

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Thursday, 16th July, 2015**

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

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

PRAYERS**PAPERS LAID**

ANNUAL PUBLIC DEBT REPORT, 2014

Sen. Billow: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 16th July, 2015.

The Annual Public Debt Report for the Financial Year ending 30th June, 2014 from the Treasury.

NOTICE OF MOTION

The Speaker (Hon. Ethuro): We will come back to this Order later. I know that Sen. Elachi is preparing some work for the Senate and she is on her way coming.

Who will go first? Where is the Chairperson for Finance, Commerce and Budget?

(Sen. Elachi entered the Chamber)

Since Sen. Elachi has come, we could go back to Order No.6.

RESOLUTION TO HOLD EXTRA SITTINGS

Sen. Elachi: Thank you, Mr. Speaker, Sir. I beg to give notice of the following Motion.

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THAT, pursuant to Standing Order 33(b)(b), the Senate resolves to meet on Wednesday, 22nd July and Wednesday, 29th July, 2015 from 9.00 am to 12.30 p.m.

The Speaker (Hon. Ethuro): Let us move on to the next Order.

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING TUESDAY, 21ST JULY, 2015

Sen. Elachi: Hon. Senators, pursuant to the provisions of Standing Order No.45, I will present the business of the Senate for the coming week.

The Rules and Business Committee (RBC) will meet on Tuesday, 21st July, 2015 at 12 noon to schedule business of the Senate for the week. Subject to further directions by the RBC, the Senate will continue with business that will not be concluded in today's Order Paper focusing on debate on Bills at the second reading stage.

On Wednesday, 22nd July, 2015, the Senate will continue with business not concluded during Tuesday's sitting, including Bills that will have been concluded at second reading and further consider the following Bills and regulations at the Committee of the Whole.

The County Early Childhood Education Bill (Senate Bill No.32 of 2014); The Public Appointments County Assembly Approval Bill (Senate Bill No.20 of 2014); The Food Security Bill (Senate Bill No.23 of 2014); The Tobacco Control Regulation, 2014 and the Reproductive Healthcare Bill (Senate Bill No.17 of 2014)

The Senate will consider any other business scheduled by the RBC. As Senators have noted in today's Order Paper, there is a Motion to resolve to sit on Wednesday morning for the next two weeks to dispose of outstanding Statements. Therefore, this to notify the Chairs of Committees and all Senators that they need to facilitate the process so that we live up to our oversight role.

On 23rd Thursday, 2015, the Senate will consider Bills at Second Reading, deliberate on Motions and any other business scheduled by the RBC.

Hon. Senators, I take this opportunity to appeal to Senators to make themselves available so that we dispose of pending business, especially Bills at the Committee of the Whole.

I hereby lay the Statement to the Table.

(Sen. Elachi laid the documents on the Table)

Sen. Billow: On a point of order, Mr. Speaker, Sir. You heard the Senate Majority Whip say that next week we will be sitting in the mornings so that we dispose of the

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Statements or other pending business of the House. I want your guidance and to request the Senate to develop a mechanism for alerting Senators whose Statements are coming up for deliberation on a particular day, so that they can avail themselves in the House.

Today, I had to harass so many people to get the statement ready for presentation. However, when I came to the House, I found the Senator not there. The Senate should find a way of alerting Senators about their statements so that they can avail themselves.

Sen. Elachi: Mr. Speaker, Sir, I agree with that and I know that we normally alert them. I believe also that the Secretariat normally alerts the Member. To add on that, could we have a way to alert the Senator to dispose of the statement if it comes to the House twice?

The Speaker (Hon. Ethuro): Order, Senator! You know you took away my role. The point of order was to the Chair. I take it that you are supporting the Chair. I still insist that the matter raised by Sen. Billow is good. It is a good suggestion. We need to ensure that adequate notice is given to Members so that they know when the statements are due and ensure that both parties are aware of the Statements that are coming up, so that we do not have this mismatch between the Chair and the Members. Sen. Billow, we will endeavour to do so.

HEALTH STATUS OF CHILDREN MISHANDLED
BY MEDICAL STAFF IN BUSIA COUNTY

Sen. (Dr.) Machage: Mr. Speaker, Sir, I rise on Standing Order No.45 to seek a statement on the situation of children who were mishandled by medical staff in Busia County by being given wrong or expired medication or whatever it may have been that cost the children the loss of their limbs.

On Thursday last week, you ruled that the Ministry of Health should urgently issue a statement on the situation of Malaria in Western Kenya to this House. Up to now, we have not received any statement and they are reluctant to do so. We now have a situation where people have taken advantage to give children of Kenyan citizens, medicine that is either expired or given in the wrong root.

In the statement, I would want the Chairperson of the Committee on Health to confirm the following:-

(1) Whether it is true that this happened in Busia County, and if so, in which villag did it happen?

(2) Which drug was used on that day?

(3) What were the qualifications of the personnel that administered that drug?

(4) What is the current medical status of the children after that medication?

(5) What remedy will be taken to treat those children to full recovery?

(6) What compensation will be given to those affected children?

The Speaker (Hon. Ethuro): Sen. Kittony, that is, indeed, a grave matter.

Sen. Kittony: Mr. Speaker, Sir, I was intending to give a reply on the issue of Malaria outbreak last week, but the Mover requested that I wait until this week. I am

surprised that Sen. (Dr.) Machage sits in our Committee and he is one of our very active Members, therefore, that should have been an in-house issue. I was requested by Sen. Khaniri to hold it until this week. That is what I am doing unless I am advised otherwise.

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. (Dr.) Machage, do you wish to advise otherwise?

Sen. (Dr.) Machage: Mr. Speaker, Sir, I am seeking for the rescue from the wrath of the gracious Senator on me because of the request for a statement. The statement I have sought today is completely different from the one that was sought by Sen. Khaniri last week. The situation of the children that were given wrong or expired medication in Busia County is the main gist of that statement.

Sen. Kittony: Mr. Speaker, Sir, he mentioned Malaria outbreak so naturally I had to respond. If he does not want to have Malaria included, let him bring a new statement as we wait for Sen. Khaniri.

(Laughter)

The Speaker (Hon. Ethuro): Order! I want to agree with Sen. Kittony, that Sen. (Dr.) Machage had alluded to the Statement on Malaria outbreak that has delayed. The Vice Chair has explained that the delay was occasioned by consultations between the Senator who sought it and Committee leadership. I can confirm that it was ready and Sen. Khaniri only asked for time, which I want to believe is now.

Sen. Kittony, more importantly, why do you find it more prudent to deal with a by-the-way and not the substantive issues?. You should have dealt with both. You did not go long enough in your response. So, what do you have to comment on the statement being sought by Sen. (Dr.) Machage?

Sen. Kittony: Mr. Speaker, Sir, I am ready for the statement sought by Sen. Khaniri. What Sen. (Dr.) Machage is asking is a new statement.

The Speaker (Hon. Ethuro): Order Sen. Kittony. I direct that you bring that statement sought by Sen. (Dr.) Machage on Tuesday, next week because it is an issue of major concern.

You may now proceed to issue the statement by Sen. Khaniri.

OUTBREAK OF MALARIA IN WESTERN KENYA

Sen. Kittony: Mr. Speaker, Sir, I would like to respond to the Statement on Malaria outbreak in Western Kenya. The statement was requested by Sen. Khaniri from Vihiga County on 1st July, 2015.

Mr. Speaker, Sir, the Senator sought to know the following:-

- (1) If the Cabinet Secretary for Health is aware of the outbreak.
- (2) What the Government has done so far to contain the outbreak of Malaria.

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(3) What support the national Government has offered to complement the County Government of Vihiga in its efforts to fight Malaria in the county.

The response is as follows:-

Yes, the Ministry of Health is aware of the reported malaria outbreak in Kakamega and Vihiga counties. You can see details of the investigations carried out in the appendix of this statement.

The Ministry of Health has so far carried out the following measures to contain the outbreak.

- (1) Emergency anti-malarial drugs have been provided to the two counties through a smart push system. Through this intervention, Vihiga County received a total of 17,200 doses of Artemether-Lumefantrine and 500 injectables ampoules of Artesunate in the period of January to June 2015.
- (2) A surveillance system has been put in place to monitor the new cases and thus enable faster response.
- (3) Continuous advocacy at the community level on the importance of early hospital care is ongoing through the community health units. Late referral and use of herbal medication is rampant among the communities and the Ministry in liaison with partners is continuing to address these challenges including use of the community health strategy to educate the people.

The national Government has offered the following support to complement the county government of Vihiga in its effort to fight Malaria in the county:

(1) In 2014, the Ministry, through the National Malaria Control Programme, distributed a total of 330,000 long lasting insecticide treated nets to malaria endemic regions, including Vihiga and Kakamega counties.

(2) The National Government has procured emergency drugs like Artesunate for treatment of complicated (severe) Malaria.

(3) The national Government is on standby to provide both technical support and supplies of commodities in the event of shortage.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. The statement that the Chairperson is reading to the House is about a matter of life and death, where children died *en masse*. You can see clearly that she is even unable to read the written statement to us because of the technicality of the issue. The region is waiting for a comprehensive answer and they are following this debate live. We will be unable to interrogate her further. You have to sort out the issue of communication before we attempt to deal with the statement. With all due respect---

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! One does not need to be a medical doctor to be a Chairperson of the Committee on Health. The Chairperson has admitted and owned up that there are some words that she cannot pronounce. To deal with the challenge, you need to sit closer to the neighbour on your right hand side, because he has a hard copy that you can read. Please, bear with us because what you are asking the Chair to do, took you many years to achieve. It cannot be done this afternoon.

(Laughter)

Sen. Kittony: Mr. Speaker, Sir, may I proceed.

The Speaker (Hon. Ethuro): Please, proceed, Sen. Kittony.

Sen. Kittony: Mr. Speaker, Sir, Sen. (Dr.) Khalwale is a doctor and I am not. I am just a Vice Chairperson of that Committee. I am reading what the Ministry gave me. He cannot make me a “Dr. Kittony” overnight.

(4) Advocacy on the importance of using health facilities on noticing early symptoms of malaria is ongoing through local as well as national media platform.

(5) A series of trainings on Malaria case management were carried out in 2014, which included public as well as private health facilities.

The Ministry will continue to work with the county governments to ensure that any challenges in the prevention, control and treatment of Malaria are quickly addressed.

Thank you, Mr. Speaker, Sir.

Sen. Khaniri: Thank you, Mr. Speaker, Sir. The Vice Chairperson has struggled to pronounce some of the medical terms, but all the same, I thank her for the statement.

