

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Tuesday, 13<sup>th</sup> March, 2018

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

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

#### PRAYER

#### COMMUNICATION FROM THE CHAIR

##### VISITING DELEGATION FROM THE PAN-AFRICAN PARLIAMENT

**The Speaker** (Hon. Lusaka): Hon. Senators, I wish to acknowledge the presence, in the Speaker's Gallery this afternoon, of a visiting delegation from Pan-African Parliament on a benchmarking visit to the Senate. I request each member of the delegation to stand up when called out so that they may be acknowledged in the Senate tradition. They are:-

- |                            |   |                        |
|----------------------------|---|------------------------|
| (1) Dr. Ndidi Abanno       | - | Senior Committee Clerk |
| (2) Mr. Boniface Habana    | - | Committee Clerk        |
| (3) Mr. Galal Ari          | - | Committee Clerk        |
| (4) Ms. Marina da-Trinidad | - | Committee Clerk        |
| (5) Ms. Marie Bebey        | - | Committee Clerk        |
| (6) Ms. Helen Sabwa        | - | Committee Clerk        |

On behalf of the Senate and on my own behalf, I welcome them to the Senate and I wish them well for the remainder of their stay.

I thank you.

**Sen. Madzayo:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. First and foremost, I thank you for allowing our brothers from the Pan-African Parliament (PAP) to come and visit us in the Senate or in the Parliament of Kenya. I believe that they are doing a very important job in the PAP. In as much as we have not yet been in a position to send our delegation to the South African-based Parliament, I take this opportunity to say that I am looking forward to going there. This is because my party, the National Super Alliance (NASA), has already forwarded my name – which I believe is in your possession – and I am looking forward to becoming a Member of the PAP.

I take this early opportunity to congratulate all the members of staff who have come all the way from the PAP to Kenya to visit us here. I believe that they will see for themselves; they will learn as they learn and do in the PAP and that much will be

accorded to them as they are with us here. Congratulations and welcome again to Kenya. Feel free to visit our country. I come from the Coast region, where we have the Ocean. So, you can enjoy the hospitality of the people of the coast if you have the opportunity to visit.

Thank you.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for giving me the Floor to add my voice to the welcoming remarks to the visitors from the PAP. On behalf of the people of Kitui County, it is a pleasure to welcome you to Kenya. I request that you find time to tour the City of Nairobi and the outskirts. I got an opportunity earlier to have a word with them and I mentioned that Nairobi City is blessed with a national park within the city. They can take time to visit the park and sample what we have to offer in that park.

With those few remarks, I say '*karibuni sana.*'

Thank you very much, Mr. Speaker, Sir.

**Sen. Poghiso:** Mr. Speaker, Sir, I join my colleagues and yourself in welcoming our brothers and sisters from the PAP. The Senate has a good tradition because we have the opportunity to share experiences with the PAP. I was privileged to have met them this morning when they had a chance to visit us during a meeting of the Standing Committee on Information and Technology. We not only exchanged a few words and niceties; but we also encouraged them that the Pan-African idea is still possible because of the existence of the PAP. We said that Africa should talk to herself and communicate. It should be easier to enter an African country – and that is why we have the PAP – and travel easily.

Mr. Speaker, Sir, I am happy that the African Union (AU) has already worked on a concept called the "Open Skies" for Africa. That means that we should now share the air space that we have as one. Therefore, as the staff members help in the making of laws at the committee level, they should come up with ideas that help to bring Africa closer together and enable us to appreciate Pan-Africanism.

Thank you very much, Mr. Speaker, Sir.

**Sen. Olekina:** Thank you very much, Mr. Speaker, Sir. On behalf of the people of Narok County, I would like to say welcome to the visiting delegation and request that they visit our county. I appreciate the work that they do in ensuring that African countries promote good governance. I know it is a big task, but I assure them that when our Members come there, they will help them achieve their objectives.

As my colleague from Kitui County has said, Kenya is a beautiful country and where I come from, we have the eighth wonder of the world, the Maasai Mara Game Reserve. Please make a point of visiting it so that when you go back to South Africa, you can tell them that you had a great time in Kenya. I welcome you, once again.

Thank you, Mr. Speaker, Sir.

**Sen. Wario:** Thank you very much, Mr. Speaker, Sir. I take this opportunity to also welcome the delegation from the PAP who are with us today. This morning, I had the privilege of meeting the delegation in a meeting of the Committee on Devolution and Intergovernmental Relations. These are ladies and gentlemen of high calibre from different countries. I come from the Coast region and I welcome you to Kenya by saying; Kenya *hakuna matata. Karibuni sana.*

Thank you, Mr. Speaker, Sir.

**Sen. (Prof.) Ongeri:** Thank you very much, Mr. Speaker, Sir. Earlier on, I had the occasion to meet the delegation during the meeting of the Committee on Lands, Environment and Natural Resources. I add my voice in welcoming them to this august House and congratulate them for coming here to see how we deliberate on national issues.

Mr. Speaker, Sir, on the Pan-African idea, during our student days in the 1950s and 1960s, it was quite clear that we had not been able to move closer to each other. The proponents of the Pan-Africanist movement at that time, who included Kwame Nkrumah and many other leaders, gave us a light to look forward to. Now, with the establishment of the African Union and the PAP, it is quite refreshing to see a delegation from the PAP coming to visit Kenya. There is so much more that we can do between and amongst us within the African Continent to our benefit and prosperity.

I come from Kisii County, which is in the western part of Kenya and you are most welcome. More so, be free to interact with us.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Thank you, hon. Senators. We have all welcomed the PAP delegation and wished them well. Let us now move to the next order.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Waqo.

### STATEMENTS

**Sen. (Rev.) Waqo:** Mr. Speaker, Sir, the Chairperson of the Committee on National Cohesion, Equal Opportunity and Regional Integration is out of the country and I am responding on his behalf. I shared the statement with my colleague---

**The Speaker** (Hon. Lusaka): Are you seeking a Statement or responding to one? You should be seeking a Statement from the Chairperson of the Standing Committee on Roads and Transportation.

**Sen. (Rev.) Waqo:** Mr. Speaker, Sir, it has not reached me; that is why I am a bit confused. I thought I was supposed to respond to a statement.

**The Speaker** (Hon. Lusaka): No, you should be seeking for a Statement. As you organise yourself, we can get to the next statement.

**Sen. (Rev.) Waqo:** Thank you, Mr. Speaker, Sir.

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

**Sen. Faki:** Mr. Speaker, Sir, I requested for a statement but the response has not been given to me.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Hon. Senators, we are dealing with requests for statements. Therefore, if you do not have a statement request, let us move to the next request by Sen. Loitiptip.

### KDF OPERATIONS IN LAMU COUNTY

**Sen. Loitiptip:** Mr. Speaker, Sir, pursuant to Standing Order 46 (2) (b), I rise to seek a Statement from the Chairperson of the Standing Committee on National Security,

Defence and Foreign Relations regarding the Kenya Defence Forces (KDF) operations in Lamu County.

In the Statement the Chairperson should:-

(1) Explain the circumstances that led to the redeployment of the KDF to Lamu County and especially to Boni forest.

(2) Explain why there are attacks by *Al Shaabab* Militants on Lamu county and Kenya despite the presence of KDF in Lamu.

(3) State whether the Government has intentions of employing more strategies on securing persons who travel by bus to and from Lamu, given that the current strategy of escorting the buses by security personnel is not effective as several buses have been attacked and people injured.

(4) State whether the Government lifted the night curfew and banned all night travel in Lamu and further, explain why Lamu residents are being harassed by security personnel at night.

State the measures the Government has put in place to secure the Kenya borders and Lamu County, so as to allow people who are internally displaced by the insecurity return back to their homes and resume their normal lives.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): The Chairperson, Standing Committee on National Security, Defence and Foreign Relations.

**Sen. Haji:** Mr. Speaker, Sir, we will give the Statement in a week's time.

**The Speaker** (Hon. Lusaka): Is that okay, Senator?

**Sen. Loitiptip:** It is okay.

**The Speaker** (Hon. Lusaka): Sen. Rose Ogendo.

Sen. (Rev.) Naomi Waqo, I am told you are ready now.

#### BENEFITS OF THE STANDARD GAUGE RAILWAY

**Sen. (Rev.) Waqo:** Mr. Speaker, Sir, pursuant to Standing Order 46 (2) (b), I rise to seek a Statement from the Chairperson of the Standing Committee on Roads and Transportation on the benefits of the Standard Gauge Railway.

In the Statement the Chairperson should:-

(1) State the volume or numbers of persons who have used the Standard Gauge Railway since its inception.

(2) Table statistics on the volume of cargo that has been transferred by the Standard Gauge Railway since its inception.

(3) State the economic gains arising out of the establishment of the Standard Gauge Railway and specify the amount of revenue collected from the use of the railway since its inception.

(4) Explain the measures that the Government has put in place to improve the Standard Gauge Railway services.

**The Speaker** (Hon. Lusaka): Chairperson, Standing Committee on Roads and Transportation.

**Sen. (Eng.) Hargura:** Mr. Speaker, Sir, I promise to get an answer in one week.

**The Speaker** (Hon. Lusaka): Is one week okay?

Sen. (Rev.) Wako, you are not on record

**Sen. (Rev.) Waqo:** Mr. Speaker, Sir, one week is okay.

**The Speaker** (Hon. Lusaka): Yes, Sen. Mwinyi Haji Mohamed.

#### MANAGEMENT OF KPA

**Sen. Faki:** Mr. Speaker, Sir, I rise pursuant to Standing Order 46 (2) (b) to seek a Statement from the Chairperson of the Standing Committee on Roads and Transportation regarding the management of Kenya Ports Authority (KPA).

In the Statement the Chairperson should:-

(1) Explain the circumstances that led to the reshuffling of top management officials at the KPA

(2) State the rules and measures that have been put in place to shield the management of the KPA from interference in the running of the affairs of the Mombasa Port.

Thank you.

**The Speaker** (Hon. Lusaka): Chairperson, Committee on Roads and Transportation.

**Sen. (Eng.) Hargura:** Mr. Speaker, Sir, we can get an answer in two weeks. It looks a bit detailed and we have to get the information.

**The Speaker** (Hon. Lusaka): Is two weeks okay, Sen. Faki?

**Sen. Faki:** It seems to be the standard. I will accept the two weeks.

**The Speaker** (Hon. Lusaka): We will now move to the statements to be issued. Let us get a response from Chairperson of the Committee on National Security, Defence and Foreign Relations on the ongoing recruitment exercise by the Kenya Defence Forces.

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

**The Speaker** (Hon. Lusaka): Order! The Chairperson of the Standing Committee on National Security, Defence and Foreign Relations will wait. Let us get a Statement from the Chairperson of the Committee on National Cohesion, Equal Opportunity and Regional Integration.

#### IMPLEMENTATION OF THE TWO-THIRDS GENDER RULE IN COUNTIES

**Sen. (Rev.) Waqo:** Mr. Speaker, Sir, the following is the response to the request by Sen. (Dr.) Milgo.

With regard to the comparative ratio of women and men appointed as Members of County Executive Committees (CECs) and Chief Officers in all the counties, some counties are still in transition and have not completed appointment of CEC members and Chief Officers. Therefore, no data is available from the Council of Governors (CoG) for computation into comparative ratio to reflect the scenario in the 47 counties.

With regard to the comparative ratio of women and men chairpersons of all county public service boards, there are 47 county public service boards in the country. Out of 47 chairpersons nine are women and 38 are men. The percentage of women

chairpersons is 19.1 per cent and 89.9 per cent for men. The ratio of women to men chairpersons is one to four, which is a significant figure.

The other question was in regard to the affirmative action being implemented by county governments to promote inclusion of women candidates for senior positions. The county governments are coordinated through the CoG, which is established under Section 19 of the Inter-Governmental Relations Act, 2012. The CoG secretariat is organised into 18 committees, each chaired by a Governor.

The Committee on Education, Gender, Youth, Sports, Culture and Social Services is one such Committee that handles gender matters. The Committee has implemented a number of initiatives over the last two years to deepen the gender equality and women empowerment.

To realise the two-thirds gender rule the following initiatives are being implemented at county governments' levels:-

(1) Counties ensure implementation of leadership, integrity and public service, values and principles contained in Articles 73 and 232 of the Constitution respectively, and the provisions of County Government Act 2012 on Human Resource Management in the county government.

(2) Public services are integrated in selection, recruitment and promotion of county government officers.

We have a lot of information. However, if we go line by line, it will take us a lot of time.

Number 6 is on inclusion of gender concerns in Integrated County Development Plans (ICDPs) and aligned to Medium Term Plan III, (MTP III). This is guided and monitored by COGs Gender Unit.

County governments ensure implementation of other affirmative actions through:-

(a) Inclusion of women, physically challenged persons and persons of marginalized areas of the county in employment.

(b) Fair distribution in recruitment, selection and promotion of officers in the County Public Service (CPS) to reflect the image of the county and all the communities residing therein and beyond as it may be necessary to uphold constitutional requirements.

Under No.8 - Counties are aligning their monitoring and evaluation operations, projects and programmes to Sustainable Development Goals (SDGs) indicators, particularly SDG No.5 that addresses compliance with gender equality.

Question No.4 is on the Government of Kenya action to ensure adherence to two-thirds gender principle in all key sectors of national and county governments.

The Ministry of Public Service, Youth and Gender Affairs through the State Department of Gender affairs, in partnership with other gender sectors working groups, has done the following:-

- (i) Conducting sensitization of human resource managers.
- (ii) Implementation of National Gender Policy (NGP).
- (iii) The Ministry of Public Service, Youth and Gender Affairs through the State Department of Gender Affairs, together with the COGs, has established and operationalized the intergovernmental structures on gender and development through formation of joint steering and joint technical committees on gender.

These committees work together and separately to sensitize, lobby and build the capacity of human resource officers to comply with the two-thirds gender rule when employing and promoting staff at national and county levels.

(i) The Ministry has been strengthening operations and the structures of gender empowerment groups.

(ii) The Ministry has recruited gender officers who have been deployed to counties.

(iii) The State Department of Gender affairs as the Government major machinery for advancement of women social, economic and political interests, with support from the European Union (EU), developed a strategy for greater participation of women in politics and decision making (2017).

(iv) The National Gender and Equality Commission provides oversight and reports to Parliament on compliance to the two-thirds gender rule.

Those are the responses we have. The response has been signed by Prof. Margaret Kobia, PhD, MGH, Cabinet Secretary, on 7<sup>th</sup> March, 2018.

**The Speaker** (Hon. Lusaka): Very well. Sen. Dullo Fatuma.

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I want to react to the statement that has been issued. In as much as I agree it is the statement from the relevant Ministry, but we have a problem with the implementation and enforcement of the said legislations. The response given is not true because the governors are carrying out recruitment without ensuring gender balance. That is why many people are going to court to enforce it. Let the Government tell us what it is doing in terms of ensuring that the counties have strictly followed the Constitution and enacted the relevant legislations to implement the two-thirds gender rule.

Secondly, the policies and legislation that stipulate 30 per cent of contracts be allocated to youth and women is not strictly followed in many counties. Let the Ministry ensure there are enforcement mechanisms so that our youth and women benefit from these contracts.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir. First of all, I did not receive the statement which has been issued in advance.

