to enforce the Physical Planning Act. So, the challenge is to ensure that we respect the laws that are supposed to bring order in various estates within our cities.

Thirdly, we must acknowledge that slums are caused by people who do not have good earning capacity. When we passed the Constitution of Kenya 2010, we created the Salaries and Remuneration Commission. The expectation of Kenyans was that we were going to have an equitable sharing of our national cake so that we do not have people who earn so much and at the lower level, there are those who earn so little that they cannot afford basic housing.

For example, how are we going to convince people that they cannot live in slums when their minimum basic salary is Kshs13,000? It is obvious that for these people to survive, pay rent, have food on the table and buy clothing for their children, they must live in the slums. With higher salaries, it supports the rent that they are expected to pay in urban areas. Therefore, I would like to state that this country must also, in a proactive manner, look for ways of increasing the earning capacity of people who are at the lower cadre. One way of doing this is to increase the tax rebates so that we begin taxing people at a higher level than what we are doing currently.

Mr. Temporary Speaker, Sir, we have to appreciate as a country that the Constitution we passed in 2010 expected that Kenyans would lead better quality lifestyles than what we have had before. Article 40 of the Constitution of Kenya 2010 states that every Kenyan is entitled to a clean environment. However, how many county governments have put in place measures for garbage collection? In the 1980's, we used to have lorries that were collecting garbage in various urban centres; these were vehicles that we used to call *Kamero*. They used to go round the estates collecting garbage. Those vehicles are not there anymore.

If you travel to other jurisdictions, this is something that every government is conscious about. When you do not have a good garbage collection system, it is one way of allowing undesirable developments to come up which may acquire that title of a slum. Again, it boils down to the blame game between our national Government and the county governments.

So, Mr. Temporary Speaker, Sir, as we discuss this Sessional Paper No.2 of 2016 on the National Slum Upgrading and Prevention Policy, we need to remind our county

governments that they are a big disappointment to Kenyans. This is one thing that they should have done in their first tenure in office. There is no way we are going to succeed in our dream of eradicating slums if we do not encourage ownership of houses by lower income earners.

One way of achieving this is to put in place Tenant Purchase Schemes which should be supported by the national Government and county governments. In the early 1980s, we had beautiful estates that were built in Nairobi County by the then Nairobi City Council. The people who were working in the City of Nairobi then were invited and encouraged to buy these houses through very affordable tenant purchase schemes.

So, I want to state that for us to succeed, we must sacrifice, we must have more budgetary allocations towards this idea of tenant purchase schemes so that many people are able to own houses. When there is that idea in peoples mind that this is my own house or property, people will have the desire of taking good care of the environment under which they have bought their houses. So, that is one of the challenges the national Government should address; to make money available to the county governments to put in place tenant purchase schemes.

Mr. Temporary Speaker, Sir, in gearing towards conclusion, I would like to state that as we wait to see how the Jubilee Government implements its four agendas, we must lay a lot of emphasis to ensuring that people have basic services at their door-steps.

The basic services are; first, we need to ensure that clean tap water is made available to a good number of our citizens. Secondly, we need to ensure that in most areas where people have settled, be it a slum or a new development coming up, infrastructure should be the first consideration. If one wants to come up with any housing project, the county governments must ensure that they have made good provision for roads that run through those estates.

Thirdly, we must make sure that there is sewer connection to these settlements. It will not take a lot of finances to ensure that a place like Kibera has sewer connection. New estates that are coming up should also have good sewer connection.

Finally, Nairobi is under a lot of pressure in terms of availability of land. Some countries made early decisions to relocate their capital cities from the overcrowded areas. For example, Nigeria recognized that Lagos was unable to take more people because they did not have the necessary services available for a population that was going to exceed what was already occupying the city. They, therefore, moved their city to Abuja.

Mr. Temporary Speaker, Sir, Australia made a conscious decision in 1911 of coming up with a new city in Canberra. New cities ease pressure from cities that are already over-populated. There was an idea sometimes back in Kenya to relocate the capital city from Nairobi to another county where there is enough land. Therefore, I would like to state that the submission by my learned colleague, Sen. Mutula Kilonzo Jnr., that we can eradicate slums and allow people to settle in bungalows rather than in apartments may not be achievable if few are looking at a city like Nairobi.

With those many remarks, I fully associate myself with this National Slum Upgrading and Prevention Policy.

I beg to support.

**Sen. Seneta:** Mr. Temporary Speaker, Sir, thank you for giving me the opportunity to add my voice to this important policy. From the outset, I would like to state that this is a timely policy because it has come at a time when one of our

Government agendas is setting up low cost housing. It has also come at a time when we are concentrating on devolution. Therefore, if this policy is going to be implemented, then it will help our counties to plan well.

This policy is also timely because planning has been devolved to our counties. Therefore, this is a policy that we require at this particular time when we are moving towards county development. When you visit various places in this country today, you will realize that we are not talking about slums alone, but also about poor commercial buildings.

There is another phenomenon that is coming up of poor commercial buildings called kiosks. These container houses are being erected everywhere around our urban centres. When you visit our urban areas today, everyone is erecting a container along the road on top of sewer lines. People are just building informal shelters to house their businesses or just to use it as a house. Therefore, planning is what we generally need.