In response to the first question as to whether the Cabinet Secretary is aware, the Vice Chairperson says that the Ministry is aware of the reported Malaria outbreak in Kakamega and Vihiga counties. She goes ahead to say that we can see the details of the investigations carried out in the appendix to this statement which she has attached as Appendix No.1. In the appendix, the Vice Chairperson says that the two counties fall under the endemic region of Malaria transmission where the transmission cycle spans the entire year. Therefore, an outbreak is very unlikely to be caused by innate immunity acquired over the years by the population.

This is a contradiction because she says in her answer that, yes, she is aware. However, in the appendix that she has attached, she says that people there have acquired immunity, and, therefore, an outbreak is unlikely. I want to know clearly whether there was an outbreak or not.

Secondly, what entails an outbreak? She has given us some statistics here of Kakamega County with 1,192 cases from January to June this year and then goes ahead to say that it is not an outbreak.

Thirdly, I want to know how many people died from Malaria in that period.

Sen. Kittony: Mr. Speaker, Sir, the statement is very clear that the Ministry of Health is aware of the reported Malaria outbreak in the county of Vihiga. I do not know what the Senator for Vihiga County is asking, yet it is very clear that the Ministry is aware and they made an effort of taking medication to the ground. Vihiga County, through its Level 5 hospital, should also help its people and not only depend entirely on the Ministry of Health.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, the Vice Chairperson has told us that the Government took 17,200 doses of anti-malarial drugs to Vihiga County. This means that only 17,200 people could be treated, considering that the population of Vihiga County is 600,000 people. What could happen to the rest of populace in case of an outbreak?

Secondly, when I visited Kakamega General Hospital, I found that 38 children had just died from malaria in a period of three days. Could the Vice Chairperson tell us what preventive measures the Government took to preempt those deaths? Could she also tell us why the Government never took enough drugs there?

Finally, I did a spot check at Mbale and Kakamega General hospitals and found that there were only two nurses in wards that had admitted 63 and 103 children, respectively. Could she tell us why they are not posting medical staff there? Obviously, lack of enough medical personnel was partly the reason why these children died.

Sen. Billow: Mr. Speaker, Sir, there is an old adage that prevention is better than cure. Literally every month, there have been many epidemics in this country. For the last three years, there has been a running epidemic of a disease called *dengue* fever that is spread by mosquitoes. In western Kenya, the malaria epidemic has been running from Kisii to the former Western Province for months. In other parts of this country it is cholera.

Mr. Speaker, Sir, has the preventive department that deals with vector-borne communicable diseases collapsed in the Ministry? If it has not, what is exactly happening? Why are we having vectors like mosquitoes causing basic preventable communicable diseases? Where is the coordination between county governments and the Ministry of Health in preventing these diseases or has the Ministry actually abandoned medical and preventive services to counties? Counties do not have the immediate capacity to handle everything?

Sen. Muthama: On a point of order, Mr. Speaker, Sir. Listening to the statement that was read by Sen. Kittony and the issues which are being raised now, would I be in order to ask the Chair to refer that statement to the relevant Committee to be worked on again? If possible, the Cabinet Secretary (CS) for that Ministry should appear before this House to answer those questions which are too deep and not contained in the statement that has just been read.

The Speaker (Hon. Ethuro): You are definitely in order, but that guidance should come after exhausting the interventions and after listening to her response.

Sen. (Prof.) Anyang'-Nyong'o: Thank you, Mr. Speaker, Sir. I empathize with Sen. Kittony in trying to deliver a very complex and important statement. In the month of January onwards up to about June, there is a lot of rain in western Kenya and that is when the mosquito larvae breed to make it possible for mosquitoes to bite people. What is important is to take preventive measures before the mosquitoes bite people and then you look for scarce medicine to treat people.

Therefore, the statement demanded by Sen. Billow is very important. To what extent is the Ministry taking preventive measures before the onset of the long rains? This will ensure that breeding of mosquitoes is prevented particularly by getting rid of stagnant pools of water in the affected regions. Delivering mosquito treated nets can also help prevent mosquitoes from biting children, their mothers and ourselves.

Sen. Obure: Thank you, Mr. Speaker, Sir. My understanding is that there was an outbreak of malaria in Kakamega and Vihiga counties during that period. However, the

capacity available within counties was inadequate to deal with the outbreak. Why did the Ministry not consider it necessary to mobilize staff from the national Government to go and deal with this situation, to the extent that they left it until, as Sen. (Dr.) Khalwale says, 38 children lost their lives in three days? This is a grave matter. Why did they not mobilize support for Vihiga and Kakamega counties?

Sen. Haji: Mr. Speaker, Sir, I think the statement that was read by the Vice Chairperson states that over 37,000 drugs for treatment of malaria have been sent to Vihiga and Kakamega counties despite the fact that the population is about 600,000. It is not possible that all those people will suffer malaria.

Secondly, she says the Government has supplied 37,000 mosquito nets for prevention in the two counties. I agree with Sen. Muthama that if these explanations are not adequate, may be, we should ask the Cabinet Secretary (CS) to come here and explain further.

Sen. Elachi: Mr. Speaker, Sir, this is an issue which will completely change the lives of these young children. I would want the Committee to tell the House whether they are able to do so immediately and be in Busia because health has been devolved so that we can know exactly what is happening.

Secondly, what happened when they went out to look at the issue of malaria drugs? Have they presented a report to this Senate?

Could the Vice Chairperson tell us whether the drugs we have in the country are still fit for human consumption? It has been alleged in the media that most of the drugs in the counties have expired and yet the doctors continue prescribing them?

Sen. Kittony: Mr. Speaker, Sir, I read the statement as given, but I also want to say that our Committee has been very active with regard to issues pertaining to health in the country. We have done a number of visits to different counties.

When Ebola broke out, we were quickly at the border to ascertain what was going on. I have said that the Ministry was aware of the outbreak and they have taken measures and delivered mosquito nets and given drugs to those counties. You realize that health facilities have been devolved. County hospitals should assist where possible. Unless the Senator who sought this statement needs more information, he could request in the formal manner.

Sen. Billow: On a point of order, Mr. Speaker, Sir. The Chairperson has not responded to the clarifications we sought. Treated mosquito nets are not preventive measures for mosquito control. Prevention means dealing with the vector that is responsible for the breeding.

Could the Chairperson tell us how a Ministry that is able to send dozens of specialists all the way to West Africa to fight Ebola is unable to send a specialized team to these counties where there is a crisis, even with the county governments in place? There has to be some action by the Ministry. This is not about devolving.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I want to request the Chair to direct that because these proceedings are matters of record---

The Speaker (Hon. Ethuro): Order Senator! You do not just want. You request or better plead with the Chair.

Sen. (Dr.) Khalwale: I am so guided, Mr. Speaker, Sir. Because these are matters that will remain on record, in her answer the Chair has allowed the Ministry to insult the people of Vihiga and Kakamega counties by saying that, yes, these children had malaria. However, they died because over and above the malaria, they were having herbal intoxication. This is on record.

Secondly, she says the children died because over and above malaria, they suffered anemia. I want to confirm the reason they had anemia is because the malaria was not treated. Therefore, it broke down the red blood cells and the children became anemic and died. Could this be struck out of record? Equally importantly, could the Vice Chairperson go to the Ministry and find out how much money the Ministry will spend on purchasing chemicals that will be used to spray to kill the mosquito itself so that there is no vector that can bite a child?

You simply spray and it is very cheap. When is the Jubilee Government going to do so? When Sen. Obure was the Minister for Finance, he used to do it repeatedly. Those days I was the MOH in Machakos. Why are they not spraying? Basic methods of treating malaria! *Bure kabisa!*

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! I want the Chairperson to know that those accusations are not directed to you because you are not the Government.

Let us get the last interjection from Senator Wetangula and then I will give directions.

The Senate Majority Leader (Sen. Wetangula); Mr. Speaker, Sir, I was going to say what you have just said. To be fair to the lady, when she was reading the word “intoxication”, she even admitted that she did not know what it means. So, let us forgive her. I urge the Chair to order the CS Health - given what the Senator for Mandera, the Senator for Kisumu and others have said and this is a problem, not only in Kakamega and Vihiga counties, but everywhere – to appear before the Committee of the Whole so that we can interrogate him fully on this matter.

The Speaker (Hon. Ethuro): Hon. Senators, I am convinced that there is need for this matter to be interrogated further and that the most competent person to be interrogated should be the practitioners. The Committee Chair is directed to give a date on when the CS and his team will appear before the Committee. We will invite the rest of the membership to join the Committee.

You have got real statistics from a doctor who decided to retain the knowledge, but not the practice.

Sen. Abdirahman: On a point of order, Mr. Speaker, Sir. As the Chair, you have very ably concluded the matter. However, I want to raise some concern in relation to the manner in which Cabinet Secretaries have not been attending to committee meetings. We had a Kamukunji yesterday in the morning and we expected Prof. Kaimenyi and Maj (Rtd) Nkaisery to appear before us, but it never happened.

I keep on thinking loudly what safety guards this House has to compel a CS, beyond writing to them because they are invited, but they hardly appear.

We would really want you hear your voice on this matter so that they are aware of what action will be taken against them. Otherwise, there seems to be no seriousness on the part of Cabinet Secretaries in this country.

Sen. Sang: Mr. Speaker, Sir, as you have already directed that the Chairperson invites the Cabinet Secretary, sometimes as chairpersons of committees, we have the challenges of securing the attendance of the Cabinet Secretaries, but we also ought to be assisted by the leadership, especially from the Majority side. Therefore as you direct the Chairperson, could you also then extend the same direction to the Senate Majority Leader or the Deputy Majority Leader and the Whip to ensure that Cabinet Secretaries appear in the House when we need them?

Sen. Kittony: Thursday, next week, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): It is so ordered.

Hon. Members, it is true there is a lot of concern about the performance of the CSs and the leadership of the House that is supposed to support Chairs in compelling the CS to be available.

On the specific matter raised by Sen. Abdirahman, there was a good explanation. In fact, I read that statement because it had come from them, but then there was a change of schedule with the public lecture given by the visiting Prime Minister of Italy at the University of Nairobi. I think that is understandable. I do not think the House should feel impotent. Sen. Khaniri has always invoked it and it has worked for him. However, we have Articles 125 and 153 of the Constitution. So, the tools are already there for you to use.

When they fail, we will try to be friendly by just inviting them. When they fail to come, you should issue summons. If they fail to obey the summons, we will commit them to the High Court and they would be jailed. So, the power is with you. If you need my support and voice, you know what to do. You should request for it and it shall be granted immediately. I do not think the peoples' representatives should be taken for granted. These are issues affecting Kenyans.

Sen. Kittony, I remember that one time, the delay on this statement was on the basis that the staff of the Ministry of Health was undertaking performance contracting exercise. I also recall asking you what was a better way of demonstrating performance and we agreed that it was by delivery.

So, that should be on Thursday, next week. However, do not invite the Cabinet Secretary (CS), but instead summon him. Failure to honour the summonses, the consequences are clear. It shall only be consequential.