As Sen. Dullo has said, the first question was not fully answered. In addition, it was merely a theory work that has been copied. There are no tangible facts from counties to help us ascertain whether the two-thirds gender rule is being implemented or not. We are still calling for a stricter method of ensuring that it is followed.

As much as the Committee has tried, a lot of work here is theory because it is not being implemented. In any case, we still need a more stringent measure to ascertain that the counties adhere to the two-thirds gender rule.

**Sen. Sakaja:** Thank you, Mr. Speaker Sir. This Committee has a special mandate beyond what is in the standing orders. The Public Procurement and Asset Disposal Act mandates this particular Committee in charge of equalization to receive a report every six months from the Public Procurement Regulatory Authority (PPRA) on compliance by county and national governments on the 30 per cent rule for procurement for youth, women and Persons with disability. That is not being adhered to across the country. Very few governors are giving young people, women and persons with disability contracts.

I would like to request the Committee to go beyond this statement and sit down with the relevant department; to call PPRA and table a report here. Let us see the list of

shame of those counties that have decided that law is a suggestion. Let us see the list of shame of Ministries that are avoiding allocating contracts to young people what is due to them in the law.

Mr. Speaker, Sir, I hope the Chairperson is listening, you could kindly direct that they follow the law and play their role in bringing that list to this House so that we can debate it. I am sure no governor and Minister wants to be in that list. Otherwise, all of these things are high sounding declarations of what is being done with zero work on the ground.

**The Speaker** (Hon. Lusaka): Hon. Senators, I direct that Committee through the Chairperson to compile and bring that report and also give the House a status report on those counties that have done recruitment. I know most of them must have already recruited the County Executive Committee (CECs) and the chief officers. So, those that have done it, you can give this House a report on the status as it stands.

Let us have the Chairperson of standing Committee on National Security, Defense and foreign Relations.

#### ONGOING RECRUITMENT EXERCISE BY KDF

**Sen. Haji:** Mr. Speaker, Sir, I beg to reply. I will not read the questions because the person who asked knows them. To save time, I will go straight to the answers.

The ongoing recruitment exercise seeks to fill vacancies and shortfalls within the approved Kenya Defence Forces (KDF) establishment. Despite the fact that the recruitment exercise largely attracts male applicants, enlistment is subject to the potential candidates meeting the prescribed stringent qualifications with respect to physical, medical and academic fitness regardless of gender. Therefore, the ratio of male to female recruits cannot be predetermined.

Further, given the current tricks being encountered, providing information with regard to the KDF disposition and/or the composition will be prejudicial to national security as the information may be used by undesirable enemies to the detriment of the Kenya populous. Section 41 of the Kenya Defence Forces Act provides a limitation on the right to access classified information which is defined to include information on KDF disposition.

Secondly, recruitment of persons into the KDF is never appointive nor elective in nature. The KDF is conscious of the constitutional aspirations to attain gender parity within the force. However, this can only be realised progressively given that women started joining the regular force in 2000 after the Women Service Corps unit was disbanded where they were integrated into the three services. The women in the KDF continue to make tremendous strides and are a source of pride for the nation and constitute part of the KDF capability. In this regard, both men and women are given recruitment opportunity while taking into account the requirements to reflect national balance and national security imperatives.

The KDF conducts its recruitment in a fair, transparent and professional manner, cognizant of the goal to attain more women representatives. The recruitment exercise is open to all candidates wishing to join the force. All candidates who present themselves are subjected to the same rigorous physical examination through medical examination,

aptitude tests as well as scrutiny of the academic certificates and identification documents to confirm their suitability to serve in the KDF.

The Cabinet Secretary for Defence has put in place a gender policy. The policy was officially launched in May, 2017 and is in the process of implementation. It articulates and sensitizes all the staff at all levels, on the requirement of law in achieving gender parity and measures put in place towards realisation of the two-thirds gender rule. Through measures such as performance contracting and other implementation interventions, assessment on progress towards achieving gender parity can be monitored.

Mr. Speaker, Sir, I thank you.

**The Speaker** (Hon. Lusaka): Sen. Mugo, are you satisfied?

**Sen. Mugo:** Mr. Speaker, Sir, I thank the Chair of the answer especially now that it is signed by the Cabinet Secretary for Defence because a copy that came before was not signed. However, I am not satisfied with the answer because we had asked specific questions. We saw on television what was going on during the recruitment in some areas and we saw how female candidates were treated. Definitely, there was no equity. One could tell that they were being discriminated against. Some of them were even in tears. So, I do not agree that the recruitment is sensitive to gender. That means that it is also not equitable as well as professional. I am sure it not just the young men who meet the criteria in terms of physical, medical and academic qualifications.

One specific question I asked is whether it is true that female candidates were allocated only 8 per cent of the slots. I do not understand how that endangers the forces by way of enemies gaining strength just because of that. I think the Chair just avoided that question. In one of the news bulletins, it was reported that women were allocated only 8 per cent and that is of interest to us. I urge my Cabinet Secretary who is also a woman to check on this because it is serious.

The Constitution binds all departments of the Government and agencies, unless it is provided for that the gender rule is not applicable. Whereas we appreciate the sensitivity of the KDF and our security, there are areas we need to check on. People who want to join the armed forces should not be discriminated against like we saw during the recent recruitment exercise.

I appreciate that there is a gender policy which was launched in May 2017. However, we have not seen it; neither have we been told if implementation is going on. Actually some part of this answer is contradictory. One part says that they are aware of the gender rule and they are working towards fulfilling it. On the other hand, they give an impression that women cannot qualify in big numbers.

Mr. Speaker, Sir, while I appreciate it, I would like the Chair to make more clarifications. I thank you.

**The Speaker** (Hon. Lusaka): The Chair?

**Sen. Haji:** Mr. Speaker, Sir, my colleague Sen. Mugo did not explain the kind of discrimination she is alleging. As we all know, recruitment considers many qualifications including physical and education and there is no way women can be discriminated unless some of them do not meet the requirements on the basis of being physically fit or medical-wise.

There is a general policy that the Government will employ one third of women in the country, including Parliament. However, up to now, this has not been achieved. I am

being honest because I have been the Minister for Defense. This will be achieved in a progressive manner, and I am sure it will be done.

I believe I have answered the two queries that she has raised.

*(Laughter)*

**The Speaker** (Hon. Lusaka): You can discuss the areas that still need clarity with the Chair of National Security and Foreign Relations after this.

The Chairperson of the Standing Committee on Land, Environment and Natural Resources.

DELAYED COMPENSATION FOR PERSONS DISPLACED BY  
THE CONSTRUCTION OF MULIMA DAM

**Sen. Mwangi:** Thank you, Mr. Speaker, Sir. I beg to issue a response on a Statement that had been requested by Sen. Mutula Kilonzo Jnr.

I wish to inform the Senator for Makueni that Mulima Dam in Mbooni Constituency and Maanoni Dam in Makueni Constituency were developed in the 1980s. Due to the long period of time that has elapsed since they were constructed, the Ministry is in the process of getting all the information and details of the dams. This will enable me to issue a comprehensive Statement.

Therefore, in light of the above, I wish to request for two more weeks so as to obtain all the information since the response is coming from the Ministry. I had given a copy to Sen. Mutula Kilonzo Jnr. and we had agreed that since this is what the Ministry has given us, he accepted to wait for two more weeks.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, the Chairman of the Standing Committee on Land, Environment and Natural Resources was good enough to mention about the delay from the Ministry. The people of Maanoni Dam have waited for 33 years and the people of Mbooni have waited for 20 years without compensation. So, it is important that we get a comprehensive Statement. On my part, I am willing to wait for another 14 days so that the Ministry can submit the documents to confirm why they have not compensated these people. It is a historical injustice and therefore I am not in a hurry for them to give me rushed information.

Thank you.

**Sen. (Prof.) Onger:** Thank you, Mr. Speaker, Sir. In seeking for that information about the displacement of residents in and around the area of the dam, could you also provide additional information because of compensation *vis-à-vis* other dams being built in this country? I have in mind the Bonyunyu Dam in Nyamira County.

**The Speaker** (Hon. Lusaka): Sen. (Prof.) Onger, is it the same question or different one?

**Sen. Mwangi:** Mr. Speaker, Sir, we can deal with Sen. (Prof.) Onger's question but only on matters of the dam that he has mentioned in Nyamira County.

**The Speaker** (Hon. Lusaka): I thought it was a different issue. The Chairperson of the Committee on Lands, Environment and Natural Resources, get the comprehensive information so that you provide it in the next two weeks.

Let us move to the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations to respond to Sen. Olekina question.

USE OF EXCESSIVE FORCE/POLICE BRUTALITY  
DURING RAID AT UON

**Sen. Haji:** Thank you, Mr. Speaker, Sir. Again, to save on time, I will not go through the Statements as requested.

**Sen. Olekina:** Mr. Speaker, Sir, on a point of Order. I would like to request that the response be deferred so that I am served with a copy for me to interrogate it.

**The Speaker** (Hon. Lusaka): Do we have a copy because the Chair is ready?

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

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, on a point of order. Sen. Khaniri is not present and therefore I could guide the House on the issue of the Standing Orders.

The correct procedure is that the responses to the Statements must be provided to the Members in advance so that they can interrogate them. Some of the responses have been delivered to my office and there is no reason why Sen. Olekina has not been given his response. So, we need proper direction and guidance from you would be necessary at this point.

**The Speaker** (Hon. Lusaka): Let me give direction. The secretariat is supposed to circulate the responses in advance. They should note that to avoid any inconveniences. In the meantime, I will defer that response as we wait for the statements from the secretariat. Sen. Mwangi, you can hold on until the response is circulated.

The Chairperson of the Standing Committee on Agriculture and Livestock, you can proceed.

**Sen. Lelegwe:** Thank you, Mr. Speaker, Sir. We have the response but I am still consulting with the Chair. You can give me some few minutes. In the meantime, you can proceed to the next Statement before we table the response.

**The Speaker** (Hon. Lusaka): The Chairperson of the Standing Committee on Land, Environment and Natural Resources.

STATUS OF LAND OWNED BY ADC  
IN LAIKIPIA COUNTY

**Sen. Mwangi:** Thank you, Mr. Speaker, Sir. This question had been directed to the Ministry of Lands and Physical Planning. However, the Ministry has indicated that it is not the right Ministry to deal with this particular question. So, the question has been re-directed to the Ministry of Agriculture, Livestock and Fisheries. Therefore, I will request for another one week so that I come back with the response.

**The Speaker** (Hon. Lusaka): Has the Ministry of Agriculture, Livestock and Fisheries received the Statement?

**Sen. Mwangi:** Mr. Speaker, Sir, I have a letter here that has been sent to the Ministry of Agriculture. It says:

“This is in reference to your letter Ref.No. Sen.112/1/Statements/CORR/2017 of 13<sup>th</sup> November, 2017. This is a question by Sen. Olekina of Narok County.

**The Speaker** (Hon. Lusaka): Is that the letter directing the Statement to the Ministry of Agriculture?

**Sen. Mwangi:** Mr. Speaker, Sir, yes, so that they can write a response.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, on a point of order. To the best of my recollection, the Sen. Olekina brought a request for a Statement last year and then it lapsed with the session. When we came back to this new session, he requested for the Statement again. The Chairman of the Standing Committee on Land, Environment and Natural Resources is reading to you a letter in reference to the lapsed question in the last session. I do not believe it can take that long for one Ministry to transfer a responsibility to another and for an answer to be enlisted to be brought to this House. This is particularly, when it is touching on the very touchy issue of land, its alienation and the risk of that land being grabbed.

Is the Chairman in order to bring us belated information on a day when he is supposed to give us the answer? He is now passing it on to another Chair when he could have done this when the question was raised.

**Sen. Mwangi:** Mr. Speaker, Sir, I want to be precise. The Statement had been directed to the Ministry of Lands and Physical Planning. They realised that they could not deal with the question because they did not have the answers. They advised that the Statement be directed to the Ministry of Agriculture Livestock and Fisheries. It was so done and for that reason---

**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, I recall that the letter that the Chairperson is reading is the same letter that he read during the last Session. The issue of Agricultural Development Corporation (ADC) land is something which is very emotive. People and animals have been killed there, so when I ask this question for me to understand how to deal with it, the least I expected the Chairperson to do is to go to greater length and see the urgency and emotiveness of this matter.

It is imperative for the Chairperson to give my question, which is now part of this House, the urgency and the importance that it deserves.

**The Speaker** (Hon. Lusaka): I direct that the Chairpersons of the committees on Lands, Environment and Natural Resources and the Committee on Agriculture, Livestock and Fisheries provide an answer in one week.

**Sen. Mwangi:** Mr. Speaker, Sir, first and foremost, I was not a Chairperson in the last Session for there were no chairpersons in this House. Secondly---

**The Speaker** (Hon. Lusaka): I have directed.

**Sen. Mwangi:** Mr. Speaker, Sir, I accept.

STATUS OF NHC PROJECT IN WOTE,  
MAKUENI COUNTY

**The Speaker** (Hon. Lusaka): The Chairperson of the Committee on Roads and Transportation to issue a Statement on the status of the National Housing Corporation (NHC) project in Wote, Makueni County.

**Sen. (Eng.) Hargura:** Mr. Speaker, Sir, I got the response to the Statement and I gave it to Sen. Kasanga to go through it. I will give the answer if she is ready.

*(Sen. Kasanga nodded)*

**Sen. (Eng.) Hargura:** Mr. Speaker, Sir, I wish to respond to the request for Statement by Sen. Kasanga as follows:-

1. The contract for the construction of the NHC Project in Wote, Machakos County was awarded in April, 1973 to Kilimanjaro Enterprises Limited. The scope of the works comprised 14 units (two-roomed bungalows) each with an area of 32sqm.

2. The project commenced in April 1973, with a completion period of 26 weeks and achieved practical completion in December 1973.

3. The works of the 14 units were awarded at a contract sum of Ksh245,026.25 with the total amount spent on the project as Ksh318,192.00 The amount spent over and above the tender sum was occasioned by costs of supervision and financing that is Ksh17,528 and repairs on all the 14 units in 1977 to make them attractive at a cost of Ksh41,538.

4. The project did not stall but was implemented in a phased manner as was deemed necessary, given the challenges experienced at the time. The project land covers 2.6 acres and was planned to have a total of 35 units on individual plots with an open space for recreation.

Due to budgetary constraints and low housing demands in the area, only 14 units were built in phase one. The remaining 21 plots were left for future development when the budget allows and the market demand picks.

5. The corporation is exploring scaling up on housing development in Makeni County in support of the national Government's agenda and to meet rising demand occasioned by increased opportunities in the devolved government structures.

**Sen. Kasanga:** Mr. Speaker, Sir, more investigation needs to be done into this for we have some abandoned units on site. They were abandoned about 10 years ago and I do not see that coming out in this response. Our request to NHC is that they should further investigate those abandoned units. They could be condemned or if they have no capacity to do so, if they could transfer them to the County Government that can make use of them. Otherwise, we welcome NHC's plan to scale up the housing development in Makeni County.