I do not think that we need a policy framework in this country. What we need is serious implementation and follow-up of these very nice programmes that we have. We have already put in place the Physical Planning Bill, which I remember we passed in the 11<sup>th</sup> Parliament. We also already have several Sessional Papers on slums upgrading. We even have the Physical Planning Act, which spells out many issues on slum upgrading. Therefore, what we are lacking as a country is the implementation by our ministries of these blueprints that we came up with.

Looking at this policy or Sessional Paper, I see a very nice policy framework on the issue of socio-economic matrix on security and delivery of services in these slums. However, what we need to think of is the issue of possibly going into partnership so as to come up with low-cost housing for our poor population. This is because the reasons slums sprout up in our urban centres are; many low income earners, lack of employment and big populations in our cities. Therefore, I think it will be a good idea to think of how to empower our people for them to pay for decent houses.

The country can also partner with private organisations in offering low-cost housing to our population. By doing this, it will go a long way in eradicating unplanned informal settlements that we see in our country.

The other thing that we also need to look into is the issue of planning and zoning in our counties. We need to specify the areas where we should build low-cost housing units and put up commercial buildings and industries. If we do not zone and plan our counties, we shall have a similar situation to what we have in Nairobi where slums are built next to high-rise houses.

What we see in our counties today is a mess. People are building homes next to industries and even within the town centres. You will get all sorts of houses coming up in our towns without planning and basic services like water, electricity and proper sewerage. Therefore, if we can encourage and promote proper planning and management of our lands in our counties, we shall prevent slums coming up.

We also need to look into the issue of funding. As a country, we need to set aside some funds to support low-cost housing. I like the idea of the Government having an agenda of affordable housing, but we still need to think further. This is because when we talk of funding, we may not be able to fund all housing projects in every county. We can also think of using cheap housing materials. We have bricks, timber and other cheap

housing materials which we can use to build some decent low-cost houses, instead of allowing slum dwellers to use whatever kind of materials to build their houses.

This is a very important Sessional Policy Paper that we need to support. But as we support it, we need to encourage the county governments to also plan so that we can prevent the mess that we already have in our big cities like Nairobi, Mombasa and other cities.

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

**The Temporary Speaker** (Sen. Lelegwe): Thank you, hon. Senators. Since there are no more requests, I, therefore, defer the Motion to tomorrow afternoon, so that the Mover can reply.

*(Motion deferred)*

I will also defer Orders No. 11, 12, 13, 14, 15 and 16.

## **BILLS**

### *Second Readings*

THE COUNTY GOVERNMENTS (AMENDMENT) BILL  
(SENATE BILLS NO. 11 OF 2017)

THE COUNTY BOUNDARIES BILL  
(SENATE BILLS NO. 6 OF 2017)

THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL  
(SENATE BILL NO. 1 OF 2018)

*(Bills deferred)*

## **MOTIONS**

ADOPTION OF REPORT OF THE 8TH ORDINARY  
SESSION OF FP-ICGLR

THAT, this House adopts the Report of the 8th Ordinary Session of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR), held on 5th – 7th December, 2017, in the Central African Republic, laid on the Table of the House on Tuesday, 20th February, 2018.

ADOPTION OF REPORT OF THE WOMEN POLITICAL  
LEADERS ANNUAL GLOBAL SUMMIT

THAT, this House adopts the Report of the Senate Delegation to the Women Political Leaders Annual Global Summit, held in Reykjavik, Iceland from 28<sup>th</sup> - 30<sup>th</sup> November, 2017, laid on the Table of the House on Wednesday, 14th February, 2018.

TEACHING OF KISWAHILI LANGUAGE TO LEARNERS  
WITH HEARING DISABILITY

AWARE that Article 27 of the Constitution of Kenya guarantees equality of every person in enjoyment of all rights and fundamental freedoms and prohibits discrimination against any person on any ground including disability and language;

FURTHER AWARE that Article 24 (2) (a) of the United Nations Convention on the Rights of Persons With Disabilities prohibits persons with disabilities from exclusion from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

ACKNOWLEDGING that Article 7 of the Constitution of Kenya provides for the national language of the Republic as Kiswahili and the official languages of the republic as Kiswahili and English;

APPRECIATING that the Report of the Commission of Enquiry into Education in Kenya (the Ominde Commission of 1965) proposed that Kiswahili language be taught as a compulsory subject both in primary and secondary schools in Kenya with the aim of making the language a vehicle for literacy works relevant to community work of various kinds;

COGNISANT that Kiswahili language has been recognized as a unifying language in the East African Community, hence making it a lingua franca in the region;

CONCERNED that under the new curriculum of education in Kenya that is being piloted, learners with hearing disability are not offered Kiswahili language in primary schools, secondary schools and primary teachers training colleges;

NOW THEREFORE, the Senate calls upon the Ministry of Education, Science and Technology and other relevant state agencies to:

1. offer Kiswahili language as a core subject to learners with hearing disability in primary schools, secondary schools and primary teacher colleges;
2. come up with an elaborate syllabus for teaching Kiswahili as a core subject to deaf learners in primary, secondary and teacher training colleges; and

3. come up with an elaborate syllabus for teaching Kenya Sign Language (KSL) as an optional subject for learners who have no hearing disability and for deaf learners.

*(Motions deferred)*

### **ADJOURNMENT**

Hon. Senators, there being no other business, it is now time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 1<sup>st</sup> March, 2018, at 2.30p.m.

The Senate rose at 6.20 p.m.