Thank you, hon. Senators.

An hon. Senator: Yes, choices have consequences!

(Interruption of Statement)

COMMUNICATION FROM THE CHAIR**VISITING DELEGATION OF IPU EXPERT MISSION ON
WOMEN PARTICIPATION AND REPRESENTATION IN PARLIAMENT**

The Speaker (Hon. Ethuro): Hon. Senators, I have a communication to make.

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of some visitors who are part of the Inter-Parliamentary Union (IPU) Expert Mission to Kenya on Women's Participation and Representation in Parliament.

The IPU, as you all know, is the world organization of parliaments and is a global forum for parliamentary dialogue, cooperation and action. The IPU advances democracy and assists parliaments and parliamentarians throughout the world to fulfill their mandates. The IPU facilitates parliamentary debate, dialogue and cooperation and also promotes and defends democracy and the rule of law while assisting parliaments in coping with an ever-growing international agenda that is relevant to their duties.

Seated in the Speaker's Gallery this afternoon are members of the IPU Expert Mission to Kenya on Women's Participation and Representation in Parliament. I request each member of the Mission to stand when called out so that they may be acknowledged in the Senate tradition.

The members of the Expert Mission are:-

(1) Ms. Betty Amongi, MP; Member of Parliament from Uganda and a member of the IPU's Coordinating Committee of Women Parliamentarians;

(2) Prof. Drudre Dahlerup – this name is not part of the medical ones, but it is equally challenging – from Stockholm University. She is an IPU Consultant on gender and quotas.

(Laughter)

(3) Ms. Zeina Hilal, Gender Partnership Programme – IPU Secretariat, Geneva; and,

(4) Ms. Mariana Duarte, Gender Partnership Programme – IPU Secretariat.

(Applause)

Hon. Senators, the Expert Mission is in Nairobi to assess and identify means and strategies to achieve a balanced gender representation in Parliament as per the Constitution and to explore tools to enhance youth participation, people with disability, the minority and marginalised communities.

I hope that they have had fruitful deliberations during their visit to our great country and Parliament. On behalf of the Senate, I wish them well for the remainder of the visit.

I thank you.

(Applause)

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Sen. Sijeny: Mr. Speaker, Sir, I thank you very much for welcoming them on our behalf. However, I would like to confirm that we have engaged with them in a very fruitful manner that has been very beneficial to us, especially the women, who are trying to fight for women space in the affirmative action. We have benefited a lot. We thank them for that. I take this opportunity to welcome them to the Senate.

Sen. Sang: Mr. Speaker, Sir, I join you and Sen. Sijeny in appreciating the team. When they had meetings, we hosted them as the Committee on Legal Affairs and Human Rights. As indicated by Sen. Sijeny, we learnt a lot from them in terms of the ongoing consensus towards the one-third gender rule implementation in this country. Therefore, I thank them for the support and insights they shared with us. We wish them well.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Why are you not declaring that you are our representative to the IPU in terms of young parliamentarians?

(Sen. Sang spoke off record)

(Laughter)

I thought you feared that you might be exposed that you are not that young?

(Laughter)

Sen. Elachi: Mr. Speaker, Sir, I also thank the delegation headed by Betty Amongi who is also the Chairperson of the Uganda Women's Parliamentary Association (UWOPA) in Uganda.

On behalf of the women of Kenya, we have always appreciated all the capacity building programmes we have received across countries in terms of understanding how we could achieve affirmative action. However, more importantly, as we approach the deadline on 27th August, 2015, we, as a country, hope that we shall have more consultations. We also hope that we will incorporate our male colleagues in the discussions and come up with a homegrown position that all Kenyans will appreciate and be beneficial to the country. The process is ongoing.

Thank you, Mr. Speaker, Sir.

Sen. Wangari: Mr. Speaker, Sir, I join you and my colleagues in thanking the delegation, especially from the leadership of the Kenya Women Parliamentary Association (KEWOPA) and the Kenya Young Parliamentarians Association (KYPA). I wish to thank them for the outreach they have done, especially to the leadership of Parliament as we deal with 27th August, 2015 deadline, concerning achieving the one-third gender rule. I hope that from the discussion we have had, we will have a way forward regarding dealing with this problem.

Thank you, Mr. Speaker, Sir.

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Sen. Nabwala: Mr. Speaker, Sir, I would like to join you and the rest of the Senators who have welcomed our guests from the IPU. The IPU is a very important forum because it is where parliamentarians meet twice a year to discuss issues affecting the world.

I would like to welcome them because their visit to Kenya came at the right time when we, female politicians, were discussing about the one-third gender rule as we struggle to find space. I am sure that we have benefited a lot from the ideas. Owing to that, we can now sit together and deliberate on issues that were raised.

I would also like to say that we are a Member at the IPU in the UN Committee. Therefore, we are together.

Thank you very much.

Sen. Okong'o: Mr. Speaker, Sir, in my other life as a women rights advocate, I also wish to thank the team that is around. It is good to learn that there is consensus building.

I also take this opportunity to warn those in offices who want women to forget about the one-third gender rule. There are people in offices in this country who get coverage in the media stating that women should forget about what is rightfully theirs.

Thank you, Mr. Speaker, Sir.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, I met with the group and we had very useful deliberations yesterday. However, let me assure this House that the struggle for women liberation is not just a matter for women. It is an important agenda in the second liberation.

Mr. Speaker, Sir, you will remember that when you were in the NGO world, as we struggle for gender parity and efficacy in this country, that was a very important issue in the second liberation. I must say that as has been incorporated in the present Constitution, the principle is there, indeed, the two-thirds representation of either gender in all representative institutions must be realized. It would be part of the struggle to take the second liberation to its logical conclusion.

The Speaker (Hon. Ethuro): Finally, Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, the reason I have stood is because I want to congratulate the leader of this delegation and tell the persons who are nominated that she was also nominated and has moved to competitive election.

But even more importantly---

Sen. Ong'era: On a point of order, Mr. Speaker, Sir. Did you hear Sen. Mutula Kilonzo Jnr. refer to distinguished honourable Senators who are nominated as "persons who are nominated?"

The Speaker (Hon. Ethuro): Order! Sen. Ong'era, I think you are---

Sen. Mutula Kilonzo Jnr.: Oversensitive!

The Speaker (Hon. Ethuro): Yes, oversensitive. I think you have given me a better word than the one intended to use.

Proceed.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, also, very insightful views about the persons who are representing special interests, who want to protect those positions in terms. The Professor also gave us various insights about the proposals that have been made about what they are calling “a sunset clause.”

I urge the persons, particularly my friend here, Sen. Sijeny, to consider those views because they will help the legislation that we will make in this country. We have now discovered that it is just a problem of law. However, we need to do more to educate members of the public than what we are attempting to do in this Republic of looking at 27th August as if it is a day of Armageddon. We will need to work on this like Uganda has done since 1995.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): I am glad that you came at the very tail end to conclude it all, save just to say that you are still giving Sen. Sijeny the responsibility. Even if there is no problem in law, at one time the Deputy Speaker, who is also the Senator for Murang’a said that you also have a legal duty of care. Sen. Nabwala also talked about ladies. This is not a problem of ladies, but a new shoe for all of us, including the other men who have contributed, that is, Sen. Okong’o and Prof. Anyang’-Nyong’o. It is our problem as a nation.

Next Statement.

(Resumption of Statements)

The Chairman, Committee on Finance, Commerce and Budget is here, but Sen. Bule is not here present for the two Statements that he requested for.

CRITERIA USED IN ALLOCATION OF
UWEZO FUND IN THE 47 COUNTIES

(Statement deferred)

UTILIZATION OF CDF IN TANA RIVER COUNTY
DURING THE 2012/2013 FINANCIAL YEAR

(Statement deferred)

CRITERIA FOR APPOINTMENT/REGIONAL
DISTRIBUTION OF APPOINTMENT TO PARASTATALS

The Speaker (Hon. Ethuro): The Chairman of the Joint Committee on National Cohesion and Equal Opportunity is not here, but I see Sen. (Eng.) Muriuki present. Where you have the Senators present, that statement must be given priority in the next sitting, which will be on Tuesday.

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Sen. Elachi if you are holding brief for the leadership, maybe this is the opportunity to exercise that leadership or else, I am still considering the proposal by Sen. Sang which was seconded by Sen. Billow. You realize that I am not yet there. Could you, therefore, do something that might mitigate, by ensuring that the Chairpersons and also Sen. Bule are available on Tuesday?

(Statement deferred)

Next Order!

MOTIONS

RESOLUTION TO HOLD EXTRA SITTINGS

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

THAT, pursuant to Standing Order 30(3)(b), the Senate resolves to meet on Wednesday, 22nd July, and Wednesday 29th July, 2015 from 9.00 a.m to 12.30 p.m.

Mr. Speaker, Sir, this is a straightforward Motion. I think all of us understand why we are re-introducing the morning Sittings. Looking at the business that we have before we go for our long recess, we would appreciate, as an institution, if we could finish and forward it to the National Assembly.

We are also facing another challenge regarding most of the Bills that we have forwarded to the National Assembly. We have never received any communication or Bill that has been finalized in the National Assembly back to the Senate. Indeed, as much as we would want to conduct business, I think it is time for the leadership of the Senate also to start asking ourselves how we will move forward and what the law says in terms of the long period that the National Assembly has stayed with the Bills.

Having said that, that cannot stop us, as an institution, from finalizing our work. I urge the Members that as we proceed to have the morning Sittings, let us be punctual so that we can clear, especially, all the Bills that are in the Committee of the Whole stage. If we are able to finalize that, I think we shall go for our long recess, knowing very well that we have done our best.

Mr. Speaker, Sir, I beg to move and ask the Senate Minority Whip, Sen. Muthama to second this Motion.

Sen. Muthama: Mr. Speaker, Sir, I stand to second this Motion. The Motion is asking for only two days to work in the morning hours. Looking at the pending business before this House and considering that the recess is approaching, that is, the end of this month, I wish to second this Motion.

(Loud consultations)

Sen. (Prof.) Anyang'-Nyong'o: On a point of order, Mr. Speaker, Sir. Sen. Muthama is making a very important speech and the Senate is apparently recessed into

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some discussion which is not related to the business before this House. Could you ask the Senators to pay attention to Sen. Muthama?

The Speaker (Hon. Ethuro): Order, Senators! If you have to consult, do so, in low tones. The only official business before the Plenary is this particular Motion. If you have any other business, then you are transacting it at the wrong place.

Proceed, Senator.

Sen. Muthama: Mr. Speaker, Sir, considering that we are asking for only two Sittings in the morning hours and given the issues which have been raised by the Senate Majority Whip, it is important that we pass this Motion, so that we can do the pending business that is ahead of us.

Mr. Speaker, Sir, I beg to second.