**The Speaker** (Hon. Lusaka): Thank you. You can incorporate that.

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

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

**Sen. Sakaja:** Mr. Speaker, Sir, I remember that when this Statement was sought by Sen. Kasanga, we rode on it and further questions were asked, specifically on NHC houses in Majengo, Kamukunji Constituency, Nairobi County and the attempted eviction of my constituents. Were those riders transmitted as a question or they were for our own consumption? I have heard nothing about that being mentioned in this response.

**Sen. (Eng.) Hargura:** Mr. Speaker, Sir, that is the response that we got from the Cabinet Secretary, Ministry of Transport, Infrastructure, Housing and Urban Development. We will check what was sent to him because the shortfall could have been from our side.

**The Speaker** (Hon. Lusaka): You can check and add the riders that were raised because they were also very substantive.

**Sen. (Eng.) Hargura:** Obligated, Mr. Speaker, Sir.

PUBLICATION AND DISTRIBUTION OF EDUCATIONAL  
MATERIALS IN PUBLIC SCHOOLS

**The Speaker** (Hon. Lusaka): Could the Chairperson, Committee on Education issue a Statement on publication and distribution of books and other educational materials to public primary and secondary schools.

**Sen. (Dr.) Langat:** Thank you Mr. Speaker, Sir. The document is ready but it has not been signed by the Cabinet Secretary, Ministry of Education who has been busy going around the counties rolling out a programme on National Dialogue on Education and sensitizing stakeholders on the new competence based curriculum. I request for one week.

**The Speaker** (Hon. Lusaka): Is that okay Sen. (Dr.) Milgo?

**Sen. (Dr.) Milgo:** Thank you very much, Mr. Speaker, Sir. Knowing that education is a serious matter in our country, that is okay.

**The Speaker** (Hon. Lusaka): One week granted. Sen. Lelegwe, now issue your response on Agriculture.

*(Statement deferred)*

THE IMPLEMENTATION STATUS OF THE FISHERIES  
MANAGEMENT AND DEVELOPMENT ACT

**Sen. Lelegwe:** Thank you, Mr. Speaker, Sir. I table the response on the Statement on implementation status of the Fisheries Management and Development Act, 2016.

At the sitting of the Senate held on Wednesday, 14th February, 2018, Sen. M. Kajwang' requested for a Statement from the Chairperson, Committee on Agriculture, Livestock and Fisheries regarding:

- (1) The use and management of the riparian areas in Kenya;
- (2) The progress made towards the establishment of the Kenya Fisheries Advisory Council;
- (3) The list of names of members of the council and highlights of the initiatives undertaken since formation;
- (4) The progress made towards the establishment of the Kenya Fisheries Service;
- (5) The list of names of the Director-General and members of the board and highlights of the key initiatives undertaken since formation.

The answers to the above questions are as follows:-

(1) The process of operationalization of the Kenya Fisheries Advisory Council is under way and the Ministry has requested for nomination of representatives from the various agencies. Therefore, we are still waiting for the members to be named.

(2) With regards to the progress made towards the establishment of the Kenya Fisheries Service (KFS), the following activities have been accomplished towards its operationalization:

(a) The Cabinet Secretary (CS), Ministry of Agriculture, Livestock and Fisheries, in exercise of his powers under Section 11(1)(c) and 201(1)(i) of the Act, appointed members of the Selection Panel to undertake the entire recruitment process of the members of the Board of Directors of the KFS.

(b) The Public Service Commission (PSC) of Kenya has appointed, Ms. Susan W. Imende, HSC, as the Acting Director-General.

(c) Unbundling of the Fisheries Management and Development Act has taken place.

(d) Ninety eight (98) Technical officers from the Department of Fisheries and the Blue Economy were seconded to the Kenya Fisheries Service.

(e) The Ministry has done an organisational structure and officers have been deployed according to skills and competencies.

(f) Putting up of the headquarters of the Kenya Fisheries Service in Nairobi with the regional offices in Mombasa, Kisumu and Turkana, including centres of excellence in Sagana and Kiganjo.

(1) Highlights of the initiatives undertaken:

(a) Sensitization of coastal counties on the Fisheries Management and Development Act, 2016, has been done. This is also going to be rolled out to other counties applicable.

(b) The development of Draft Fisheries Inland, Marine and Recreational Regulations and Fisheries Management Plans for various activities are going on.

The progress made towards the establishment of the Kenya Fish Marketing Authority (KFMA); list of names of the Chief Executive Officer, members of the Board and highlights of the key initiatives undertaken since formation are as follows:-

(a) The CS, Ministry of Agriculture, Livestock and Fisheries in exercise of his powers under Section 11(1)(c) and 201(1)(i) of the Act, appointed members of the selection panel to undertake the entire recruitment process of the members of the Board of Directors of the KFMA. The Ministry has also requested for the nomination of representatives from the various agencies, a process which has not been concluded.

(b) Fisheries Officers have been formally deployed to assist in the operationalization of KFMA and the implementation of the annual work plan and performance contract, 2017-2018.

The initiatives which have been undertaken since the formation of the KFMA are as follows:-

(a) Unbundling of the KFMA;

(b) Draft KFMA Strategic Plan; and,

(c) Fish Marketing Strategy.

The other concern was why Kenya continues to import unprocessed fish; to list the volumes of unprocessed fish imported in the last two years; the value of these imports in Kenya Shillings and their countries of origin.

The reasons for importation of unprocessed fish are as follows:

(a) Kenya has an estimated annual per capita fish consumption of 4.6 kilograms, which is far below the 20 kilograms international average and the 10 kilograms regional average.

(b) The estimated fish required to feed---

**The Speaker** (Hon. Lusaka): Chairperson, looking at your response, it is very long. So, I will request that you summarise it since you have already given the response to the questioner, who will then raise any issues.

**Sen. Lelegwe:** Thank you, Mr. Speaker, Sir. I am just concluding my statement. We have provided this response to the hon. Senator who requested for the statement. I will, therefore, go straight to the conclusion of the statement.

The following are the measures taken to improve the productivity of fish farmers in Kenya.

(a) The Ministry has taken measures to revitalise fish farming in Kenya following the challenges experienced during and after the Economic Stimulus Programme.

(b) The Ministry has rolled out the Aquaculture Technology and Innovation Transfer Programme to upgrade Sagana and Kiganjo to produce quality and affordable seed to enhance fish production.

(c) In addition, the Ministry will roll out the Aquaculture Business Development Project, which is set to rehabilitate non-functional fish ponds, introduce intensive fish culture technologies and enhance the capacity in post-harvest technologies and marketing.

Thank you, Mr. Speaker, Sir. That is the response by the Committee, and the Senator who requested the statement already has it.

**The Speaker** (Hon. Lusaka): Proceed, Sen. M. Kajwang’.

**Sen. M. Kajwang’:** Thank you, Mr. Speaker, Sir. When we started this Session, you issued a Communication from the Chair and indicated that you expected the response to statements to be signed by the Chairpersons of the Standing Committees when they bring them back to this House. However, what I have is signed by Dr. Andrew K. Tuimur, CBS, who has not been elected to this House and does not chair any committee. If you could provide guidance on that; whether this, then, is a legitimate statement that should be read before this House or not before I can query it.

**The Speaker** (Hon. Lusaka): The statement should be signed by the Chairperson of the Committee and brought to this House.

**Sen. Lelegwe:** Thank you, Mr. Speaker, Sir. We are aware of the procedures. I am tabling this statement as the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries. I am actually the Vice-Chairperson of the Committee and I am standing on behalf of the Chairperson. This is the response from the Ministry of Agriculture, Livestock and Fisheries, where we sought clarifications of the issues as raised by the---

**The Speaker** (Hon. Lusaka): The issue is that you are supposed to sign the statement as the Chairperson of the Committee.

What is it, Sen. M. Kajwang’?

**Sen. M. Kajwang’:** On a point of order, Mr. Speaker, Sir. I just wanted us to be clear about that so that Chairpersons do not repeat the same mistake in future. I also wanted to beg for your indulgence on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries. This is because he has laboured, brought the report and read it for about five minutes. If you allow me, with your indulgence, I could just prosecute this so that he does not come back with it tomorrow.

**The Speaker** (Hon. Lusaka): You can proceed.

**Sen. M. Kajwang’:** Thank you, Mr. Speaker, Sir. I am quite disappointed with this response. I represent fishermen and I am not the only one who represents fishermen here; Sen. (Prof.) Ekal from Turkana County, Sen. Justice Madzayo and so many others are here. When we passed the Fisheries Management Act in this House in 2016 and the President signed it in March 2016, one year afterwards in March 2017, the bodies that we created – the Kenya Fisheries Service, the Kenya Fish Marketing Authority and the Kenya Fisheries Council – commenced to the process of recruitment of the Board of Directors of the three bodies. In fact, there was a fourth body, which was to manage the Kenya Fish Levy Trust Fund. There was also a fifth one, which is the Kenya Marine and Fisheries Research Institute (KMFRI), which exists.

Mr. Speaker, Sir, the recruitment for these directors began in March 2017. Today is March 2018 and the process is not yet complete. A recruitment process that is almost as long as the gestation period of an elephant tells you that there must be something wrong and flawed with this recruitment. The only thing that this House can do is to demand that that process be terminated and started afresh. This is because fish matters are not rocket science and it cannot take you more than one year to find people to sit on those boards.

Mr. Speaker, Sir, the second thing that I wish the Chairperson to consider is that we sometimes ignore the goose that lays the golden egg. The statistics presented by the Chairperson indicate that Lake Victoria still contributes to about 80 per cent of the fish caught in this Republic, even though there is a great potential in marine; what we have been calling the Blue Economy.

Mr. Speaker, Sir, the Vice Chairperson says that some officers have been seconded to the Kenya Fisheries Service. Where are they when Kenyan fishermen are being arrested on the lake and taken to jails in Uganda and Tanzania? The intention of the Kenya Fisheries Service was to protect our fishermen. It was meant to be like the Kenya Wildlife Service (KWS). They were to patrol and survey the lake. Can the Vice Chairperson tell us where these people have been deployed to?

Mr. Speaker, Sir, in the Indian Ocean we still have Kenyan fishermen being attacked by pirates. We still have people coming to catch our Tuna and selling it abroad. Where are these officers and this organisation? I do not want to cast aspersions on people’s backgrounds and knowledge on fish, but we have been told that there is an acting Director General. It would be interesting to know how they were recruited.

Finally, the Vice Chairperson says that Kenya has an open trade policy, which is good, but it only comes up when we are talking about fish, cotton or pyrethrum. It does not come up when we are talking about flowers, milk, tea or coffee.

The report given by the Vice Chairperson is erroneous. He says that the problem in Kenya is that the demand is greater than the supply. However, when you look at the numbers he has represented, they indicate that supply from Lake Victoria has dropped from a peak of 128,000 tonnes in 2014 to only 96,000 tonnes in 2017. What has been happening? The lake has not been shrinking like Lake Chad; it is still the same lake and same nutrients. There are so many excuses. Our focus should be on improving production from Lake Victoria rather than encouraging imports from China. It will surprise you that we are even importing fish from Israel of all the countries. This is a failure on the part of the Government.

Mr. Speaker, Sir, I know that the Vice Chairperson will not have all the answers. Therefore, I want to recommend that he convenes a stakeholders' conference or forum, where Senators with an interest in this matter can interrogate the national Government and county governments, to find a way of operationalising the Fisheries Management and Development Act. While that goes on, we resolve to stop the procurement process that has been going on for one year.

**Sen. Faki:** Asante, Bw. Spika. Uvuvi ndio rasilimali kubwa kwa watu wa Pwani, kutoka Kiunga, Kaunti ya Lamu mpaka Vanga katika Kaunti ya Kwale. Kutokuwepo kwa taasisi maalumu ya kuangalia mambo ya uvuvi imeleta hasara kwa sababu *trawlers* zinazo milikiwa na wageni kutoka nchi za nje zinapata fursa ya kuingia na kuiba samaki wetu. Hali hiyo inasababisha upungufu wa samaki.

Ningependa kukubaliana na Sen. Kajwang' kwamba taarifa ilioletwa bungeni alasiri ya leo hairidhishi. Tunafaa kuunda tume ama mkutano wa *stakeholders* katika mambo ya uvuvi ili rasilimali yetu ya uvuvi isiende bure.

Bw. Spika, sehemu ya Kiunga mpaka Vanga ni kubwa sana, ilhali hakuna *patrols* za kuweza kuzuia uvuvi kutumia *trawlers* ambazo zinatoka nje ya nchi. Vile vile, kwa sasa, ili mtu apate leseni ya uvuvi inabidi aje Nairobi ilhali uvuvi ni sekta ambayo imekuwa-*devolved* kwenye kaunti. Jambo hili linaongeza *corruption*. Sio sawa kumlazimisha mtu kusafiri kutoka Mombasa au Lamu kutafuta leseni ya uvuvi kwa sababu atagharamika kusafiri na kulala ilhali leseni inaweza kupatikana sehemu yoyote katika Jamhuri ya Kenya.

Bw. Spika, namuunga mkono Mhe. Kajwang' kwa maelezo aliyotoa.

**The Speaker** (Hon. Lusaka): Let us keep it short.

Proceed, Sen. Wamatangi.

**Sen. Wamatangi:** Mr. Speaker, Sir, I support the position expressed by the Senators on this issue. Earlier on people used to perceive fishing as a matter reserved or secluded only to the counties around Lake Victoria and the Indian Ocean at the coast. Right now, families all over the nation benefit from fish farming. If you go to any part of the country you will find that many young people have taken up fish farming, which they do in fish pods.

Mr. Speaker, Sir, it is important that this matter be looked into. The Senator for Mombasa has expressed it very well that this is now a function devolved to the counties. As the Vice Chairperson reports back, he should address what the counties have done in regard to the attack of the lakes by the water hyacinth. Even as we battle the failures by Kenya Fisheries Service, and this being a devolved function, we should hear what the county governments have done to fight the hyacinth mayhem, which has caused the diminishing of fish. If we are quiet on that, we will not be addressing the problem.

**The Speaker** (Hon. Lusaka): This was a Statement and the answer has been requested. The Vice Chairperson has been challenged to convene---

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

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

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, as you give your direction, I want to correct my distinguished brother from Kiambu County that fishing is actually a shared responsibility by the national Government and the county governments under the Fourth Schedule of the Constitution.

As the Vice Chairperson takes your direction, could he bring information as to why, for instance, Migingo Island which is barely 10 kilometers from the shores of Lake Victoria on the Kenyan side, is routinely attacked by policemen from Uganda, coming over 250 kilometers from Entebbe? Secondly, why is the Kenyan maritime boundary, that I did in conjunction with the previous Government and extends from 200 nautical miles to 450 nautical miles, with some of the richest catches of Tuna, is left to fish poachers from Spain, Korea, China and other countries with no patrols and protection from our Government?

Lastly, I want to encourage Sen. M. Kajwang' that this is a matter that cannot be resolved by the distinguished Senator giving an answer here. He should bring a Motion and set up a select committee, so that we can extensively look at the fishing industry in the country, both in the water masses of Lake Victoria, Lake Turkana, Lake Naivasha, the sea and the mushrooming fish ponds that the Government was committed to create employment for young people, without a corresponding marketing structure.

**The Speaker** (Hon. Lusaka): Vice Chairperson, you have been challenged with several options. Can you respond so that we make progress?