(Question proposed)

Sen. Billow: Mr. Speaker, Sir, I rise to oppose this Motion. Some members of this House have not been taking the business of this House seriously. Now, we are being told to sacrifice our mornings in order to catch up because people failed to participate in the proceedings of this House for which they have been elected to do. Every day, in the afternoon we are here. We are unable to execute decisions such as voting for Bills and issues regarding the Committee of the Whole due to lack of quorum.

Mr. Speaker, Sir, it is about leadership of this House. There is no institution which can operate if the leadership of that institution does not take the business of that institution seriously. The leadership of this House with due respect, I am not referring to the Speaker's office, but the leadership. I am talking about the people who sit on these chairs and not being available - In fact, particularly on my side - not being available most of the time to execute the business of the House.

The Speaker (Hon. Ethuro): Sen. Billow, for avoidance of any doubt, let me clarify. There is a difference between the leadership of the House by the Speaker and the political leadership.

Sen. Billow: Mr. Speaker, Sir. I am referring to the political leadership. I want the hon. Senator who moved the Motion on behalf of the political leader of this House. She normally sits next to me here. However, in the last few days, she had to occupy the empty spaces here because those leaders are not there. Now, we are being told to come next Tuesday, Wednesday and so on, to spend our mornings here yet every day we are here and there is nobody to conduct business.

This House is inundated with business now. Some Committees have a lot of work. The House also has a lot of work. There is a lot of work being generated for the Senate. However, without proper organisation, leadership, commitment and involvement by the people who sit on those high tables, we will not be able to move this House. Tomorrow when the audit is done, we will end up as a House that has received 500, Bills but executed 200.

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As the rank and file soldiers, we will be ready to come and work every day. However, without our leaders taking the business of this House seriously, in particular the leadership of Jubilee – I want the Senate Majority Leader to communicate this decision to the leadership of Jubilee. We did not choose this party so that we come here and are made to look like people who have no spine or capacity to deliver. We have the capacity, but we want people who have taken responsibility to take it with the seriousness it deserves. I want the Senate Majority Whip who is warming this seat to advise the owner of that seat to lead this House in a better way so that we can carry out functions seriously.

With those few remarks, I beg to oppose. I have no intention of coming here Tuesday or Wednesday morning, next week. We are not utilizing our time during the other days of the week.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, after the Chairperson of the Committee on Finance, Commerce and Budget has spoken, Sen. Billow, who shoots straight every day, I would like to support him. First, we have Committees of this House which have scheduled their meetings on those mornings when we are being requested to come here. These Committees sometimes have time-bound responsibilities. They cannot afford to change their sittings.

Secondly, these Committees also invite people who are equally busy to appear before them. Bringing this Motion today, when we have already scheduled meetings for next week, makes it difficult for us, as Committees, to function. I remind the House that quite a good number of Members of this House are Members of multiple Committees. They try their best to serve them almost on a daily basis. Since these Committees have to meet in the mornings on Tuesdays and Thursdays. Now, we even meet on Mondays and Fridays to catch up on our work.

As we come towards going for recess next week, therefore, the Committees also want to make sure that they do their work. Further, we are even scheduling ourselves to meet during the recess. This means that we are taking our responsibility further to invade the period of time that we could have spent in our counties.

I, therefore, request the political leadership of the House, that when such Motions are being brought to the House, they should consult with Committee Chairpersons to find out whether this will be a possibility or not rather than come to the Floor of the House, be ambushed by a proposal like this, and then we are compelled to oppose because of other schedules of Committees which are equally important.

Mr. Speaker, Sir, I would like to draw the attention of the House to another issue that Sen. Elachi mentioned. The National Assembly does not pay attention to Bills passed by this House; neither is it reporting back to us. Could I be in order to appeal to the political leadership of the House to meet their counterparts in the National Assembly and in the spirit of fulfilling the principles in the Constitution; that we are a Parliament of two Houses, and the laws that we make in both Houses, are towards the building and good governance of our nation--- Any form of political hubris or peer rivalry between the two

Houses will not help in implementing the Constitution or in promoting good governance and constitutionalism in our nation.

Therefore, I appeal to Sen. Elachi, the Senate Majority Leader and their counterparts on our side of the House to meet urgently with their counterparts in the National Assembly, discuss this matter, take their political resolutions to the Speakers so that we can have a mode of operation which makes the two Houses work in tandem with each other rather than opposed to each other. This is not helping us. Rather than stand in this House and complain, bay at the moon and so on, it is much better to take a constructive step to cure this ill that is befalling the good governance of both Houses.

Mr. Speaker, Sir, painfully as it is, and not having wanted to do so, but compelled to do it, I beg to oppose.

The Speaker (Hon. Ethuro): Proceed, Sen. Adan.

Sen. Adan: Mr. Speaker, Sir, I am sorry. I do not want to contribute to this. It was an earlier one.

The Speaker (Hon. Ethuro): Sen. Haji, why are you confusing contributions to an ordinary Motion with your Committee business? When the Vice Chairperson is not available, the Chairperson is.

Sen. Haji: Mr. Speaker, Sir, I am sorry. I thought that you confused her with me.

(Laughter)

The Speaker (Hon. Ethuro): You have made your case worse. I was to give you an opportunity, but people might think that I confused you with her.

For avoidance of doubt, I have not confused. You are Sen. Haji.

Sen. Haji: Mr. Speaker, Sir, many a times we have been lamenting about lack of response to statements requests by the Cabinet Secretary, but I think we are the worst enemies of ourselves. Nowadays, Committees are not able to work efficiently because Members are serving more than three or four Committees. Therefore, what is happening is that most of the Members are not there and if they come, they only make technical appearances. In this way, we cannot discuss and come up with something worthwhile. The leaders of both sides should collapse these committees together so that we have fewer committee, but working more efficiently.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, like my colleague neighbour, Sen. Billow said, before we think of creating more time to deal with the business of the House, we must utilise the time that we have to the fullest. Whenever we have business for the House that requires attention, there are leaders in this House who have a day or two in advance to make sure that Members come in the House at the time of debating or voting. This has to come out; that we need to take our work seriously. When we have an extra duty in this House, we must take it seriously. There are some chairpersons who are permanently not here and so some of the questions are not responded to.

Sen. Ong'era: On a point of order, Mr. Speaker, Sir. Is it in order for the distinguished Senator for West Pokot, who is a Member of the Rules and Business

Committee, where this decision was made, to rise now and oppose the Motion. Is he in order?

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, my colleague Sen. Ong'era was absent when we met on Tuesday. There was a proposal that in future we may have to meet, but we cannot meet when business is not being transacted properly here. I was present and we did not quote these dates. We said that there may be need to meet.

Sen. Muthama: On a point of order, Mr. Speaker, Sir. Sen. (Prof.) Lonyangapuo is a Member of RBC and any business of this House originates from there. Whether he attended the meeting or not, is he in order to come here and pretend that he does not know where this Motion originated from?

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, you can now see when I was talking about leadership that is absent in the House and when they arrive they want to speak on behalf of their colleagues. He is the Deputy Whip. When I look at my leadership here, they are almost permanently absent. Similarly, he is lucky he is in today. Let us address the issue at hand. Before we create these two extra sittings, many Petitions have been brought. Today Sen. Hassan was chairing a meeting where we did not even have time to finish because of the excess work we have---

Sen. Hassan: On a point of order, Mr. Speaker, Sir. An impression is being created that if you sit in a Committee, be it the RBC or any other Committee and a decision is made, you cannot then come to this House and object to it. Is it in order that such a perception is being created?

The Speaker (Hon. Ethuro): Hon. Senators, that is a matter that is exercising my mind as well. It is a very serious matter. A Member has several roles to play; it is a fact that this Motion was approved by the RBC. The question is: If you are a Member of the RBC and you did not raise objections at that particular time, are you entitled to raise objections on the Floor of the House? Ordinarily, no, but I do not see anything legally binding or otherwise, to prevent a Member on the Floor of the House as the Member for a county or representing a particular county to change his or her position. They say that it is only fools who do not change their minds. The only argument you can have against a Member is maybe an ethical argument that maybe he voted for it, but in some of these decisions, we do not vote. So you have nothing holding a Member.

Proceed, Sen. (Prof.) Lonyangapuo.

Sen. (Prof.) Lonyangapuo: I thank you for clarifying the issue and making it the choice of the Member.

The Speaker (Hon. Ethuro): Let me add that the rule in the Committee is that if you are completely opposed to a certain position you may vote against it and sometimes you can vote against it, but still maintain that the majority have their way and do a minority report explaining your circumstances. I am also aware that there are many instances where even the Committee Members who may have approved a particular report come back to disown the same report on the Floor of the House. I am yet to find any practice in any Parliament where sanctions were put against such Members.

Proceed.

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Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, this Motion then brings a lot of thoughts from the leadership of this House. From today, if they are listening to us, they need to take their work seriously so that Members can also have time to attend to other business of this House which is transacted in the morning hours of Tuesday, Wednesday and Thursday.

When you look at the amount of work in the Committees, it is so huge that we may not finish if we interfere with that time, particularly the petitions that have come and have a deadline. Sometimes, we need to rescue some counties from further mess. Therefore, it is important that we do it.

Lastly, it is also true that sometimes as the representatives of counties we have a lot of work and it would not be prudent to overload ourselves.

With those few remarks, I oppose.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I am afraid that the leadership of the House has not given us a reason we should forfeit the work of the Committees and concentrate on Plenary. I am now speaking on behalf of the Committee on Finance where we have Petitions. We have many Petitions such that if we have to put them on the Floor, they would go all the way to the round-about.

Mr. Speaker, Sir, we are scheduled to meet people the whole of next week. Yesterday, Sen. Ongoro, who is a Member of the Speaker's Panel, issued something that appeared to be castigation this House. We were discussing the County Assembly Services Bill and there were only six Senators in the House.

After we finished the debate, she issued a Communication to the six of us here and those watching the debate on television or they can read the HANSARD. Therefore, I am not convinced that if we sit on Tuesday or Wednesday the situation will change. Yesterday, the Senate Majority Leader- sometimes when I mention him he gets upset--

The Speaker (Hon. Ethuro): Order, Sen. Mutula Kilonzo Jnr. This is a specific Motion, it is not a matter of "maybe". The Motion is to seek to sit on Wednesdays and not Tuesday.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, my position is that there is no reason whatsoever why we should suspend Committee work that you have directed to us. We are going to sit here and the people who do not come will not come. It would be the order of the day; same script, different players and it will not help.

Mr. Speaker, Sir, what is even worse is that there is a tradition; that has been set that towards the end of every term, this Motion is sneaked into the Order Paper and the person who is supposed to move it does not come. We have this argument every end of term and we are setting a bad precedence. I suggest that the business that is in the Order Paper throughout the term should be taken seriously.

More importantly, we, as the foot soldiers of this Senate, we want to task the leadership from both sides, that is, the Senate Minority Leader and Senate Majority Leader, to sit with us here until 6.30 p.m. Yesterday, the County Assembly Services Bill was on the Order Paper after the RBC met. Therefore, the foot soldiers of the Senate have refused to come on Tuesday and Wednesday morning not because we do not want to

work, but because we want to ensure that under Article 119, Petitioner's reports are tabled before we go for recess.

Sen. Obure: Mr. Speaker, Sir, first, I stand to oppose this Motion for the reasons which were exhaustively and eloquently given by Sen. Billow, Sen. (Prof.) Anyang'-Nyong'o and others who have spoken before me.

Secondly, we took a deliberate decision to remove Wednesday morning as part of our sitting for very good reasons. I do not see any need now to go back on that decision.

Thirdly, we re-scheduled our diaries in such a manner that we are now occupied for other business on Wednesday morning. Therefore, it is futile to suggest that we come back here on Wednesday morning.

Mr. Speaker, Sir, I oppose.

Sen. Okong'o: Mr. Speaker, Sir, there comes a time where the Eminent Senators in this Senate must challenge themselves on what they stand for. Are they patriots? When we were splitting Committees, I was on record opposing it. We sit in four Committees, but the tradition is that you see a Senator walking in, signs for the tax-payers money and walks away to go to attend another Committee sitting. There comes a time when we need to challenge ourselves and ask ourselves if we are serving this country truthfully or not.

This morning, we had business to do, but we started our business five minutes later. On 28th of this month, we had slotted to have governors coming to our meeting to deliberate on matters of reports of the Auditor-General. We should not hide and give small petty excuses. We should serve the full term of the Senate as mandated in the Constitution and the people of our counties. If we are not, we need to do a lot of introspection to see whether we are patriots.

Mr. Speaker, Sir, I have been told that our sister House does not comply with Bills which we have approved. If the reason is to comply with some portions of our work which goes to the National Assembly and that is why we are being called to sit on Wednesday morning, then I do not find any value for that. We, as citizens of this country, I reiterate that we need to do a lot of soul-searching without fear or favour. We have a big mandate and many people follow what we do here.

With those few remarks, I oppose.

Sen. Hassan: Mr. Speaker, Sir, I also rise to oppose this Motion on account of the fact that we need to be better organized as a Senate---

Sen. Billow: On a point of order, Mr. Speaker, Sir. Reading the mood in the House and this being a procedural Motion, I rise under Standing Order No.98 to move that the Mover be now called upon to reply.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, whereas the Senator for Mandera might be right, the tradition in this House is that on a matter where a Senator has spoken, he cannot rise to suggest that other Member be denied an opportunity to speak. I am not saying that he is wrong, but let us remember that he is out of order because he has already spoken. Therefore, he cannot prevent Sen. Hassan from contributing.

Sen. Hassan: Mr. Speaker, Sir, as I said, I rise to oppose---

The Speaker (Hon. Ethuro): Order! What is it, Sen. Billow?

Sen. Billow: Mr. Speaker, Sir, you heard the Senator for Kakamega. Could he clarify what Standing Order prohibits a Senator who has spoken from moving from Standing Order No.98? Could he do so or withdraw his remarks?

Sen. (Dr.) Khalwale: Relax.

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! When you are challenged, you do not just ask your opponent to relax. You should rise to the occasion.

(Laughter)

Give Sen. (Dr.) Khalwale a microphone. In your particular circumstances, all Kenyans appreciate that you are passionate about bull fighting. So, by extension, you must appreciate taking the bull by the horns.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, when I was commenting, I was laughing and because the distinguished Senator is a very old Member of Parliament (MP). He knows that Parliament operates under traditions, usages and practices. In this particular case, he knows that it is true. Standing Order No.1 provides for exactly what I have said.

The Speaker (Hon. Ethuro): Sen. Billow, we have just concluded that point of order.

Sen. Billow: Mr. Speaker, Sir, where there is a Standing Order provision, you do not apply Standing Orders No.1. Standing Order No.98 is very clear that a Senator may rise in his or her place and may move "THAT, the Mover be now called upon to reply". There is no provision of whether he spoke or not. So, is the Senator for Kakamega County in order to mislead this honourable House?

The Speaker (Hon. Ethuro): Order, Senator! This is a good day because you have raised quite a number of procedural issues. I was of the same opinion like Sen. (Dr.) Khalwale when Sen. Billow rose to ask that the Mover be called upon to reply. That was the expectation because it is a custom and tradition.

However, when you closely examine the particular Standing Order that he stood on and when Sen. (Dr.) Khalwale failed to give a counter Standing Order and sought refuge in Standing Orders No.1 - It is actually a qualifier. We will invoke the customs and traditions, in the absence of a provision.

I am afraid that this has not been qualified and it is a serious oversight in our Standing Orders. This is because there was a lot of reasoning behind it to avoid a lot of self interest, for example, when a Member has spoken and does not want others to contribute. However, it is not in our books. I will leave it open because there is only Sen. Hassan and Sen. (Dr.) Khalwale who want to contribute.

What is your point of order, Sen. (Prof.) Anyang'- Nyong'o?

Sen. (Prof.) Anyang'- Nyong'o: On a point of order, Mr. Speaker, Sir. Would I be in order to suggest that such traditions are usually set by rulings of the Speaker if the matter is not expressly provided for in the Standing Orders, therefore, such rulings

become a tradition? Since the Senate is a very young House, I do not remember of a time when the Speaker made any ruling on this matter. Therefore, I think that it should be left to the Speaker to examine tradition in other Houses, and in future, make a ruling that can become part of the traditions of this House.

The Speaker (Hon. Ethuro): I think that is a fair request. However, for the Speaker to do so, and in order for it to be binding to the House, I need to give my considered opinion and not just on the basis of the exchanges now. However, I will consider it now and invite you. If I do not do it in good time, you will remind me.

Let us proceed because we only have two more Senators to contribute.

Please, proceed, Sen. Hassan.

Sen. Hassan: Thank you, Mr. Speaker, Sir. As you consider your ruling, it would also be nice to set a tradition that we should allow a Member on his feet to finish before one raises that kind of a point of order. In fact---

The Speaker (Hon. Ethuro): Order, Sen. Hassan! I can assure you that you are violating all the provisions of the Standing Orders. The whole purpose of a point of order is to stop one in their tracks, just in case one is taking us where we are not supposed to be. So, if we allow you to finish, you will have landed us to the devil.

Please, proceed, Sen. Hassan.

Sen. Hassan: Thank you, Mr. Speaker, Sir. I stand guided.

I rise to oppose this Motion on account of the fact that the Senate now needs to start planning its business more thoroughly. I particularly beseech the leadership of the House to take the business of this House more seriously. As other Senators have said, they should not plan business and then absent themselves from the Sittings of the Senate. Plan the business and be part of it. Therefore, the ambush of constantly being told in the last week before recess that we need to meet twice or thrice more to conclude the business is something that we will not accept. We do not also want to start creating a tradition where it is normal that every time we bring this type of Motion to alter our calendar.

This morning, I chaired the County Public Accounts and Investments Committee (CPAIC) and we scheduled to meet certain county assemblies and executives next week. Therefore, it would lead to rescheduling of other businesses of this House that are equally important. So, on account of that fact, I think that we will dispense with the other business when we resume on the 15th of September 2015.

Mr. Speaker, Sir, I beg to oppose this Motion and urge my colleges to do the same.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I support this Motion because in the beginning this House did not have a lot of business. Therefore, we did something that was against the tradition of sittings of Parliament of Kenya by removing the Wednesday morning sittings. Now that it has occurred to the Rules and Business Committee (RBC) that there is justification for us to be sitting on Wednesday morning, the long term solution is that the decision that was made earlier on when we used to

debate from the “garage”, should now be reversed. We need to start sitting traditionally in accordance with how Parliament sits.

Mr. Speaker, Sir, this is important and I want to encourage Sen. Mutula Kilonzo Jnr. and Sen. Hassan not to be surprised when the Senate Majority Leader asks this House for extra Sittings. Even in the other set-up, there were many occasions when we were asked to sit on Thursday and Tuesday mornings, just to accommodate the business of the House. The bottom line, therefore, is that let us now accept that the Senate has become sufficiently busy in the Committees and the Plenary. We should, therefore, start sitting normally so as to avoid such Motions in future.

I beg to support the Motion.

The Speaker (Hon. Ethuro): Let me give a special consideration to Sen. Murungi to be the final contributor.

Please, proceed, Sen. Murungi.

Sen. Murungi: Thank you, Mr. Speaker, Sir. I rise to oppose this Motion.

(Applause)

Time has come for us to learn better management techniques to manage the business of this House. If you consider the amount of time spent on points of order and digressions, we would not be calling for Special Sittings.

I am calling for more efficiency. We should not punish Members who have already organized their schedules for Wednesday and Thursday mornings. We should not ask them to cancel whatever they had planned so as to accommodate poor planning in this House.

I beg to very strongly oppose this Motion.

The Speaker (Hon. Ethuro): Order, Members! We have exhausted the number of people who wish to contribute. Before I call upon the Mover to reply, I feel constrained to clarify Sen. (Dr.) Khalwale’s issue about the tradition of Sittings and why we, as a Senate, removed the morning Sitting. It was not because of lack of business. We decided to do so because of the Bicameral nature of Parliament and a Presidential system where the Committees of the House generate a lot of business. I am happy that most of you are opposed to the Motion on the bases that the Committees already have prepared schedules to transact their businesses. In fact, they have a lot of work. These are some of the traditions that we should not borrow. Even when we are told to consider a tradition or custom, it must be a good one. It must reflect the circumstances of our time.

Definitely, the Eleventh Parliament is very different from the other Parliaments because we have two Houses and there is business between them. You must literally generate most of the Business. That was the major consideration of doing so. It was good that time and it is still good now from where I sit.

(Applause)

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Mover!

Sen. Elachi: Thank you, Mr. Speaker, Sir. I thank all Senators, especially chairpersons of Committees. While we appreciate that we have committees going on, we also have reports that are supposed to be tabled in this House coming from those committees. Therefore, I urge chairpersons to ensure that their reports are ready for tabling before this House.

We were just trying to come in to ensure that all constitutional timelines and Bills are complied with before we go on recess. Since this is a House of consensus and can agree to even extend sittings in the evening when we feel it is necessary, I think that is what we will move and I appreciate the views of Members.

I beg to move.

The Speaker (Hon. Ethuro): Order, Senators! This is not a matter affecting counties, but your calendar. I will put the Question. It will be a voice vote and not electronic.

(Question put and negatived)

The Speaker (Hon. Ethuro): Next order!