**Sen. Lelegwe:** Thank you, Mr. Speaker, Sir. I have noted the concerns and issues that have been raised on the Statement by the Senators who have spoken. I request that as a Committee, we be given two weeks to respond to the issues that have been raised right now. We note the important concerns and request for two weeks.

**The Speaker** (Hon. Lusaka): What is your concern, Sen. Outa?

**Sen. Outa:** Thank you, Mr. Speaker, Sir, for giving me a minute. I want to bring to the attention of the Chairperson the fact that the imported cheap fish from China is causing great danger to people in Kisumu County. If research was to be done today among our people, it will show that the birth rate has gone down significantly in Kisumu County. Is it possible to stop importing fish from China because it is causing more harm to our people?

Lastly---

**The Speaker** (Hon. Lusaka): Order, Senator! I had given direction on that.

I am sure the Chairperson will address all the other issues that have already been raised here. Hon. Senator, you can see him after that.

I also know that Sen. Ekal will give his contribution because this is not the end of the story. We will still continue with the conversation later.

Let us now hear the Chairperson on Standing Committee on Land, Environment and Natural Resources.

#### COMPENSATION TO PERSONS DISPLACED BY THE SGR PROJECT

**Sen. Mwangi:** Mr. Speaker, Sir, this statement is very important. Unfortunately, it is not ready. I request for one more week.

**The Speaker** (Hon. Lusaka): Was a statement on the Standard Gauge Railway (SGR)?

**Sen. Mwangi:** Yes, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): So, do you want one more week?

**Sen. Mwangi:** Yes, Mr. Speaker, Sir. One more week will suffice.

**The Speaker** (Hon. Lusaka): Sen. Faki, what do you say?

**Sen. Faki:** Mr. Speaker, Sir, you gave the distinguished Chairperson of the Committee on Energy, Roads and Transport more than three weeks. However, I reluctantly accept that he be given one more week because he is my friend.

*(Laughter)*

**The Speaker** (Hon. Lusaka): Okay. Chairperson, you know time is not a strategy. One week will come. So, make sure that you have a response in one week.

**Sen. Wamatangi:** On a point of order, Mr. Speaker, Sir. Let me correct the Senator for Mombasa County that not the Chairperson for Energy, Roads and Transport. The Chairperson of the Standing Committee on Energy, Roads and Transport does not have habit of postponing statements.

I am the Chairperson of Energy, Roads and Transport. I am sure he is referring to another Committee.

**Sen. Mwangi:** On a point of order, Mr. Speaker, Sir. Is it in order for the Chairperson of the Committee on Energy, Roads and Transport to insinuate that I have the habit of delaying statements and he knows the problems that chairpersons go through before they get responses?

**The Speaker** (Hon. Lusaka): He said that his Committee does not delay in bringing Statements. I think it was on a light note.

**Sen. Sakaja:** On a point of order, Mr. Speaker, Sir. Last week, I raised a concern that many of our young people who visit us in Senate, unlike what used to happen in the past, they are no longer being recognised.

The tradition has been that we recognise the school or institution. If time allows, we even say something to them. Has that changed? In fact, last week, a group that had gone out was sent back in. Today, there have been two schools in the Public Gallery, but none of them were recognised.

That is what I want to draw to your attention.

**The Speaker** (Hon. Lusaka): Order, Secretariat! That is wrong. We need to acknowledge all the visitors who come to this Senate in accordance with our tradition. Otherwise, it will be discriminatory to recognise some visitors and leave out others. So, I direct that we recognise all visitors who come to the Senate. So, those who are in charge, please, take note of that.

**Sen. Mwaruma:** Thank you, Mr. Speaker, Sir, for this opportunity. Let me make some observations about riding on questions. I have discovered that the answers that the Chairpersons are bringing are not considering the part of the riding, rides or riders.

*(Laughter)*

I rode on the statement of the SGR. I would beg the Chairperson of the Committee on Lands, Environment and Natural Resources to read a copy of the HANSARD and address the concerns of the people of Taita-Taveta County whose land was taken by SGR and have not been compensated.

**The Speaker** (Hon. Lusaka): The Chairpersons are here and they have noted that. Whenever there are riders, please, take note of their concerns and include them in your responses.

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Speaker, Sir. The practice is that when a statement is sought from Ministry, they are given a copy of the HANSARD to see concerns of hon. Senators. Therefore, the issue raised by Sen. Mwaruma is correct. The person answering the question has a statement and the HANSARD with the extra information that was sought. That matter ought to go to the Secretariat. The Clerk should check for us.

**The Speaker** (Hon. Lusaka): It is noted.

**Sen. Dullo:** On a point of order, Mr. Speaker, Sir. I wanted to raise the concern by Sen. Mwaruma. When they are doing a letter requesting for a statement, a copy of the HANSARD is normally availed to them. I hope that practice is being kept.

**The Speaker** (Hon. Lusaka): Okay. The Secretariat has noted. Hon. Senators, it is already 4.00 p.m. so, the other statements will roll over.

PROVISION OF WATER SERVICES TO  
KITENGELA TOWNSHIP AND ITS ENVIRONS

EFFECTS OF CLIMATE CHANGE ON PASTORALISTS

CONSTRUCTION OF APARTMENT BLOCK ON  
THE NAIROBI RIVER BANK

ALLEGED MURDER OF MS. NATEMBEA BY HER HUSBAND

LICENSING AND CO-ORDINATION OF LIQUOR RELATED LAWS

DEROGATORY SONG AGAINST THE KAMBA COMMUNITY

*(Statements deferred)*

Next Order!

**BILLS**

*Second Reading*

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

I have allowed that Order to be deferred to next week.

*(Bill deferred)*

Next Order.

*Second Reading*THE ASSUMPTION OF OFFICE OF THE COUNTY  
GOVERNOR BILL (SENATE BILLS NO.1 OF 2018)*(Sen. Wamatangi on 8.3.2018)**(Resumption of Debate interrupted on 8.3.2018)*

**The Speaker** (Hon. Lusaka) Sen. Wamatangi, you may take the Floor.

**Sen. Wamatangi:** Thank you, Mr. Speaker, Sir. Last week, I had already moved this Bill, but debate on it was interrupted before I finished. However, I had a few more points to highlight and then wrap up.

Allow me to do a quick recap for the benefit of hon. Senators who were not present then. When debate was interrupted at the rise of the House, I had largely taken Members through what I had intended to propose in this Bill. The principle object of this Bill is to provide for procedures and ceremony for the assumption of office of the county governor by the county governor-elect. Currently, there is no legal framework governing the assumption of office of the county governor. That is what this Bill seeks to do.

Secondly, the assumption of office of the county governor by the governor-elect with the necessary modifications of the assumption of office, also envisages the position of the office of the deputy governor-elect or the speaker of the county assembly, this is premised in Article 182(2) and (4) of the Constitution. I may not want to read that Article again. I had already done that. I am just trying to pick on some of the highlights.

I had also highlighted that in Clause 5 of the proposed Bill of the Assumption of the Office of the County Governor Bill; we have proposed the formation of an *ad Hoc* Committee whose lifespan will expire at the time the work of the assumption of office by the governor is over. In that respect, we have included a list of the officers within the county government whom we propose to be the members of that Committee. I had highlighted that that Committee will include:

- (a) the County Secretary who shall be the chairperson;
- (b) the principal legal adviser in that respective county;
- (c) the Chief Officer in the department responsible for matters relating to county public service;
- (d) the Chief Officer in the department responsible for matters relating to information and communication;
- (e) the Chief Officer in the department responsible for matters relating to finance;
- (f) the Chief Officer in the department responsible for matters relating to public works, roads and transport;
- (g) the County Commissioner;
- (h) the head of the National Police Service in the county;
- (i) the Policing Authority representative in the county;
- (j) the Clerk of the County Assembly; and
- (k) two persons nominated by the Governor-elect.

Mr. Speaker Sir, those are the individuals envisaged to be members of the *ad hoc* Committee to be known as the Assumption of Office of the County Governor Committee.

Those individuals are within the county and they hold key positions, important information, and for purposes of continuity, they are able to help the Governor-elect assume office with a seamless and continuous flow of the information that may be necessary.

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

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

Mr. Deputy Speaker, Sir, Clause 6 of that Bill also provides for the functions of that Committee which are envisaged as follows:

- (a) facilitate the handing over process by the outgoing Governor to the Governor-elect;
- (b) ensure the provision of security services for the Governor-elect;
- (c) put in place the necessary facilities and deploy the necessary personnel to be at the service of the Governor-elect upon assumption of office;
- (d) coordinate the briefings of the Governor-elect by relevant county public offices;
- (e) facilitate communication between the outgoing Governor and the Governor-elect;
- (f) prepare the program and organize the swearing-in ceremony, and;
- (g) carry out any other activity that may be necessary for the performance of the functions of that particular Committee.

I am skipping a lot of details because I gave most of those details and explained to the House the relevance and importance of most of those clauses. I am just taking a swipe at what I had already spoken about in the last session just to refresh the minds of my colleagues so that as they contribute, hopefully to support it, they may be informed.

Mr. Deputy Speaker, Sir, in Clause 9 of the Bill, it tasks the Committee with the duty to provide adequate security for the county Governor-elect and the Deputy Governor-elect upon declaration of the final results by the Independent Electoral and Boundaries Commission (IEBC). In this Clause 9, we envisage a scenario as happens most of the times when elections are over. The IEBC's presiding officer announces the results sometimes in public halls which are full of people and where the individuals present at the tail end of announcing are sometimes the bitter rivals who have been competing for that position. Sometimes they are more than one. We presume that to ensure that the county Governor-elect is safe---

It is on record in this country that there have been violent attacks, destruction of materials, papers and even harm or injury to the person who is elected. That is why we have made it necessary that the security detail of the Governor-elect commences at the time of the announcement of the results in the place it is announced by the IEBC. That is what is provided for in Clause 9.

Mr. Deputy Speaker, Sir, the Bill also plays out quite a number of scenarios that would address some of the recent cases that have been observed to have put county governments either in anxiety or limbo following the passing on of individuals who are elected. In this case, the Bill envisages that if the Governor-elect dies after being declared as the county Governor but before assuming office of the county Governor or is unable to

assume office then the Deputy Governor-elect shall be sworn in as the acting Governor and fresh elections shall be held within 60 days after the death of the Governor-elect.

This is important for us to remind ourselves that it is not provided for in the earlier Act. If a governor is elected and people expect that he will be proceeding to assume office; and in that intermittent period, the individual passes on before assuming office; the vacuum that exists is what we are trying to address in this situation by ensuring that the county Deputy Governor-elect can assume office but with a rider in the provision in law that fresh elections must be held. A timeline when that election should be held is given of 60 days.

In addition, if a county Deputy Governor-elect dies before assuming office--- I stressed this point last time so that my colleagues can also understand and internalize this. If a county Deputy Governor-elect dies before assuming office or is unable to assume office then the office of the county Deputy Governor will be declared vacant on assumption of office by the person who has been declared elected as the county Governor. If you have an individual who has been elected by the people of a county in the course of the provision that a Governor running must have a running mate--- If his running mate has been elected alongside the governor and before the two assume office, then the Deputy Governor either dies or is unable to assume office for all the other envisaged reasons, there should be a provision of filling in the office of that county Deputy Governor.

Although this kind of scenario has not arisen from death, it has been played out even in cases where a governor has exited or resigned after elections, but we address that even downwards. So, the Governor-elect upon assuming office should declare that position vacant.

This Bill also further sets out timelines and the procedures of swearing in a person who assumes the office of county Governor under Article 182 (2) of the Constitution. That Article states that:-

“If a vacancy occurs in the office of county governor, the deputy county governor shall assume office as county governor for the remainder of the term of the county governor.”

This is the scenario that played out in Nyeri County when the Governor, the late Dr. Gakuru, passed on. The office was assumed by the Deputy Governor. The timelines that we have sought to set flow downwards. The procedure is as follows: Under Article 182 (2) of the Constitution, the Bill gives power to the person who assumes the office of county Governor under Article 182 (2). That is the person who has assumed that office after the passing on of a governor. He is empowered, with the approval of the County Assembly, to nominate a Deputy Governor within 14 days. A Motion of approval of appointment of that Deputy Governor should be supported by a majority of the members of that county assembly.

Again, this attempts to deal with that same scenario whereby you have a Deputy Governor who was elected alongside a Governor then the Governor is unable to proceed with office for various reasons. In this case, when the Governor has passed on, the Deputy Governor will assume that office.

The Deputy Governor will address that office but then, how do you address the vacuum that will arise now that he has become the Governor and left the office of the Deputy Governor? We have addressed that and given a timeline to ensure that there is

concurrence with other elected officials of the County Assembly, so they fill the office together.

The Bill also sets out instances when the office of the deputy county governor may become vacant. For instance, when the deputy county governor dies, resigns, ceases to be eligible for nomination, assumes the office of county Governor under Article 182 (2), or he is convicted of an offense punishable by imprisonment or is removed from the office under the procedure provided in the Bill.

The Bill provides for the swearing-in of the county governor-elect to be conducted in a public ceremony before a High Court Judge or in the absence of a Judge, before the resident Chief Magistrate. It sets out that the swearing-in ceremony shall take place on the first Tuesday, following the 21<sup>st</sup> day after the declaration of the results of the county governor.

Mr. Deputy, Speaker, Sir, this procedure is important. We all remember the scenarios as I listed last time after the elections of the year 2013 when there were chaos because there were no guidelines as to how the procedure will be executed. It is important for people to understand. The key word to stress here is the persons or the people who are empowered by this law to carry out the swearing-in ceremony. I have seen the Senate Minority Leader walking out at that particular point. It is the resident High Court Judge who should carry out that task of swearing-in the county governor.

Mr. Deputy Speaker, Sir, in Clause 17, the Bill provides the handing over of the county symbols as a sign of transfer of executive power and authority. Most counties even as of now do not have a county flag and a public seal. I remember attending one of the swearing-in ceremonies and I saw one governor handing over to the other some small gift or something that looked like an elephant, like the ones given during the price giving day. This will require counties to make sure they have developed their instruments of power, county flag; they have the Constitution of Kenya 2010 and the county public seal. These are the instruments of power and authority that should be handed over during the handing over ceremony for the county governor-elect.

Clause 17 (2) of the Bill sets out the circumstances in which the handing over of those instruments shall not apply such as when the outgoing governor is not present during the inauguration or when the incumbent is re-elected to office. Since, it is the incumbent who has been in that office he does not need to hand over the same instruments back to himself.

However, there might be instances when the outgoing governor, for various other reasons, either genuine or not - he could be sick, indisposed or may out-rightly refuse to attend like we saw in some of the cases.

In Clause 17 (4), we qualify that failure by an outgoing county governor to hand over the instruments of power to the county governor-elect, shall not invalidate the assumption of office. Some of the rogue cowboy governors, like they did last time, may think that by refusing to go for the handing over ceremony of those instruments of power, that they will paralyse it.

They may think they can invalidate the process because there are timelines that are set by this Bill; that it will be done on this day between a given time. Somebody may decide to go and take a few bottles of beer to frustrate the county governor-elect and arrive late or out-rightly refuse to come. Failure by a governor who has lost the election

to handover the instruments of power cannot invalidate the election of that county governor.

Mr. Deputy Speaker, Sir, Clause 18 provides for the taking of oath of affirmation of the deputy county governor-elect immediately after the governor elect. In addition, Clause 19 of the Bill affords the governor an opportunity to give an inauguration speech upon signing of the certificate of inauguration. In those two issues, first is to give a procedural arrangement that is neat, decent and hierarchical such that it is the governor who is sworn in first then the deputy governor follows. It brings in not only a sense of authority and neatness and precision to this particular ceremony, it is also the right thing to do so there is not mix up.

There is an opportunity for the governor to give his inauguration speech. That is vital because when governors are running for office, unlike what happens in other elections, for example, in the presidential election where you find that candidates from various parties are required to show people of the country what they stand for. They create manifestos, market themselves and tell the people that upon elections this is what I am going to do.

If we do not provide for a scenario where, after being elected, the county governor can address his people and say, 'now that you have given me this instruments of power and mandate, this is what I am going to do for this county'. Those are the parameters or promises a governor-elect, upon expiry of his term, can be held on account and people may ask him.

Again, it is important for people for their own sake, to judge and see what kind of person they have given this opportunity to run their county. Not forgetting that it is provided for in the constitution the process of impeaching the governor. One may find that if you have at that time discovered that the person they have given this mandate is either not able to execute or below par then probably that will be the point at which it is important to judge. The provisions for the county governor-elect to give an inauguration speech are important.

The Bill requires that the assumption of office of County Governor Committee to generate a report within a period of one month from the swearing-in ceremony, for tabling before the County Assembly. This report should contain the financial statements of the Committee, a description of the activities of the Committee, such other statistical information as the Committee considers appropriate relating to the mandate and any other information relating to the functions that the Committee considers necessary.

In this particular clause, the Committee is empowered by law to undertake the process of facilitating this governor, including financial obligations and other facilitation. It is important that the Committee may not operate either; yes, it will be autonomous, but we should address cases where it is possible for the Committee to act in a rogue manner or with too much latitude where they may think that they are not going to be held accountable for things that they did, like how they incurred expenditure of public finances. That is why it is important for them to table within a month those requirements; financial reports that describe its activities so that they are accountable to the people of that county.

The Bill requires that the assumption of office of county governor Committee has the report gazetted because that makes it official, legal and acceptable in the eyes of the law, after it has been gazetted. Clause 22 of the Bill requires that the assumption of

office of the County Governor Committee shall also publicise all information within its control that affect the county.

It also provides for the procedure to be followed when requesting for information from the Committee. This committee is not going to operate alone in isolation. It is not beyond members of the public of that County to ask questions to this Committee. It is important that there is a procedure upon which information that may be useful to Members of the county be availed and a procedure provided for. The necessity for publicising the information is also noteworthy because this information is public and is supposed to be published for all to know.

Clause 23 of the Bill gives power to the Assumption of the Office of County Governor Committee to decline a request for information. This is in line with Article 35 of the Constitution on access to information, where disclosure of such information would be prejudicial to the security arrangements in place for the assumption of office of the county governor; it is undesirable in the public interest; or when the information requested for is at a deliberative stage by the Committee.

What we are saying is that it is not under all circumstances that information is sought from this Committee at this sensitive period. The period between which the governor-elect is declared to have won the election up to the time when he or she assumes office remains to be a sensitive period until it expires when the process is over. Some information sought at this time could be used to sabotage the process, the Governor-elect or even the county.

So, this committee has some room within which they can decide which information to disclose at the time of receiving the request, as guided by the law and provisions of Article 35 of the Constitution. If passed, the Bill will provide for the procedure of assumption of the Office of county governor and the deputy county governors. It will also serve to strengthen the principles of devolution as entrenched in Chapter 11 of the Constitution.

Mr. Deputy Speaker, Sir, as I conclude, in 2013 when we went to our first elections after the acceptance of the 2010 Constitution by the people of the Republic of Kenya and we accepted devolution as our system of our Government, it is on record that each of the 47 counties, for lack of these provisions, received Kshs60 million for the purpose of the assumption of the office of county governors. I can authoritatively say, as a Member of the County Public Accounts and Investments Committee (CPAIC), that there is not a single county out of the 47 that has ever accounted for this money meant for this exercise.

In fact, we received a lot of queries from the Auditor-General on the same. When the Kshs60 million was given, the first presumption by the governors-elect then was that this money was for decorating, publicising and merry making during this particular ceremony. That is why we saw Governors arriving at the ceremony with new cars without number plates. They would go to the show-rooms with part of that money, order for a vehicle and say put a KG number plate, because they had to go there. There are some who even invited relatives and friends. In fact, I remember a joke in one of the cartoons where one Governor had somebody bake a five-storey cake for this ceremony. It is not bad to celebrate; however, one must do so with responsibility. At that time, a lot of public funds were lost.

Mr. Deputy Speaker, Sir, with this kind of law in place, because public resources will always be in use for such ceremonies, there will be accountability. People will be held to account by law and, indeed, they will owe an explanation for their actions backwards. Secondly, this Bill will address all manner of perceived and intended chaos that may arise out of this process. Most importantly, it will address, for example, the existing scenario here in Nairobi County, where the Deputy Governor who was elected alongside the Governor, resigned. As we speak, I am aware that there is a ruling that is said to have been given, giving Governors the okay to appoint Deputy Governors. However, that is not premised or provided for in law. We need to address such scenarios where a Deputy Governor may resign.

Lastly, Mr. Deputy Speaker, Sir, I have already referred to the scenario that played out in Nyeri, when the late Governor, Hon. Gakuru, passed on. This raised a lot of questions up to date; including the question of legitimacy. These are issues which require to be addressed in law to provide for a smooth and seamless transition when these kinds of events occur.

Therefore, Mr. Deputy Speaker, Sir, I beg to move that the Assumption of Office of County Governor Bill (Senate Bill No. 1 of 2018), be now read a Second Time.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator Wamatangi. Your last words should always be “I beg to move”.

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, I beg to move and request the Senator for Makeni, the Duke of Makeni---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator! We have no Dukes in this Chamber; there is no single Duke in this Chamber! Order, Senator!

*(Laughter)*

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, this is a title we have bestowed upon him. I had the opportunity to witness that he also has a Duchess. However, I request the Senator for Makeni, Sen. Mutula Kilonzo, to Second the Bill.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Mutula Kilonzo Jnr., please confirm whether you are a Duke.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, that is a reference given to me by my colleagues. I have never denied the title of Duke.

Thank you, Hon. Deputy Speaker. I rise to support the Assumption of Office of the County Governor Bill (Senate Bill No. 1 of 2018), and congratulate Sen. Kimani Paul Wamatangi for this Bill. Unfortunately for us, this is a Bill that we discussed and debated at length during the last Session. My colleague, Sen. Wamatangi, was like a prophet or a seer. The handover ceremonies that were done after the last General Elections were a sham, full of drama like a circus and a soap opera.

For example, in the County Government of Kitui, the outgoing Governor decided not to attend the ceremony, while the outgoing Governor of Nairobi decided to come with books, and we do not know what books they were. The outgoing County Governor of Kiambu, where Sen. Wamatangi comes from, refused to attend altogether. Others handed over flags while others handed over many contraptions and other things.

Mr. Deputy Speaker, Sir, immediately after we passed this Bill in the Senate and it was transmitted to the National Assembly before the general elections, the then Cabinet Secretary in charge of the Ministry of Devolution and National Planning, hon. Mwangi Kiunjuri, followed up on this Bill and then, instead of this Bill being passed, he issued a circular.

Mr. Deputy Speaker, Sir, regarding the lacuna that my colleague, Sen. Wamatangi has pointed out, the rest of us have not even seen the hole that is going to be created if we do not have a legal framework. Twenty six Governors are going to leave office by virtue of law in a single election, because their second terms would have come to an end. Without a legal framework, we will have a tragedy.

Mr. Deputy Speaker, Sir, Gov. (Prof.) Anyang Nyong'o invited me to his county to speak to some of his County Executive Committee Members (CECs) on some laws regarding devolution. You will be surprised that in the County Government of Kisumu, there was no single paper that was handed over to Gov. (Prof.) Anyang Nyong'o. In another county, a generator was found in a private residence. Maybe several other things have not been found in many other counties. Unless we put in place a legislative framework that is compulsory and must be followed with penal sanctions to outgoing governors, counties will be mortgaged and auctioned and there will be no reports and nobody will fine the governors.

I hope that the committee that will interrogate this Bill will look at the matters that Sen. Wamatangi has ably put in Clause 17 which provides that the county flag, the Constitution and the public Seal shall be handed over. What about a schedule of debts and assets and the number of staff that a county has? If we elect governors and call them Chief Executive Officers (CEOs) of counties under Article 179, then they must behave like CEOs. We must demand that they hand over. Otherwise, assets of counties will disappear.

I am happy that the Supreme Court has seen the wisdom of some of the provisions in Sen. Wamatangi's Bill. This was manifested in the Supreme Court advisory opinion referenced Number 1 of 2015 to the Speaker of the County Assembly of Embu on the assumption of office of deputy governor. Sen. Wamatangi and the rest of us have to figure out where to lay this properly. The Bill by the Senate Majority Leader has the provision on assumption of office in the absence of the deputy governor and if a governor dies like in the case of Nyeri and Nairobi counties. The Bill on impeachment also has these provisions. So, we must find a good place to house it. Otherwise we should synchronise all of them.

For the record, this is what the Supreme Court said:-

"We adopt the observations of the court in earlier advisory provisions on Article 59. In Article 61, the foregoing principles call for the reading of Article 182 of the Constitution alongside Article 149 which makes provisions for the procedure and timelines for filling the vacancy of the office of the deputy president." In law, we call them *statutes in pari materia*.

"From the signal embodied in Article 149 and in the absence of any applicable legislation, we hold that where a vacancy occurs in the office of deputy county governor, the governor shall within 14 days nominate a person to fill that vacancy. The county assembly shall vote on the nomination within 60 days after receiving it and where the

vacancy occurs in both offices of the governor and deputy at the same time, the office of the county governor shall remain vacant until election of a new governor.”

This matter is now open and shut. All we need to do is to pass Clauses 13 and 14 of Sen. Wamatangi’s Bill to be in line with the Supreme Court’s advisory opinion issued by the court last week. In my own view, it should mirror Article 149 of the Constitution. I hope the dialogue between the President and the Rt. Hon. Raila Odinga will culminate in constitutional amendments. This is one of the things that should find its place somewhere in Article 182, so that we do not have to mirror Article 149, so that it becomes legal. This is an exceptional circumstance which the Supreme Court has found wise and the Supreme Court is forever wise that Sen. Wamatangi was right all along.

Sen. Wamatangi has proposed a committee but I have a problem with that. First of all, the committees in most of the counties sat for too long and in some cases like the county Government of Kisumu, they left a bill of over Kshs2 million. You may wonder what they were doing. They are taking the assumption of office too far. The idea of assumption of office is to provide a healthy environment, security, a ceremony and a platform.

I want Sen. Wamatangi to read with me Clause 5(2)(k) where the Bill makes a provision for two persons nominated by the governor-elect. If the committee is to sit 30 days before elections, the two representatives of the governor-elect will not be there. So, there must be an amendment stating that the two persons nominated by the governor-elect will sit once after the results of the elections have been declared.

We do not have to wait for 21 days to swear a governor. Some of the outgoing governors could be mischievous. I propose that immediately after elections, if the committee is to sit 30 days before elections, we must have assumption of office within seven days and, at most 10. We cannot afford to wait. What if the governor becomes rogue and sends goons to the county or it becomes impossible to have an assumption and swearing-in? I personally propose that we make the process shorter, so that the county can move on as quickly as possible.

Mr. Deputy Speaker, Sir, you will agree with me that you do not want a governor sworn-in by a resident magistrate. Clause 15(1) provides that the swearing-in of the county governor-elect shall be conducted in a public ceremony before the resident High Court judge, or, in the absence of the resident High Court judge, the resident Chief Magistrate but we do not want that. We must insist that the boss or the CEO of the county must be sworn in. Let us make the oathing serious by having it before a judge.

Clause 15(2) provides that the county governor-elect shall be sworn in 21 days after declaration of the result but I think that is too long. It should be as quickly as possible so that the county can move on. The reason is that there is a 14-day period that is given for nomination of County Executive Committee (CEC) members immediately after the swearing in. If you make it 21 days, you have to add 21 plus 14. So a county will operate without a county executive committee for a period of 21 days after elections plus another 14 days and that is too long. I would propose a shorter period so that the county governments can move quickly.

Security is paramount and it is important that security is provided for. We have a challenge that we brought forth to this Senate in the previous session. There are governors who hired over 3,000 people before elections. There are governors who entered into contracts to provide services a day before elections. Is it not in the interest of

counties that we find a place to plug something? Whatever clause we craft, we should ensure that they do not borrow because they can borrow. They should also not charge because they can charge assets, believe it or not.

The former Senator for Nandi, Governor Sang, told me that three members of his former executive got loans using a county government account as security. What will stop the 26 outgoing governors from doing the same? The purpose of the assumption of office should not be to create a red carpet ceremony or beautiful toilets and food. It is to find a method where a governor leaves office in a simple manner but we cannot allow them to start borrowing a month before elections because he might lose and leave a debt.

The Controller of Budget said that between 2016/2017 the County Government of Nairobi incurred a pending bill debt from Kshs13 billion to Kshs59 billion within that financial year. That is the mischief.

I propose that we have a clause on handing over of documents. If that is left to the county secretary or the committee, there must be a way to close accounts and ensure that assets are not mortgaged. For example, tractors were found in people's compounds in Nandi. That happened during the handover between the county governments and the national Government.

Senators here might not know why people were opposed to the Transition Authority (TA). Kinuthia Wa Mwangi had a point but the TA became an enemy of state the day it suggested that there should be a schedule of assets and liabilities. So, the Transition Authority left office without handing over anything to anybody. There are people who are hiding debts in counties. There are debts that were incurred prior and are not on record. Therefore, that specific clause that will ensure there is no mischief in the handover other than the ceremony itself is something that should be done.

Mr. Deputy Speaker, Sir, in terms of reporting, it is good that you said that they should publicize and there should be access to information. We have also put a caveat limiting access to information. However, I do not believe that it is necessary to cap information access. We must do these things in the open. As I have said, in two counties they left a pending bill of over Kshs2.5 million for endless meetings that do not make sense. Therefore, that cap on the access to information must be clear, so that by the time the committee is handing over to the new governor, there is a clear guideline. This will guard against being ambushed with information or information coming in reverse.

There is something that is happening in counties. The bills that were incurred before the election are being keyed into the Integrated Financial Management Information System (IFMIS). The governors walk into the office and find payments being done. They are told: "They had been keyed in to go to the IFMS. However, there was a delay and, therefore, it did not go through." So, some of these intricate public finance management issues are important in this Bill besides what I mentioned before, so that we do not have these problems.

Mr. Deputy Speaker, Sir, lastly, this is one of the Bills that the Senate must see through, because it is going to protect counties. I suspect that some of my colleagues here will end up in the counties and would not want to find a shell. If we do not check we will actually find a shell. It is actually scary to imagine that governors will incur debts. Also, the County Executive Committee (CEC) Members will key into the IFMIS bills way after the elections because we have no legal framework. We do not want the national Government to issue circulars to counties because that is the work of the Senate.