INQUIRY BY DEVOLUTION COMMITTEE TO ESTABLISH THE
COUNTIES THAT NEED FACILITIES FOR COUNTY HEADQUARTERS

THAT, noting that County governments were allocated offices and premises formerly occupied by the defunct local authorities and, to some extent, by former provincial administration;

OBSERVING that these arrangements were satisfactory in most counties;

AWARE that some counties had little or no such offices or premises to inherit resulting in serious operational challenges of such county governments;

APPRECIATING that there are many counties with inadequate physical facilities whether they inherited the envisaged facilities or not;

CONCERNED that the situation, continues to impact negatively on the performance of the said counties;

ACKNOWLEDGING that it is the mandate of the Senate to protect the interests of the counties and to ensure that their governments are fully operational;

NOW THEREFORE, in order to form the basis for possible assistance to counties for headquarter facilities, the Senate resolves to establish a Select Committee to conduct an inquiry into the needs of each of the forty – seven counties and report to the Senate within three months, and further that the select committee shall comprise the following Senators-

1. Sen. (Eng.) Muriuki Karue Muriuki;
2. Sen. George Khaniri;

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3. Sen. Abu Chiaba;
4. Sen. Abdirahman Hassan;
5. Sen. Stephen Sang;
6. Sen. Fatuma Dullo; and
7. Sen. Judith Sijeny.

(Sen. (Eng.) Muriuki on 15.07.2015)

(Resumption of Debate interrupted on 15 .7. 2015)

Sen. (Eng.) Muriuki: Thank you, Mr. Speaker, Sir, for giving me the opportunity to continue moving this Motion. I had already read out the Motion. If you go back a little on the history of the country before the new Constitution, the country was divided into provinces, districts and down to divisions.

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

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

The Government was straightforward, we had the national Government then called the central Government and the local authorities; county, municipal and town councils. When the new Constitution was promulgated---

(Loud consultations)

Mr. Temporary Speaker, Sir, there is a lot of consultations. I wish to be heard.

The Temporary Speaker (Sen. Mositet): Order, Senators! Consult in very low tones

Sen. Eng. Muriuki: Mr. Temporary speaker, Sir, with the new Constitution, we came up with the national Government and counties. Those who crafted the Constitution looked very cleverly at a good way of designating counties and that is the former districts the way they were before the escalation of sub-division of districts to be mini districts. I think that was 1991 when we only had 47 districts which were then named counties. The gist of facilitation of premises where they would operate from, either the headquarters or other facilities like the works offices, was that they would take over those offices which were being used by county, municipal or town councils. Also, facilities of other depots like staff and vehicles. They generally took over everything that was under the local authorities. To that extent, it was generally fairly adequate that counties take over what was in the local authorities and what was in the provincial administration. It was generally adequate for the purpose.

However, there were also a number of unique situations where a new county found itself with none of those local authorities or even the provincial administration. I

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do not think there is a county which does not need some manner of support in order for it to be fully adequate. Some were so seriously disadvantaged that there is need for this House to evaluate that situation. A decision could be one way or the other. A case in point just as an example is Nyandarua County. For some historical reason, we did not inherit either the provincial administration or municipal and county council offices. May be, I would not bother the House so much by going into the history of it.

Mr. Temporary speaker, Sir, perhaps it would suffice to say that history is a very strange phenomenon because when you go back to it, you only learn the facts, but you cannot change them. Somehow, when the central Government went to build the headquarters of the then Nyandarua County Council, for some reason they went to a town which was outside the county. May be Nyandarua and Nyahururu sounded similar, but it is a historical fact that that is what happened. As a result, that county found itself with none of those facilities which other counties inherited.

I am aware there are quite a number of other counties. For example, this House did not support my move when I tried to see whether it could support that particular county and three others – Tana River, Lamu and Tharaka-Nithi counties. However, the sentiments of Members who spoke were that those four with the others that I was trying to push for are not necessarily the only ones with a problem, which could be much more widespread than those four. In my thinking, I thought that perhaps the best thing was to listen to the voice of the Members who said, this is not the only one, let us have a way of looking at all of them and see to what extent this House requires to step in.

Article 96 of the Constitution says:-

“The Senate represents the counties, and serves to protect the interests of the counties and their governments.”

To me, that safeguarding or protecting of the counties’ interests also includes protecting and facilitating them and making sure that where they are operating from – not necessarily offices – is reasonably adequate. That way, none of them would be clumsily disadvantaged.

Mr. Temporary speaker, Sir, when we say county facilitation so that county Governments can operate properly, we quickly think about buildings. However, there are very many other services which a county which may have inherited those other facilities might not have. For example, you may have a county Government which inherited very good buildings that belonged to a municipality, but you will find that there was no sewerage system or water. It is through this Motion that I am urging the Senate to attempt to look into those issues. A decision will have been made once the Senate has delved into that issue and a report will be made.

I suggest that we form a committee comprising of seven Members, and I am sure within one or two months, they will have delved into all the 47 counties and made a report. As I said earlier on, the House could make a decision on which way to go. They could very well find out that the problem is not as big as you are thinking. They could also find that it is quite big and it needs the intervention of the national Government in a big way. Either way, I wish to urge the House to support this Motion so that we have this

Committee delve into it. The Committee will not start from the scratch because what I am proposing the Transition Authority (TA) attempted to do it, but it is they did not finish their job. They had a report which was not implemented where they had an indication of which counties required support and which ones could sail without much ado.

Mr. Temporary Speaker, Sir, I urge the Senate to support the idea. This is in line with performing our job as per Article 96. We shall evaluate to what extent the Senate needs to intervene, if at all, with regard to facilitation of the county governments as far as premises and other facilities like drainage and so on are concerned so that from then onwards, we can make decisions to what extent we can lobby through the Division of Revenue Bill or otherwise. The House might also propose that the issue be considered to be funded through conditional grants from the national Government. Sometimes we do not need money from our own coffers because items like sewage and water could be done by donors. Maybe all we need is a word from the Senate that county government “x”, “y” or “z” requires attention.

With those few remarks, I beg to move and ask Sen. (Prof.) Anyang'-Nyong'o to second the Motion.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Speaker, Sir, I beg to second this Motion moved by Sen. (Eng.) Muriuki. As usual, he has a custom of breaking into new ground. This, indeed, is a new ground. As Sen. (Eng.) Muriuki says said, this is an issue that was handled by the TA but it did not handle it as a long-term measure but as an emergency measure. In other words, given that counties had just been established, and that county assemblies had been elected, neither the county executives nor the county assemblies could have been assured premises where they did not exist. Where those premises might have existed in terms of old local authorities, they needed to be adopted to serve the new dispensation in the counties. For example, local authorities did not necessarily need to have HANSARD records and, therefore, some of those adjustments had to be made in such premises and the TA budgeted some Kshs61.2 million that was sent to counties to cater for urgent expenses that were needed to settle in both the county governments and the county assemblies.

Mr. Temporary Speaker, Sir, now time has come to see county assemblies and county governments as aspects of our governmental system which must last for long. We should look at the period of the TA; as its name suggests, it was a transition. We need now to make a transition to a permanent existence of devolved government. Therefore, whatever we do should be additive to that permanent existence in the long run rather than ephemeral to that existence.

I think the Motion that Sen. (Eng.) Muriuki has brought to the House is extremely timely. When the TA was doing this with the county governments, I think they approached the secretariat of the former Ministry of Public Works to come up with models of county assemblies. I think the Ministry in charge should come up with models of the executive government of counties. I am saying this because if you go to the United States of America, which perhaps is one of the most advanced systems of devolved government, if you go to any State, you will always know where the State Capital is by

the kind of building you find at the end of the main street and it always has a dome. So, if you are looking for the capital of the State where the government of the State is, you will know where to find it by the features of the buildings that house such governments.

Mr. Temporary Speaker, Sir, it also becomes cheap for all counties if we develop a model of where the county executives are going to run the counties and a model for county assemblies, so that there is a standard model; that means that construction cannot be varied from one county to the other. If this is done, we shall save a lot of money and there shall be a benchmark for every county in putting up their headquarters as well as their assemblies. There will also be quality control in the kind of material and premises we have for county assemblies.

I have gone around a few county assemblies with my colleagues and it is quite embarrassing that when you go to certain counties, you will find that the assemblies are either meeting in a church or under a tree or something as ridiculous as that. Even where they have used the money from the TA to make certain repairs, those repairs in certain cases are not becoming of the dignity of a county assembly. Where county executives have also attempted to remodel existing premises for their use, the remodeling of those premises does not fit the dignity of what is called a county government.

This Motion will make it possible for this Committee to look into these issues and make recommendations to this House. I would like to extend the mandate of the Committee and say: Do not just look at the manner in which these counties have been able to accommodate themselves in existing premises, but to look at the possibilities beyond the work that was done by the TA and beyond the proposals that were made by the Ministry of Public Works and try to advise the Senate on what kind of model premises we need for the use of county assemblies. It is important to have this standard model premises because not all county assemblies know exactly what they need to run.

Mr. Temporary Speaker, Sir, if I look at the Kisumu County Assembly, they need at least three clerks in order to do their work properly. You need to have the Principal Clerk like we do here and other Assistant Clerks working with him. They also need Legal Assistants, a research division, a liaison division that can have liaison with other counties and the Senate. When you take into account the kind of services that a county needs and the kind of personnel that they need, then you can conceive of the county assembly that you need, so that it is not just the premise where the assembly sits but the ancillary and support services the assembly needs to do its work properly.

Therefore, I think this Committee has really got its work cut out. In the spirit of Article 96 that Sen. (Eng.) Muriuki has read here and referred to very ably: "Protecting and safeguarding the interests of counties and their governments", safeguarding their interests is not just for today but also in the long run.

When I was a student at Makerere University, many years ago, the motto of the university, which is still a motto up to today, was written in Latin. The writing was in some exotic language. It read something like *aedificant in posterum*. I did my research and found – since I did not know Latin – that it means "We build for the future." What we do today should build the future. We should lay the ground work for making sure that

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what is done today is not done in the spirit of transition like the Transition Authority (TA) was doing and it was right to do so.

However, as the founding Senate for devolved governments, we should lay a firm foundation for devolved governance primarily in terms of two institutions; the Legislature and the Executive. I know that we are concerned about the Legislature. However, nothing stops us from also making overtures on what needs to be done in terms of premises for the Executive because the two, in any case, work together.

I know that there are certain counties where people are already thinking of how to structure their capitals. By capital, I mean that you have premises for the Executive on one side and the Legislature on another. It is possible for people to begin spending extravagantly because in this country, we have got a terrible disease called “tenderpreneurs”. “Tenderpreneurs” are people who look for every or any tender across the nation and try to inflate it as much as possible so that everybody is taken care of. When they do that, capital projects end up costing too much.

Before we let counties catch the disease of “tenderpreneurs”, it will be good for the Senate to come up with concept models. We can go ahead to contract some firms to come up with a good proposal that can be sold to the counties. If we come up with a good proposal, we can discuss it with the Council of Governors (CoG), the County Assembly Speakers Forum if there is something like that and the Caucus of Deputy Governors. We should meet all nationally organised bodies that relate to the governance of counties so that what we propose is not imposed on counties. It should be a proposal that should win the support of these bodies; the CoG, the Council of Deputy Governors, the Panel of Speakers, among others, so that we defend and promote the interests of counties that we represent.

Lastly, Mr. Temporary Speaker, Sir, in future – not just today – counties should communicate with the Senate in a much more structured manner. There should be linkages between the Senate and the counties, especially in the ICT highway. What happens in any county in terms of its debates or discussion should be easily available to Senators within the Senate premises or somewhere as it happens live. As we construct new premises, let us do so thinking of the future and taking serious consideration of the role that ICT plays in governance. When structures are built, they should be built with the intention to link them with others to make devolved governance modern.

At the moment, Mr. Speaker, Sir, I will assure you that the makeshift structures that I have seen in county assemblies are not different from the Local Government structures that were there before. Therefore, this will bog down county assemblies with some running themselves using old ways of doing things and not responding to the benefits that would come from adopting the ICT age that makes accountability, transparency and good governance much easier than before.

With those few remarks, Mr. Speaker, Sir, I beg to fully support and second this Motion by colleague, Sen. (Eng.) Sen. (Eng.) Muriuki. It is both timely and important.

Mr. Speaker, Sir, I beg to second.

(Question proposed)

Sen. Ndiema: Mr. Temporary Speaker, Sir, from the outset, I support this Motion brought by Sen. (Eng.) Muriuki. I believe that this is arising from the need of his county – which is starting almost from scratch – to have facilities at the County Headquarters. This is an issue that should have been done right from the time devolution came into place. The TA should have looked into this matter and brought it forward.

Under the provisions of the Constitution, this matter, I believe, could have been looked at because it is provided that the national Government had a duty to ensure that county governments had a ground start. Funds or resources could have been allocated right from the beginning to meet special needs of counties such as Nyandarua County.

Nevertheless, I do not think that it is too late. This can still be done. Counties should be facilitated to have their headquarters. If some counties are required to use meagre resources – the equal share – which they are given like any other counties, then, development or other services that are essential may suffer. I support that this matter be looked into. The Senator raised the issue of facilities at the county headquarters. There are other things other than facilities that several counties also lack. These are issues of health facilities and county hospitals not being at the same level. Some counties have better facilities than others. Those should equally be looked at. Some counties also have machinery for road construction or agricultural purposes and others do not have, particularly those which were formerly provincial headquarters had better facilities.

So, the same way we have been giving special consideration to Level 5 hospitals, we should look also at the special needs of different counties. For example, Trans Nzoia County is feeding the country in terms of grain. Even though agriculture has been devolved, even if the meagre resources that are allocated to Trans Nzoia County are applied to subsidize fertilizer and procure grain for Kenyans, they will not be enough. Therefore, it is important that as we devolve certain functions, the resources must follow those functions proportionately and not in equal measure. This is because there are special needs for different counties.

Mr. Temporary Speaker, Sir, on the issue of formation of a Special Committee, in my view what we require is not so much a special Committee, but experts or a consultant to be engaged, to visit all the counties, look at their needs and come up with a report. There is no reason to form a Special Committee of this House, when there is already a Sessional Committee on Devolved Governments. That is the work of that Committee, unless it has said that it is not able to perform that function. I would object to another Committee being formed, when there is already a Committee tasked with that duty or mandate, to ensure that devolution actually takes place.

Mr. Temporary Speaker, Sir, there are so many other issues concerning counties. We have the issue of county headquarters. The other day, we recommended that all county headquarters, when it comes to classification of towns, be deemed to be, at least, at the municipality level, even if they are just starting, like the ones in Tharaka-Nithi or Ol Kalou. They should start with municipality status. The facilities may not be there, but

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if there is a masterplan indicating that those facilities have been planned and will be achieved in the next ten or 20 years, then we should not deny those counties that status.

Otherwise, establishing municipalities after the population has been attained means that you will wait for the population and slums to come up and then later on, when you upgrade them to municipality status, you are no longer able to plan, because structures are already there. Therefore, in the same vein that we have to look at the facilities in counties, I think that this Senate should find a way of ensuring that every county has a masterplan that takes care of all these issues, including the headquarters of counties and so forth.

Mr. Temporary Speaker, Sir, I do agree with the suggestions by Sen. (Prof.) Anyang' Nyong'o to the effect that there is need for an element of uniformity, so that we do not at the end of ten or 20 years have some counties with facilities which are way beyond what is really required when others have different facilities. There is need for uniformity. Therefore, this Senate together with the Council of Governors should sit and agree on more or less uniform size and type of facilities that have to be put up in the various counties. Of course, considering the climatic conditions in different counties, there may be variations here and there. But over and above, there should be uniform assets.

This issue actually came up even right before the counties were established. I do not quite remember the Ministry which was doing it, but they had proposed to put up these structures even before the counties were established and there was some opposition. But now that we have governors, this Senate or the Committee on Devolved Government should engage the Council of Governors to come up with recommendations and subsequently even engage a consultant. This is because, as the Senate, we do not have the resources to carry out the consultancy to finance that, but I believe that the counties have the resources.

Mr. Temporary Speaker, Sir, with those few remarks, I support but suggest that we do not need another committee for this purpose since the Committee on Devolved Government already exists.

Sen. Wangari: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion by Sen. Karue. In fact, when I saw this Motion on the Order Paper, I remembered that when we joined this Senate, the first thing that Sen. Karue was agitating for was the headquarters of Nyandarua County. This is because they were starting from nowhere. I have also visited where they are operating from and know that they started from a point of disadvantage compared to other counties. They did not inherit any infrastructure. I think the same case applies to Tharaka-Nithi County. It is unfortunate that we have not been able to come up with a way forward in terms of this capital expenditure, considering that it is not a small expenditure. It is going to be a major investment into making sure that these counties have places they can call headquarters.

Mr. Temporary Speaker, Sir, looking at the way the Motion is framed, I want to support the membership of the Committee that has been proposed. I have full confidence that they will be able to deliver within 90 days. The good thing about this Motion is that

it does not limit itself to the counties that were disadvantaged from the beginning. It is not just about Tharaka-Nithi, Nyandarua and Lamu counties. It has brought on board all the other counties for a good reason. If you go round the counties, you will realize we do not even have a uniform look of the headquarters, especially the debating chambers. As you know, they were used before by the councils. I am not saying that they were not sufficient, but we are dealing with a different kind of government right now and we have very serious legislatures in the counties that need befitting infrastructure to support the work that they are doing. As has been said by Sen. (Prof.) Anyang' -Nyong'o, going round the counties will enable us to get a homogenous way of putting up infrastructure. For example, when you visit parliaments across the world, there is the unwritten rule that there should be a table to hold the mace and communication gadgets.

Considering that we are also growing, the Information, Communications and Technology (ICT) sector is dynamic. We are at a point in time where debating is not just about having seats. There are some standards that we have to adhere to. So, I hope that this Committee will give us a standard model of how this should be done, especially for the assemblies. We need to have a standard of how the assemblies should be designed. We are the first government to implement a Constitution which entails devolution. We will continue to do this for years to come. We must do it for prosperity and the children who will come after us. We should look back 20 or 50 years down the line and see that we did a good job.

The other thing that this Committee should do, and I have seen it in many counties as we do our work of going round the counties in our evaluation; the Constitution provides for representation of people with disabilities in the counties to sit in the assemblies and also to be appointed to positions in the executive. Therefore, we must make sure that this Committee will look at the counties where there is a deficiency. We have seen counties where people on wheel chairs have a problem accessing the premises. This is not just in the counties, you will be surprised that even here in this Parliament, one time we had a meeting at room five. It is a pity that we had to get men to carry Sen. Omondi up the stairs for that meeting because there is no ramp.

Mr. Temporary Speaker, Sir, this Committee should ensure that they evaluate this and adhere to the international expectations and standards for people with disabilities. They must be able to access every part of that premise. So, as they report back to the House, we should know that not only do we have an infrastructure in a county, for example, Murang'a and Nakuru, but such infrastructure should be compliant with the international requirements for people with disabilities.

This issue has been canvassed even before by the Transition Authority (TA). There is always the opinion that this was a transitional time. In the County Public Accounts and Investments Committee where Sen. Muriuki sits, as we evaluate the audit report, we have had experience where we have losses of assets in the transition period. There was supposed to be an evaluation by the TA of finding out what exactly belonged to the defunct county councils. That is still not yet done. In that confusion, some people have taken advantage and enriched themselves with land, buildings and other assets. This

must be fast-tracked. We must do that audit to ensure that we have a clear and clean register of all the assets that belonged to the defunct councils. That way, we can ascertain what is needed for a particular county depending on what was transferred from the defunct council.

This Committee would have helped this House in making sure that they make their recommendations to ascertain what is required and what is missing in every county. For example, recently, the TA has been asking where the mayoral chains are. Some counties have said that they are not surrendering them, that they are meant for them. Yesterday, we debated the County Hall of Fame. If there is any one thing that should be a permanent mark in any county, it should be those mayoral chains. We must know where assets of counties are and who is keeping them. They should be produced whenever they are required.

Mr. Temporary Speaker, Sir, our role as a Senate cannot be overemphasized. It is clearly stipulated in Article 96. We must give and build capacity. That was the role of the national Government. We cannot leave it to the counties. The framers of the Constitution in the transitional law saw a gap and put the responsibility of building capacity to the national Government. Capacity building has to start from here. Counties must have premises, infrastructure and points where they can start from. Counties such as Nyandarua and Tharaka-Nithi have this problem. It is a disadvantage. We should bring them to a level that they can compete in a friendly manner with other counties. Otherwise, we cannot expect to give them money yet they do not have anywhere to conduct their business. Whether it is the county executive or the county assembly, it must be given resources to set up.

With that, I support Sen. Muriuki and hope that within 90 days, this Committee can give this House a way forward on how to deal with this issue and do correctional measures with the existing infrastructure to make sure that they are up to standard. Devolution is not going anywhere; we are doing it for the years and centuries to come.

I beg to support.

The Temporary Speaker (Sen. Mositet): Proceed, Sen. M. Kajwang.

Sen. M. Kajwang: Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Mositet): Order, Sen. M. Kajwang. As per my machine here, it is Sen. (Prof.) Lonyangapuo.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, Sen. M. Kajwang will speak after me. He is my younger brother.

I also rise to support this Motion by Sen. Muriuki. In a nutshell, it talks about what was done by the previous government before devolution came into practice. Immediately after the new Constitution was promulgated in 2010 - in this Constitution, devolution is a key aspect - A team led by the Ministry of Public Works then was formed to oversee transition. Sen. Obure was the Minister while I was the Permanent Secretary (PS). We were tasked to visit countries that already had devolution and assess how their structures have been set up to support it.