We must protect our space, otherwise, these circulars will substitute the Senate and at one time we will become irrelevant.

With those few remarks, I beg to support.

*(Question proposed)*

**Sen. Cheruiyot:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to make my contributions to this important Bill. As the Senate, we are here to address such emerging issues that have been brought by my good friend, Sen. Wamatangi.

When I realized that this Bill is being read a Second Time, it crossed my mind that this is one of those rare occasions that, as parliamentarians, we get to contribute to a similar Bill twice. I made my contribution to this Bill last term, but with the intrigues that Sen. Mutula Kilonzo Jnr. rightly observed, it never got to pass all the rigorous stages for it to be considered public law. Today, we got a chance to make our contributions once again.

This Bill is necessary for those of us who have keenly followed the events in our counties in the initial stages of devolution. As we move to the second term, as the Senate, we would be called upon on many occasions to come up with solutions to the increasing emerging trends and this particular Bill has addressed quite a number of them. It is my sincere hope that, as Senators, we shall continue to develop good pieces of legislation. Consequently, this will improve the operations of our counties, defend them and give Kenyans a basis of hope and realize that all is not lost despite the teething problems that we are experiencing.

Mr. Deputy Speaker, Sir, I have a few observations to make. Overall, most of the points that I wanted to speak to have already been addressed by the Mover of the Bill, Sen. Wamatangi, and Sen. Mutula Kilonzo Jnr. while he was seconding. Therefore, I do not want to repeat. However, there are a few areas of improvement that Sen. Wamatangi may want to consider. Clause 5 (2) talks about the people that shall form an *ad hoc* committee.

In many instances where we have drafted laws, the common practice is to have a committee that consists of an odd number of members for purposes of decision making. When a matter has to be put to the vote, we need to end up having a tie breaker. My count of the number of people that have been proposed to be in the *ad hoc* committee is 12. It would be a good idea we consider making the number either 11 or 13, to cater for instances where we need a tiebreaker during voting. Otherwise, we may end up having a stalemate. As you know, this is a political cause and people may hold different opinions and certain things may happen.

I have also noted in Clause 5 (4) that the Chairperson of this committee is supposed to convene a first meeting of the committee 30 days before the date of the general elections. I want to know what would happen in a re-election cycle. For instance, in every election there will be governors who will be defending their seats, and the chairperson of this committee is a county secretary who is an appointee of the governor. What will the governor say when they hear that we have set up an assumption of office committee? There is some connotation to it. You may be taking the second oath as a

newly elected governor, but there is something about it that raises some questions. I do not know how we intend to address that mischief.

Mr. Deputy Speaker, Sir, the quorum of the meeting is important since the committee sits down and gets to determine the time and venue of the swearing venue. Our country is becoming an increasingly litigant nation. Therefore, the quorum should be looked at so that mischievous people do not go ahead to set up a separate committee elsewhere. One-third of a committee of 12 is four members. We have seen instances in the Kenya during elections where somebody raids a tallying centre just before elections results are declared. Such instances may happen especially given that it is the governor's seat, which is the second most prized political sit after the President in this country.

Such instances will be common in future because people are beginning to understand the importance and the power of devolution. When the quorum is set at four members, we may end up with a dispute because we will have four members on either side. My opinion is that we need to raise the number required to form the quorum for this committee.

When making my contributions to various Bills brought before this House, I am always keen on the language we, as lawmakers, use. We always have advisory opinion from the High Courts and the Supreme Court. They keep saying that:

“We, as the judges, are not the drafters of law. It is you, as the legislators, who are to amend these pieces of legislation before you bring them to us and they must be in extremely clear language.”

I have noted this and raised it with the Directorate of Legal Services. I have told them that on many occasions where we have certain phrases that are common in Bills, they must be careful. Sometimes we end up quoting certain sections of the law without keenly thinking of their implications and how people may mischievously choose to misinterpret them and use them for not very good purposes.

For example, Clause 8 of this Bill reads as follows:

“Except as otherwise provided in this Act, the Committee shall determine its own procedure.”

It is an extremely open-ended statement that on many occasions, you will find it being included in many of our Bills. You might not understand what the drafters of this legislation are saying. However, I think there is a way in which we can put it to mean that if there is no direct expression on certain aspects of how meetings are to be conducted, certain measures within the confines of logic can guide these meetings in a proper way without opening room for mischief. That is something for us to consider.

I also find that there is a proposed penalty in Clause 10 of the Bill of Ksh300,000 to a public officer who fails to comply with these provisions. We are talking about serious issues here such as the documents that Sen. Mutula Kilonzo Jnr. was talking about. We may have an officer in charge of the county finances, but he fails to appear before a committee and he is fined Kshs300,000.

This is a fellow who may delay a meeting by a day because he has probably spoken to a local bank and asked them to process for him an overdraft such that by the time he is coming to the meeting, he will have already procured an amount even higher than this Ksh300,000. We might even be talking of an officer who is in charge of the County Asset Register and the governor has lost an election. The fellow might keep that book away for a certain number of days and you do not know what will happen.

A perfect example is what happened during the transition from municipal and town councils to county governments. Up to date, there is no single county that has ever been able to reconcile its records of what used to be owned by municipal councils and what is now owned by county governments. If you keenly read through the reports that come to Senate from the Auditor-General, you will realize that there is always a comment that they make about the County Assets Register. Either it is not availed, or it has not been availed in the correct format. In my opinion, for the drafters to propose a fine of Ksh300,000, is a slap on the wrist when you consider such.

I want to completely agree and laud your words in Clause 17(4) that states that:-

“Failure by the outgoing county governor to hand over the instruments of power to the county governor-elect shall not invalidate the assumption to the office of county governor by the county governor-elect”.

I have just spoken about the mischief that is so common with our political practices. We see it every time we have party primaries, nominations and general elections. People do not feel good when they lose an election and they chose not to do the right thing. Therefore, for us to expressly provide it in law that failure to show up or hand over shall not invalidate the election. This is an important piece of legislation because we know some people who have certain ideas and can be mischievous. For example, we have a list of governors who failed to show up during the handing over ceremony of county tools of administration to the incoming governors.

Under the miscellaneous provision of this Bill, there is a very important piece of information that Sen. Wamatangi has included. Part of the reports that shall be given by these committees will include notes on how they used the finances during the tenure of operation, the number of meetings and the services they procured, including their cost and if what they procured were subject to public procurement regulations. This is part of management of public funds. This is extremely important because we have witnessed it both at county governments and national Government.

There is a sort of demon that gets into Kenyans when they are given a small window of 14 -21 days. You will find a case where somebody decides that the road to the stadium where the governor will be sworn in is in a bad state, therefore, there is need to repair it. They then go ahead and repair it for Ksh60million yet it is a small stretch of 1 kilometre. It is not unusual. With this provision, it will make it extremely difficult for members of this committee to pilferage public funds. This is because they will prepare a handover report. Part of it shall consist of a financial report. It is extremely important for members of these committees of assumption of office to know that if they misappropriate public funds, they shall be liable for prosecution.

I have also noted that there are various oaths and affirmations that have been put forth in this Bill as part of the notes. However, I note a typo error which needs to be correct before we pass this Bill. Under the oath of the office of County Executive Committee member (CEC) in the closing part, it says that:-

“I shall at all times when required, faithfully and truly give my counsel and advice to the governor of the ....county.”

I think the definite article “the” is placed there by a mistake and should be deleted and reads as follows:-

“will truly give my counsel and advice to the governor of (x), (y) or (z) county.”

That is something that we may need to correct because it does not give it a clean look.

This may not be considered under the purview of this Bill. However, those of us who may be in the Committee on Finance and Budget, may need to consider legislation guided by the provisions of this Bill as we continue to do a cleanup of the Public Finance Management Act. We can do it in a way that upon the lapse of an election period, all county funds shall be made unavailable where even banks shall know that despite the fact that a county may have funds available within its bank account, immediately upon the end of an election. Bank officers shall be held liable if they allow county officers to make transactions. That will help curtail the stories that have been shared by Sen. Mutula Kilonzo Jnr. of what happened in counties like Nandi and many others where the governors lost the election.

With those many remarks, I beg to support.

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

Proceed, Sen. Olekina.

**Sen. Olekina:** Thank you, Mr. Deputy Speaker, Sir. I rise to make my contribution to this very important Bill. I want to congratulate Sen. Wamatangi for bringing it albeit a little bit late. The process of taking over from your predecessor sometimes can be very challenging. I have witnessed in various counties where you would see that the governor elect would not have anyone to handover to him any of the instruments of power or any information regarding the previous term.

There are various items in this Bill that I support. I will make my contribution strictly to the ones that I support in two minutes. The ones that I do not support are the ones that I will spend most of my time on. Creating a committee for the assumption of office of the county governor is something very good. This committee must answer various questions in terms of continuity. I support the committee having one of the members of the CECs of the county government or the county secretary who will be leaving office to ensure a full fiducial responsibility. It is important that this county secretary remains in office whether he is retained or not for a period of 90 days before he leave the office.

When handing over to the governor-elect, there are various things that this Bill should consider. First, it is important to know the financial status of that county at that particular time. So, some of the things that Sen. Wamatangi ought to add in this Bill is a clear financial statement of the county as at the time we go for elections in that year.

The other issues that should be included in this Bill, which I noted were not very clear, is the duration that this Committee shall stay in office as they go through a smooth transitional period. As far as the committee and the swearing-in ceremony are concerned, I fully support this Bill, but the most difficult and confusing question is on a conundrum. The way the governor-elect will be coming into office is through an election. However, when you look at Clause 14 of the Assumption of Office of the County Governor Bill, it seems to answer this very difficult question which was left out in the Constitution.

The process that a governor got into office was through a constitutional process; an election. During that time, he was required to choose a person of his liking and who he believes can deputise him. However, the Constitution is silent on what happens when the office of the deputy governor falls vacant. In my view, giving the governor-elect the authority to appoint a person who he wants to be his deputy after the one who was

presented to the electorate or his constituents has vacated office either by resignation or death, is actually not the right approach, this should be through a constitutional recognised process.

I know the Supreme Court pronounced itself on this matter and on the issue of Nyeri and Nairobi City counties. They gave the governors of two counties 14 days to choose the person who they want to be their deputies and forward the names to their respective counties assemblies for approval. In my view, that is wrong. If the Supreme Court really wanted, in the spirit of the Constitution, to solve this conundrum, they should have also included the Senator of the county. This is because when the Senator, the entire county assembly and the governor is involved, it will be assumed that it is a picture of the entire county.

So, if we are going to follow the position of the Supreme Court, I will recommend that Clause 14 of this Bill be amended to either include the Senator to be part of the team of the vetting panel of the nominee or go back to the ballot and let voters vote for him or her as their deputy governor. In the first place, the governor was not voted for alone; he was voted for alongside his running mate. So, the people, under universal suffrage chose to vote for a governor and his running mate.

I am sure many people, let us say, Narok County, decided to support the Governor of Narok County because of the choice of his running mate. This is a ticket that had two people. So, in my view, trying to amend Article 182 (3) of the Constitution through legislation is against the spirit of the Constitution. I know this is a very difficult question and I know that the Bill attempts to solve this lacuna, but we have to be very careful. This is because we must ask ourselves the hard question that you asked: Why in the first place did the Constitution envisage in a place where there is a governor and a running mate who have got to be presented to the people to make that choice? So, if we pass this Bill the way it is, we will invite people to go to court and challenge its constitutionality.

Generally, the Bill is good apart from the areas that I have pointed out. In terms of trying to solve this problem, the drafter of this Bill ought to consider proposing amendments so that we do not get ourselves into a situation whereby we will be going back and forth to the courts to have the Constitution interpreted. Finally, the Bill itself envisages a smooth transitional period. However, if we pass it without taking into consideration what the Constitution says in terms of the vacancy in the deputy governor position, then we will be amending the Constitution through legislation.

With those few remarks, I beg to support the part that sets up the assumption of office of the county governor committee and the swearing-in. However, I strongly would request that the drafter of this Bill considers either entirely amending Clause 14 of this Bill or seek to have proper interpretation and inclusivity of everyone in the county so that it does not become problematic.

Thank you, Mr. Deputy Speaker, Sir.

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

I will bring to your attention that the proposed amendments could be followed up at the Committee stage so that we do not just criticise the Bill then it eventually passes without those important critics being put on board.

Proceed, Sen. (Prof.) Kamar.

**Sen. (Prof.) Kamar:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I would like to congratulate the hon. Senator for this Assumption of Office

of the County Governor Bill, 2018. I support it wholeheartedly because it has tightened quite a number of loose areas.

I want to join colleagues who have said that the experience we have had in the first handing over of the first governor to the second ones had a lot of challenges but this Bill has largely addressed them. However, I would like to touch on two or three areas. One, Part II of the Bill is on the membership of the Committee which has two chief officers of the outgoing governor except for two members who are appointed by the governor. In fact, the county secretary is also an appointee of the outgoing governor. It looks like it will be heavily on the side of the outgoing governor.

Mr. Deputy Speaker, Sir, I will be persuading the Mover of the Bill at the Committee Stage, to introduce another person in the name of an appointee from the Judiciary, for example, a magistrate. We need somebody from a neutral arm of Government to oversee this. In fact, in the amendment, I would like to propose that the same person coming from the neutral arm of Government should be the chairperson of the Committee. This is because of what my colleagues have said that, if an outgoing governor is malicious, he is completely protected by 90 per cent of the membership of this Committee. If he is protected, it will be extremely difficult for the incoming governor to have a free handing over.

We know that sometimes our campaigns are extremely acrimonious and immediately it is announced that there is a new governor, God knows what happens between the time the announcement is made and the time this Committee takes off. It is important to have a few more neutral people to take care of that.

Mr. Deputy Speaker, Sir, in Clause 10, the county public officer has to provide information for purposes of the preparations for assumption of office. It is a nice statement but difficult to implement.

Clause 10(1) states that:

“The Committee shall, in consultation with the governor-elect carry out such preparations as may be necessary for the purpose of the assumption of office by the governor-elect”

It is a nice statement which further states that the governor-elect will be entitled to information. However, it can only protect for purposes of information flow. If 90 per cent of the members of the Committee are loyal to the outgoing governor, it will be difficult for the incoming one to know the information that is required.

The challenges that we had between the county governments and county councils was that the new governors assumed office not knowing anything about the defunct county councils. They did not know what to claim or where the assets were. If an asset register was hidden from them, they were at a loss. This is exactly what the Transitional Authority (TA) confessed; that most of the defunct county councils behaved as though they did not have asset registers.

It was well known that asset registers were there before because information that filtered thereafter was about income that was being collected before the county governments came in. The disparities between what was being collected by the county governments and the defunct county councils showed that there were areas that were not disclosed to the county governments. It is important that as we develop a Committee for the assumption of office, we also have a Committee that can do a thorough job.

Lastly, a deputy governor has been described as one person who does not seem to have duties. In the last five years, we have heard even in the press that deputy governors were mistreated by not being given duties. Some of them went to their offices and did not manage to do anything. They read newspapers the whole day and went home. The County Executive Committee (CEC) Members also did not report to the deputy governors and so they hung in between the CECs and the governors.

Mr. Deputy Speaker, Sir, if the position of a deputy governor is as important as the Constitution says, we must then see its importance in the functions. If you compare the duties allocated to the deputy president and the duties allocated to the deputy governor, you will find that there is a lot of difference. The same applies to the position of the former Vice President because they were given duties. The Vice President used to be the Minister for Home Affairs or the Minister for Finance. They woke up in the morning having an agenda of their own. If this position of the deputy governor is that useful, it is important, therefore, that we allocate it something.

If you look at the duties that have been currently allocated, they have used the words that, 'the governor may assign the deputy governor any other duty'. I will propose at the Committee Stage, that we delete the word 'may'. I will persuade the Mover that we should use the word 'shall'. It will then read that, 'the governor shall assign any other duty to the deputy governor'. By doing so, we will have a deputy governor who will handle a certain docket and utilize him or her. There are Committees that deputy governors can handle very well, for example, the Committee on Finance. We have heard issues of money not arriving in the counties on time. However, if such a position was held by the deputy governor, I believe that it will be different.

Mr. Deputy Speaker, Sir, my suggestion that will come later at the Committee Stage is that we need to firmly give some duties to the deputy governor so that we do not leave the governor with the sole responsibility of either giving or not giving responsibility to the deputy governor.

I am surprised why a governor would not give a deputy governor duties yet the Constitution has been protective of the governor by allowing him or her to choose a running mate. The assumption is that the running mate, who is the deputy governor, is a friend not an enemy. If that person is a friend, what is the fear that immediately comes in and makes a governor not give clear duties to a deputy governor?

That is the second amendment I will be introducing at the Committee Stage.

All in all, I am very happy with the Bill and I beg to support it.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. (Prof.) Kamar. Proceed, Sen. Dullo.

**Sen. Dullo:** Thank you, Mr. Deputy Speaker, Sir. I wish to support this Bill. Sen. Wamatangi and Sen. Murkomen need to agree on certain overlapping aspects in this Bill and also in the County Governments (Amendment) Bill, 2017, that was brought to this House by the Senate Majority Leader. One of the things I have seen overlapping is Part III, Section 11, 12, 13 and 14 of this Bill, which are also covered in the County Governments (Amendment) Bill, 2017. They need to sit together and harmonise which one should carry those provisions.

Mr. Deputy Speaker, Sir, this is a timely and important Bill that addresses the gaps in the process of handing over and taking over for the outgoing and incoming governors. One of the areas I would want to be strengthened is the composition of the

Committee. We need to bring in a representative of members of the public and not only the office bearers. So, a person who may be representing the Chamber of Commerce within the county could be one of the representatives or any other person that can represent members of the public in this Committee. This way, the public will feel that they are represented in terms of handing over and taking over of the office of the governor.

Secondly, I propose that the handing over should be done much later. This is because from our experience, we have realised that the outgoing governors either do not hand over properly or do not even appear for the handing over. Therefore, for them to be held accountable, they should actually spearhead this process of handing over a month or two before the elections. This way, they can be held accountable and they can countersign the handing over report. Unless we do that, we will then end up losing public finances, resources and property.

Mr. Deputy Speaker, Sir, the other aspect is the handing over report, which should not be a wishy-washy kind of report. It should be a credible report that is perfect, up to date and captures all the issues, especially on finances and development projects. We have actually realised that there are some projects which were done during the term of the previous governor and nobody knows what happened to them; there is no continuity. So, those handing over reports must include development projects that are finalised and the ones that are ongoing so that those who are coming in can take up and finalise them.

You realise that incoming governors do not even want to pay pending bills that were incurred by previous governors. The same would be true with the unfinished projects. So, those handing over reports should clearly articulate what is being handed over.

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

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

Madam Temporary Speaker, in terms of human resource management, you will find that some of the counties are way above the required number of individuals who should be appointed as staff. For example, some of them actually put their relatives on the payroll before they leave office, and it is important to follow this up.

Madam Temporary Speaker, the other issue is on pending bills. For example, in Isiolo County, when the new Governor came in, the pending bills were at Kshs204 million. This figure today stands at a billion shillings. There is a lot of corruption that is taking place in those counties because there is no proper handing over of pending bills from the previous to the current county governments. We, therefore, need to see how we can also tighten that.

On appointment of the CECs and Chief Officers, of course, the County Governments Act addresses their appointments and it is timely. However, up to now, almost six or seven months down the line, some counties have not even appointed their Chief Officers. These are the people who sign vouchers, approve payments and provide accountability on the finances within the counties. These are critical people who should actually be appointed within the time frame or immediately the new governor takes over.

Therefore, Sen. Wamatangi and Sen. Murkomen need to see how they can handle that issue.

Madam Temporary Speaker, the functions of the deputy governor is also a contentious issue. In the absence of the governor, the CECs do not recognise the deputy governor as their superior or as their senior because he is also part of the CECs. We must, therefore, come out clearly with the responsibilities and roles of the deputy governors; otherwise we are going to have challenges where the governors and their deputies are fighting each other, day in, day out.

I also request Sen. Wamatangi and Sen. Murkomen to extend the same to the county assemblies, because there are also many challenges there. The speakers who leave office do not hand over, yet there is a lot of revenue that is generated for those counties; there are many pending bills and human resource issues that are also coming up. We, therefore, need to have proper handing over for outgoing and incoming county assembly speakers.

Finally, Madam Temporary Speaker, is the issue accountability. How do we bring on board the governors and speakers who have left office to answer some of the critical questions that affect our counties? A good example is on the pending bills or audit queries that we have from the Auditor-General right now. The new governors who have come in are the ones who will be answering those questions, yet they do not know anything about them. That means that we will just go round in circles without getting proper answers in terms of what really happened. So, Sen. Wamatangi and Sen. Murkomen, I think we need to have a provision where we should bring on board or hold the former governors, speakers and relevant officers to answer some of the critical questions that affect those counties.

Thank you, Madam Temporary Speaker.

I beg to support.

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

Proceed, Sen. Onger.

**Sen. Onger:** Thank you, Madam Temporary Speaker, for the opportunity to contribute towards the Assumption of Office of the County Governor Bill (Senate Bills No. 1 of 2018).

Madam Temporary Speaker, there was almost a near collapse of the functions of county governments, particularly when we had the most unfortunate situations where we either lost the governor or where the deputy governor resigned abruptly without any reason or for whatever reason there might have been. One of the things that I have seen in county governments is the haphazard manner in which county resources are handled, particularly towards the period of elections and immediately after the election.

Fortunately, this Bill is prescribing the remedy coming immediately after the August elections in accordance to our Constitution. That means we should look for provision that will take care of what happens up to 30<sup>th</sup> June. After 30<sup>th</sup> of June, when the new financial year starts, nobody will have a mandate to spend resources in one way or the other until the new government is in place. I have seen that gap happen in one of the counties, where the County Executive Committee (CEC) Members and Chief Officers went on the rampage and employed people beyond the required numbers.

This has brought a lot of difficulties for the young people who were employed because they have no employment letters. They were just taken and left there hanging.

They do not get salary because they are not on the payroll. This is the kind of mischief that we should take care of immediately before the assumption of office. How do we treat this mischief which happens maybe two or three months before the elections? We should find a way of treating this mischief.

I admit and agree that this assumption of the office of the county governor is predominantly so during the general elections. The only difficulty we see is in between the elections when a vacancy arises. All the proposals made in this Bill satisfy that need. I remember when I was a Minister for Local Government, one of the things that we used to flash around is Cap 265 of the Local Government Act, which gave immense authority to the Minister for Local Government to administer the county governments.

However, now we have governments established by the Constitution at the county level. These are governments in every sense. Therefore, they should be responsible for whatever mess they create even after they leave the office. I would like to see some amendments to ensure that a governor who has been in office and misappropriated resources - and cannot account for assets and liabilities - is held to account for all those mistakes and messes that have been done, rather than waiting for the new governor who comes in and takes the blame and responsibility. All we will be told - particularly for those of us who are in the County Public Accounts and Investments Committee - is that they are not privy to that action.

Fortunately, the Bill is coinciding with a time when the majority of governors will have served their second and final terms. Therefore, we must pass a legislation that will spell out the kind of records that the outgoing governors will be handing over to the new governors-elect. Unless, we seal that loophole we will see at the end of the term people spending without any rules of engagement because the Chief Officers and CECs are under their watch. Once they know that they will be members of this committee on assumption of office of the new governor, they will do anything and no information will be available. We must have a clause that binds the incoming governor and outgoing governor in terms of the report that he must give before he leaves the office.

Somewhere during the committee stage, we should bring a report that will be acceptable to strengthen the internal audit system, so that we call upon the internal auditors to give a final report towards the end of the term of a governor, which will be available during the assumption of office of the new governor-elect. This will ensure that he or she knows what kind of liabilities and assets he or she is inheriting and what kind of messes or good work has been done by the outgoing governor. So, we have to tie the two of them so that we do not have difficulties in terms of accountability of the resources of any given county.

In between the election period, these issues that arise on the vacancy of the office have been well treated in this Bill. I have no difficulty with that. The difficulty I have is in regard to the new set of governors who will assume office in 2022. This is because quite a majority of the governors will be deemed to have served their final term. With that in mind, somewhere along the line we will have to get somebody who will be responsible for the development of the report. We should provide in this Bill, particularly towards the end of the second term of a governor, what kind of reports they will give to the new governors-elect when they assume office. It is important to tie the two together, so that we know how to deal with this problem.

Thirdly, I have observed that we do not have clear records of assets and liabilities. There are many middle men and women who are destroying the assets of counties, particularly houses, plots and investments that the county councils might have invested in. There are also the trust lands which somehow are not on record. Therefore, one of the things we should tighten up as Senate is how the assets and liabilities of any given county government are being handled.

It is sad that we do not have an accurate report from the liaison officer and the Transition Authority that went out unceremoniously. The Transition Authority was supposed to bridge the county assemblies, local authorities and municipalities with the county governments and give a clear record of assets and liabilities. We do not have that report on hand. This is one of the things that will continue recurring in the Auditor General's report year in, year out. I do not know at what point we shall put a stop to this recurrence in the Auditor-General's report.

Madam Temporary Speaker, if you casually look at the 2013/2014 Auditor-General's report, there is still the same issue of assets and liabilities. A look at the 2014/2015 and 2015/2016 reports, you will note that the same problem is recurring. I suspect that the 2017/2018 and the 2018/2019 reports will have the same problem recurring on assets and liabilities. We have a problem. We, as the Senate, must look for the treatment to secure assets of the county before they disappear in thin air. If we do not do it, we will be in a difficult situation because these pending bills will continue to rise.

When we came to the Senate, the pending bills were somewhere in the region of Kshs45 billion or Kshs46 billion. By the time we started looking at the reports, it had shot up to Kshs96 billion. Currently, I am informed that it is over Kshs100 billion. If this is what keeps on happen, then most of these county governments will be bankrupt. Therefore, we, as the Senate, must be in a position to put in place a legislation that will take into account that before one assumes the office, the assets and liabilities that he or she is inheriting, be recorded. If a problem arises at the end of your term, or whatever causes your end from that office, we should hold you to full account for the loss of property and assets of that county.

This must be captured in a legal framework. However, if we just say that on the assumption of office, we will lavish them with wonderful ceremonies, music and cultural dances without due regard to the costs and expenses being incurred before these officers assume office, we will have just given them another way of spending money without proper sanctions being applied in this regard.

Madam Temporary Speaker, I am pleading that we must find out how we will account for assets and liabilities before these men and women of Kenya assume their offices, particularly after the 2022 General Elections. We acknowledge in the memorandum of articles of objects and reasons that there is a clear acknowledgement that there is no legal framework governing the assumption of office of the governor. Therefore, this has come at the right time. This framework is important and we should ensure that there is a successful and smooth transition in the office of the governor by a governor-elect.

I am happy we will repeal Section 30 of the County Governments Act. I take the advice by Sen. Dullo and that of the Senate Majority Leader who has also proposed a different set of rules. We should harmonize these two pieces of legislation so that we do not, on one hand, create another headache in the other Act. There should be a way at the

Committee stage on how this will be harmonized and whether we should marry one into the other or we delete it all together. What is being proposed here by Sen. Wamatangi is deletion of Section 30 of the County Governments Act. We should take care of the functions and responsibility of a county governor before we delete. We should be very careful on how we go about it.

Madam Temporary Speaker, I agree with you when you raised the issues of the functions of the deputy governor. Let us not create a situation where deputy governors are waiting for either the governor to die or to be hounded out of office. I suspect some of the impeachments that came here might have been fuelled by people who wanted to assume the office. We should tighten the legislation so that whoever comes into office assumes the office in a responsible manner. I support this Bill with those few amendments. We would like to be shown how this is going to be factored in and I fully support this Bill at this initial stage.

I beg to support.

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

**Sen. Cherargei:** Thank you, Madam Temporary Speaker. I join my colleagues in saying that there is no better time than now for this law to be passed by this House. It comes against the backdrop of most governors who were being sworn in without a legal framework that was in place. It will allow a seamless transition from the outgoing governor and governor-elect. The Assumption of the Office of County Governor Bill, 2018 is very important. It will address some of these challenges we have faced over time.

Madam Temporary Speaker, the biggest test was 2017. The second generation of governors were being sworn in with no proper procedure of the committees or the legal parameters that could be raised and used at any point in time. In some of the places, outgoing governors did not turn up to hand over while in others the judges did not have the Oath of Affirmation.

I believe in the addition of the functions of the Assumption of the Office of Governor Committee in this Bill; which has not been indicated. I hope when amended, the functions will include the fact that the committee should design the appropriate the oath. Subsequently, we do not want to go to a place and have a standardised form of Oath of affirmation or somebody has to carry the Bill itself or the County Government Act and read the Oath of Office of the County Governor. The Assumption of the Office of Governor Committee should come up with the Oath of Affirmation in line with the provisions of the Constitution.

One of the functions of the Assumption of Office Committee Members is ensuring that the documents they prepare include financial status of the county and the bank accounts. Consequently, the incoming governor will be aware of the number of bank accounts the county government has. Some of the governors might be in office three months, six months only to learn that there were some bank accounts being run by specific individuals and yet they belong to the county.

The other function must include drawing up a register of assets and liabilities. We have problems; especially during the Transition Authority era. They had a problem where these assets should be itemised properly. A county like Nandi, the number of acres of land which the county government own should be specific. We should have a schedule that is annexed to this Bill so that we know how many cows and chicken the county government owns.

Consequently, we should be specific so that the Committee does not come up with a mixed-up report; including land. They should indicate liabilities so that the incoming governor is aware. In addition, the report should be specific about liabilities, number of bank accounts, assets and other financial statements. It is also important to include in the handing over reports the donor funded projects especially in the health sector. The health sector in this country and counties is heavily funded by the donors so all those issues must be captured in a crystal clear manner so that we protect the county assets for the benefit of all.

I have seen it has been indicated as part of this Bill that any citizen can write and demand some specific information. This is why it is important for the Committee to be specific.

The fourth function indicated is important. It is on how to know the status of the county projects that are there so that when these reports are handed over to the incoming Governor, they are fully aware of what is going on.

Madam Temporary Speaker, Clause 5(2)(h) and (i) says:

“The head of the National Police Service appointed to the County Policing Authority by the Inspector-General under section 41 (1)(c) of the National Police Service Act; The Policing Authority Representative in the county;”

Its wording is correct; it is at the discretion of the Inspector-General (IG) to appoint. Now that in our counties we have County Commanders, for example, in Kapsabet which is the headquarters of Nandi County, we have a County Commander in charge of the Administration police and a County Commander in charge of Kenya police.

I propose in addition, to include somebody from the National Intelligence Service (NIS). As per procedure and practice, NIS do not report to the either the Police Commandant or the Administration Police commandant at County level. So, I propose that in that Clause we include the NIS so that its representative can sit in the Committee to assist the Governor.

One has to appreciate that after the elections, it takes 21 days before the County Governor-elect is sworn in. The people at the county level will still be divided because elections are protracted and the losers will still be nursing the wounds of losing. Security is critical at this stage. The NIS will be able to assist with the planning of security especially on the swearing-in. I have seen the standard practice is, because it is a public function, it has to be gazetted and it can be done anywhere.

For example, for someone from Nandi like me who comes from Mosoriot Township, I can decide to hold the swearing in ceremony in my township instead of Kapsabet. The point I am trying to make is to ensure the security agencies assist the Assumption Committee to ensure that they are up to speed with what is happening on security matters.

Madam Temporary Deputy Speaker, when you look at Clause 15(1) it says:

“The swearing-in of the County Governor-elect shall be conducted in a public ceremony before the resident High Court Judge, or, in the absence of the resident High Court Judge, the resident Chief Magistrate.”

It has to be noted that in most of our counties, there are no High Courts with Judges, but what happened in 2017 is that the judiciary during the dedication of the Chief Justice they sent judges to various counties. I would not want to see a Governor-elect being sworn in by a resident Chief Magistrate. I appreciate that there are no high courts everywhere, but

the fact is that all governors will not be sworn in on the same day. There is an advantage of separating them on different days. So, my proposal is that we ensure that the swearing in of County Governors-elect is done only by Judges.

The judiciary has enough judges who can go around the country to swear in the County Governors-elect. We should not include the resident Chief Magistrate, it should only remain at the level of the Judges so that we continue to protect - I am not saying this to massage the egos of governors – the high regard and esteem of being a Governor, so that we do not have cases of a Governor in Garissa being sworn in by a resident Chief Magistrate, in Nairobi by a Judge and when you go to Kisumu by a resident Chief Magistrate. I propose that we ensure it is only Judges that will be swearing in the County Governors-elect, so that the process remains clear.

Finally, on funding, it is not provided for in the Bill. Any law must be followed with funding. I have gone through the Bill and funding has not been indicated. We should be specific so that we do not have the assumption of office committee of a county like Nairobi for example claiming to have used Kshs100 million during the time they were in office preparing their reports and organising for public functions.

It is important that we identify the source of funding because the committee is constituted before a new governor comes into force. What happens if a governor is defeated? If you come from a county like mine for example and stand on a Jubilee ticket, chances are 80 per cent that you will be elected. However we had instances where some governors lost. What happens in such instances?

I suggest that we should provide for funding from specific sources but we should ensure that there is a specific ceiling so that we do not cease ---

**The Temporary Speaker** (Sen. (Prof.) Kamar): Order, Member! I can see an intervention by Sen. Pareno.

**Sen. Pareno:** On a point of order, Madam Temporary Speaker. I am just wondering whether it is in order for the Member to continue talking yet the Mover of this Bill is not in the House. I thought he should have cared to listen. Is it in order for the honourable Member to make such good contribution for certain aspects to be amended and included in the Bill when the Mover is absent?

**The Temporary Speaker** (Sen. (Prof.) Kamar): Order Members, the Standing Orders do not bar us from contributing in the absence of the Member who moved a Bill. I want to assure you that the Mover is watching in the next room and taking notes. So, let us continue.

**Sen. Cherargei:** That was my worry but I now know that at least he is watching or taking notes and he might want to check the records of the House.

Madam Temporary Speaker, I was specific on the funding because counties are notorious in abusing and misusing public funds. We should look at the funding and put ceilings. Somebody who should set up such committee could lose an election. It could be a governor and he or she might even not show up during the swearing in of the incoming governor. What will prevent him or her to use that avenue yet the issue of funding is not provided in law? We need to come up with a law so that we protect the resources that we give to our people for development. People should not sit somewhere and allocate money anyhow. There should be a standardization process so that money is not misused.

Finally, I am not comfortable but the Bill on county attorneys might pass into law and we might have the county attorneys in our counties. There is a part that says that the

chairperson of the committee shall convene the first meeting of the committee 30 days before the date of the general elections. My big worry is that a governor could lose and we have a new governor. The old governor will no longer have the motivation to ensure that the committee works. What will trigger that committee to hold its first sitting?

My proposal is that we should have the Attorney-General of Kenya write a letter to the county attorneys across the 47 counties to trigger the first committee meetings because those people can decide to sit one day or five days before the swearing in of a governor. So, the Mover of this Bill should look at that aspect to ensure that the first meeting is triggered because of the timelines. We might have county attorneys if that Bill passes and so we need to be specific. We need to be specific about the county attorneys.

We should just insist that they should be called 'County Attorneys' and not Principal Legal Advisor, for continuity purposes. My proposal is that the Attorney General of the Republic of Kenya should write a letter to the County Attorneys so that they initiate the first meeting.

Madam Temporary Speaker, there is no better time than now for this law to come into force. It will ensure that devolution works seamlessly in our country. I want to thank the Mover, Sen. Wamatangi, in absentia, for this well thought out law and assure him that we will pass it. I hope that my colleagues will see the prudence and wisdom in it so that we pass it and ensure that it works for all of us. It is time that as we work on the legal framework, we should ensure that the wheels of devolution work for the betterment of all of us. Governors should ensure that it works so that it becomes easy such that when the law comes into force, it will allow most of us to agree.

Lastly, Madam Temporary Speaker, Section 11(1)(a) says:-

“the deputy county governor-elect shall be sworn in as acting governor on the date on which the governor elect would otherwise have been sworn-in;”

Mark you, the Governor and the Deputy Governor were elected on a joint ticket. Unfortunately, if a Governor passes on before the swearing-in – God forbid – do you want to tell us that the Deputy Governor will assume office in acting capacity for 60 days and, thereafter, an election will be called? There are so many dynamics involved when one wants to run for the position of the governor. First, you look at regional balance at the lowest level of the county. You also look at the ethnic and religious composition of the county. So, at the end of the day, it would be unfair to have subjected the Deputy Governor through the rigours of elections and the electioneering period and, yet, when the Governor unfortunately dies, you want them to work as a Governor for 60 days and then take the voters back to another election. That would be unfair. We should just allow the Deputy Governor to be sworn-in, as per the advisory opinion of the Supreme Court.

Madam Temporary Speaker, I am a member of the Committee on Devolution and Intergovernmental Relations, and it is working on the law to ensure the Deputy Governors will be appointed so that we do not disappoint them for the simple reason that the Governor has unfortunately passed on. I am, therefore, not comfortable with Section 11 and the Mover should amend it.

Madam Temporary Speaker, this is a good Bill and I beg to support it.

Thank you.

**Sen. (Rev.) Waqo:** Thank you, Madam Temporary Speaker. I stand to support the Assumption of Office of the County Governor Bill (Senate Bill No.1) of 2018. I support this Bill because it provides the legal framework for the assumption of the office county

government. In this regard, I congratulate the sponsor, Sen. Wamatangi, who is a good friend. I also confirm that this Bill will take care of some of the challenges and gaps that we are already experiencing as a nation.

The Bill stipulates the functions of different offices and also provides continuation of the offices and the plans. What we are currently seeing is bad. The challenge in the county offices is that when the officers' term is coming to an end, they take advantage of that season, especially the last year, and misuse almost everything that is on the ground in terms of personnel, facilities, motor vehicles and everything that is there. They usually clear the offices during the period between the election and when they exit.

The incoming government ends up inheriting empty space and struggles to do so many other things. For that reason, I support this Bill which I believe will take care of that and also come up with a proper continuation plan, where all the projects will be fully catered for. This will ensure that the projects that the outgoing governors started will not stall when they exit. Instead, they will continue and the county will continue to benefit.

The other area is where we have so many personnel on the ground. It has come to our knowledge that there is a lot of nepotism. The only way to overcome some of these challenges is by coming up with proper systems that can work to guard and guide the executive even in terms of employment. This will ensure that they will not just consider their relatives for permanent and pensionable employment. They will be guided by human resource policy.

This is the second time that county governors have been elected, but we are already facing challenges in many counties because they have inherited unqualified officers who have been employed and will remain there for many years. This Bill should go a little further to provide proper systems and structures of how employment and all other matters, which I believe are already in other policies, can be strengthened.

The Bill seeks to fill the gaps that have already created a lot of problems, as I said at the beginning. It also provides that there will be proper records that will be kept. Somehow, we are lacking that in all the counties and that is where the looting and other things come in. However, we should also suggest that proper inventory be kept in all the offices, so that when their term comes to an end, they can leave the facilities and work can continue.

Proper auditing needs to be done before the governor exits office. We have seen many counties experience a lot of financial challenges this year because they inherited a lot of debts that cannot be accounted for. The members of staff are also having challenges with their payments. Proper auditing should be done before the handing over and taking over is done, so that anything that is pending can be dealt with before the executive officer exits the office. That will help our counties. Measures need to be put in place for proper accounting. This Bill also needs to provide that a governor should leave with his people; friends and relatives. We need some people who can remain there for proper continuation.

With those few remarks, I beg to support the Bill and pray that it will get all the attention it deserves.

Thank you.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, hon. Senators. There being no other Member wishing to debate and given the fact that the Mover had excused himself this afternoon, I direct the reply be given tomorrow.

Next Order.

*Second Reading*

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

Hon. Senators, I would like to bring to your attention that the Senate Majority Leader is not around. For that reason, we defer Order No.10.

*(Bill deferred)*

Next Order.

**MOTION**

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

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

*(Sen. Poghio on 22.2.2018)*

*(Resumption of debate interrupted on 6.3.2018)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, this is a resumption of debate which was interrupted on Tuesday, 6<sup>th</sup> March, 2018. The Member who was on the Floor at the time was Sen. Pareno. She has a balance of 18 minutes.

Proceed, Sen. Pareno.

**Sen. Pareno:** Thank you, Madam Temporary Speaker, for allowing me to proceed with the debate. I am happy that the Mover is around to hear what I will say on this Floor. I thank him and Sen. (Dr.) Milgo for representing us in the conference.

This conference was established under the United Nations (UN) and the African Union (AU) with the main of ensuring peace, security, democracy, development and resolutions of conflict among the conference parties. I took note of two things when the hon. Member was moving the Motion. There was a lot of interests in their discussion with regard to countries that held elections in 2017. For example, Kenya was a topic for discussion because we had our general elections in 2017.

We all remember towards election date, a very senior Information Communication Technology (ICT) Director of the Independent Electoral and Boundaries Commission (IEBC), Chris Musando, was mysteriously killed after being tortured. To this date, we do not know what happened. Few days to the election, the IEBC Chairman, Wafula Chebukati told Kenyans that he was not sure whether he would deliver a free and fair election. A few days later, he changed his mind and assured Kenyans of delivering a credible election. No wonder it was the reason we were a topic of discussion at the conference.

We, as a country, what impression did we create in that conference? Were we seen as people who conducted free and credible elections? Are we a good example of democracy in developing countries? What caught the attention for our country to be discussed in this Conference is that days before the general elections, one of the Independent Electoral and Boundaries Commission (IEBC) commissioners resigned and said that she could not guarantee a free and fair exercise. I understand why they came out to discuss Kenya in this particular Conference.

Madam Temporary Speaker, on 8<sup>th</sup> August last year, we conducted the general election but the presidential election was annulled. We entered the books of history as the fourth country to annul a presidential election in the world. I am sure that all these things led my lovely country, Kenya, to be discussed in this Conference. They were within their mandate because the mandate of the Conference is to have an overview on how our countries are behaving when it comes to the democratic principles that we promise to abide with.

Madam Temporary Speaker, I went ahead to look at page 15 of the Report that was tabled. It has some of the interesting findings that were reported about our elections. They said that the European Union Election Observation Mission (EUEOM) noted that there was delay in the start of voting, there was no biometric identification and there was delay in delivery of the voting equipment. Despite seeing what was happening in our elections, inclusive of what I have indicated, they went ahead to say that the elections in Kenya were free and fair. We have moved on as a country. However, in future, whoever attends these conferences should propose that EUEOM should not only observe elections on the day of the election. We tend to forget that there are so much preparations towards an election, on the day of the election and the day after the election when there is counting of votes.

In future, the EUEOM should take into account the entire process. Election is not just about how long the queues were and how peaceful the people were as they queued and voted. At the end of the day, they said that elections in Kenya were free and fair despite seeing the activities that led into the day of and after the election. This would be a good indicator. This Conference should not be like an academic exercise where we do not correct each other as interested parties to the conferences.

Madam Temporary Speaker, I also noted the other item of the agenda in that Conference which was on election of the Secretary General to the Conference. Kenya was eligible to nominate a candidate. However, it did not comply with the criteria that is set for one to qualify to nominate a secretary general. They said that the Kenyan candidate was dropped because the letter submitting the credentials of the candidate was not signed by the Speaker. Surely, how do we fail to have a chance to have a secretary general because the Speaker of the Senate or the National Assembly, at that time failed to

sign a letter that submits the candidate's name? It must have been some lousy person who did a letter without alerting the Speakers.

A Speaker of the nature of credentials held by the Speaker in this House cannot forward a name with an unsigned letter. We need to follow up on how we approach that. How serious are we in these conferences?

It also says that we are supposed to submit names of three candidates but we submitted one. The regulations say that we submit three from which the Conference will choose one. Kenya failed because we submitted only one. The unsigned letter actually submitted credentials of only one person and we lost. How did we lose? Just sheer negligence on the part of whoever was submitting this name. I believe it cannot have been the Speaker of either of the Houses who submitted this name.

Madam Temporary Speaker, that is the much that I observed from the Report. I thank the representatives for giving a Report that actually reflected what was said about our country in that Conference.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. Noting that there is no other Member wishing to debate, may I now request the Mover to reply.

**Sen. Poghio**: Thank you, Madam Temporary Speaker. This is a Motion to adopt this Report. I am glad it has been canvassed thoroughly and I thank Members who have spoken to it.

The Forum of Parliaments of the Member States of the International Conference on the Great Lakes Region (FP-ICGLR), did not have a problem with Kenya's candidate. As the Report says, we entered the candidacy late to begin with and then we did not comply and so, we missed an opportunity. However, because it is still possible that Kenya has another chance coming in future, we did not give up on that particular one. I would like to laud all those who have contributed and I am thankful that we can adopt this Report.

With those few remarks, I beg to reply.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. I confirm that this is not a matter affecting counties. For that reason, I will put the question on the Motion.

*(Question put and agreed to)*

## ADJOURNMENT

Hon. Senators, it is now 6.30 p.m.; time to adjourn the House. The Senate, therefore, stands adjourned until Wednesday, 14<sup>th</sup> March, 2018 at 2.30 p.m.

The Senate rose at 6.30 p.m.