Mr. Temporary Speaker, Sir, the team went to Australia, India, South Africa and Canada. It was supposed to come up with structures that were required in every county that would support devolution. It would copy the way leadership at the central government then was; we had Parliament, Office of the President, State House and so on.

That time, the current President was the Minister for Finance. He allocated Kshs150 million for that work. Teams were formed to visit every county in the whole Republic and they were supposed to do a master plan and cite where the county headquarters were supposed to be. A budget for auditing infrastructure, county and municipal council headquarters and ranking the counties according to their needs was drawn. Nyandarua was the first one followed by Tharaka-Nithi, Tana River, Elgeyo-Marakwet and many others. West Pokot was at position 12. The list went up to number 47.

Mr. Temporary Speaker, Sir, some counties such as Nyeri were already blessed and had substantial structures which would be acquired and utilized for the county assemblies. Some money was supposed to be utilized to re-orient the houses to take shape of what was to come.

Mr. Temporary Speaker, Sir, as the Chambers for the National Assembly and the Senate, a drawing of the same for the counties but of a smaller version was done in the counties.

(Loud consultations)

The Temporary Speaker (Sen. Mositet): Order, Sen. Murkomen.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, what was in the minds of the leaders of the last Government is that we needed uniformity so that when you go to Lodwar, you should see a similarity with Lamu County. What about a county like Nakuru which already had the facility? You will realise that this is not the original Senate Chamber of 1963, it has been redone. All the chambers in the counties were supposed to be redone but it was agreed that it will be done in phases. A budget of about Kshs4.7 billion was allocated to complete the works. The chambers were supposed to be uniform so that in case the Senate wants to go and transact business in Mandera, they can get the same facilities as elsewhere.

Following this, planning of the headquarters was also done; an estimate was done and a budget prepared. It was estimated to be about Kshs200 million. Just before the funds were given, the Commission on Implementation of the Constitution (CIC) came up and messed up with everything. Consultants were brought from all counties so that the work could be done in two years. By now, all the work would have been concluded. That aside, look at the actions of the people we put in place; the CIC told us not to talk on behalf of the county assembly speakers or the governors. The result of that kind of a decision is that they went to court.

As a result of such decisions, the amount of money allocated to devolved functions, part of it was used for what Sen. (Prof.) Anyang'-Nyong'o is calling

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“tenderpreneurship”. This has affected all the employees. For example, in my county, they have decided to engage in a huge project of building a county assembly worth Kshs420 million. This means that the project will be completed after almost 20 years since only Kshs20 million is allocated per year. This decision was taken by people who did not do consultations with the Transition Authority, the Ministry of Public Works and so on. Therefore, this has left a mess on the ground.

Mr. Temporary Speaker, Sir, I had the privilege of going with you to your county and we found them meeting under a tent. I do not know whether that was a county assembly or not. I was shocked that they had a small house in the name of an assembly. If Kajiado can be like that and yet it is near Nairobi, what about counties which are far-flung? This, therefore, calls upon the Senate – and that is why we thank Sen. (Eng.) Muriuki for bringing this Motion at this time. It is never too late for the national Government to carry the cross. They should have done it long time ago. There is no way you can give birth to a baby and disappear. It is only a tortoise that does that.

Mr. Temporary Speaker, Sir, instead of counties building one administration block, in order to get kickbacks, they are constructing several of them in one line yet they should have done one building which is easy to manage. In the building that we constructed, we even proposed, the office of the Senator and all the Members of Parliament (MPs) to be there so that once in a while before they go to their constituencies, they pass there, look at the reports to ascertain what the governor and the county governments have done for their respective constituencies. Then, now they move from a point of knowledge. If they have any issue after visiting their constituencies, they return there and give the report to their respective offices. This was not done. That is why we have this scramble where even Sen. (Prof.) Anyang’-Nyong’o cannot go to the office. One time, you might have seen someone in the television make a bad show saying that you cannot come in here; this building belongs to one person. Similarly, this is the case everywhere.

Mr. Temporary Speaker, Sir, it is not late to correct some of these mistakes which were done earlier. We are not doing it for ourselves. We are doing it for the future generations of the people of Kenya and beyond.

As I support this, I want to propose a slight amendment to this Motion. I beg to move:-

THAT, this Motion be amended by adding the following two names immediately after the last name which is no.7, Sen. Sijeny:-

(8) Sen. Christopher Obure

(9) Sen. (Prof.) John Lonyangapuo

These two Senators will assist us very much. They are the people who transacted that business that I have just talked about. They have all the data, drawings and all the officers who were involved even if they are in the counties, they can be recalled to come and assist the Senate to put things in perspective once and for all. Every county will benefit because all of them had been done. The work of the Senate will be easy. We will just visit some of them. However the work had been done.

Mr. Temporary Speaker, Sir, I beg to move and request Sen. (Dr.) Zani to second the amendment.

Sen. (Dr.) Zani: Mr. Temporary Speaker, Sir, I rise to second the amendment. The gist of that amendment has been made very clear by the previous speaker, Sen. (Prof.) Lonyangapuo, who has put in the value of the names of the two Senators that he has proposed to be added to this Committee that is being put in place to make the necessary investigations.

The two names he had put forward are Sen. (Prof.) Lonyangapuo and Sen. Obure. He has indicated clearly that they already have a lot of experience and done preliminary work in looking at the needs of the various counties in terms of physical facilities needed, buildings and input needed

Indeed, he has also spoken about data which is critical for this exercise that they already know about, drawings and names of various officers

Mr. Temporary Speaker, Sir, we always say that there is no need of reinventing the wheel. If this team is enhanced by having new Members who know more and who have done the work, then the work of this Select Committee is going to be enhanced.

Mr. Temporary Speaker, Sir, Sen. (Prof.) Lonyangapuo has also indicated money should be allocated for travel because it is also good to benchmark and see how other countries are going about it. It is really unfortunate because with devolution, it was expected that each of the county governments would have those structures in place. Human resources are always very critical but they do not operate in utopia, they operate within a specific space. We need a situation where we know the job for someone to do. The job is not going to be done from the trees or from open spaces; it will be done within a building. They need to have facilities so that they can do that. They need to be aware of what their job description is so that they can do the work properly.

Mr. Temporary Speaker, Sir, as I visit some of the counties, I find a lot of personnel who do not seem to have clear job specifications. You cannot locate them and where they sit. If you were to ask for them for performance because at the end of the day, we need to have a way to evaluate the input that somebody has put to their work, you cannot do that because we do not know where to trace them and the responsibility they have been given, where they are working from. If we do an audit in many of these counties, you might find that many of them do not have space to sit and do the work. In fact, it was my suggestion that it is critical at the Senate level that each Senator is allocated a place to sit and where people can meet them in close proximity of the work that is happening within the counties.

It is unfortunate that the county boards that we advocated for in this Senate did not work. One of the most important things about those boards was that they were to get all the leaders within the counties together to map their development agenda for that particular county. They had to do it within a particular space. Then, they would have to identify their task, goal and objective in the counties and break it to sub-objectives and find a way of actualizing the facts within those particular counties. This did not happen.

The fact that even the space for people to be together in a county to decide on the development is not there, creates a big question and worry.

Mr. Temporary Speaker, Sir, therefore, this Motion is very important and handy. We need to allocate offices and premises to the people who work in the county governments so that they can promote the work they do. They can look at the work plans, the master plans and organograms necessary for that particular county so that they understand the relationships within those specific counties and how their own work inputs into the work of the county government in general. This is very critical, important and necessary. We would have expected by the time devolution was operational, all these would have been put into place but we have heard and seen that this has not been the case. Many counties are still asking questions about facilities.

Mr. Temporary Speaker, Sir, recently, we had a Petition from Kilifi County making a request and an inquiry about whether to proceed with some premises within the county. I am sure that this is going to be a concern for other counties. I am happy with the suggestions that Sen. (Prof.) Lonyangapuo has put across. That it is important for us to have a template, so that we have some regularity and ideal type that people within our county governments can set certain standards of how the offices should look like and how they should be presented.

That is very important because it will control the budget; if we leave it untapped or unsealed, counties will spend millions of shillings that could be used for development of buildings and equipment within the particular offices. We need the focus to be in the right places. If we set a template so that we know how the offices should look like, and the equipment that should be there, the extra that is needed in terms of work facilities in each county, it will become very important.

We must underline the importance that at the end of the day, the performance that is being alluded to and that which we are trying to get from the counties will only come if the human resources are well tackled. In organizational development and in terms of human resource and thinking of how they will work is always very critical to put these matters to consideration. They need to have physical facilities and an environment to work in.

Mr. Temporary Speaker, Sir, I heard Sen. Wangari talking about a matter where Sen. Omondi was not able to get county government offices because they are not facilitated for people with disabilities. All these things need to be taken into consideration. I feel that by enhancing these things and putting Sen.(Prof.) Lonyangapuo and Sen. Obure into this team - and they already have the experience - some of these issues will be quickly eased out so that a template and similarities that can be replicated across the various counties and can be put in place so that it becomes a question of implementation for the members of the county governments. We should not forget that we want the standards of county assemblies to match those of the National Assembly and of the Senate in terms of the presentations. The offices should also match. This will improve the quality of work.

Mr. Temporary Speaker, Sir, it is unfortunate that when you go to the various counties and interact with brother or sister committees and you listen to the sort of discourse that is coming about issues and they are saying that we expect the Senate to do the following and we want to capacity build them but it is not the Senate that will do that, it is the Members of the County Assemblies (MCAs) who are meant to have the powers to oversight the governor, look at the budget and find out where the money has gone to and how it has been used and report about it. There is a lot that is still missing. That capacity will not come from the sky, it will come through if we follow what the Motion is proposing by making sure that county governments are allocated offices and premises that will enable those Members to do their work.

Mr. Temporary Speaker, Sir, most of us spend a lot of time in our work places up to 80 per cent. We cannot be productive in an environment that is not suitable. We keep on asking questions about what county governments should have achieved and why they have not done it. The reason is under our nose, that this very important component should have been sorted out.

Mr. Temporary Speaker, Sir, two-and-half years later, if it has not been sorted out as we have noted, it is very important that it is acted upon. I think that it is urgent that the select committee is established. The Members of the proposed Committee are up to the task. Those that have been listed and specifically adding the two Senators to this list is very critical. Let us bring the wealth of their understanding in situation; let us benefit from their experiences of their study tours in Australia, India, South Africa and Canada. These two Members, if this amendment is approved, can come to the fore to create the sort of environment that is needed.

Mr. Temporary Speaker, Sir, Kshs150 million was already allocated for this particular process. That means something somewhere went drastically wrong. We need this select committee to go back and re-evaluate what happened. That becomes very critical for us so that they can move within the particular space.

Our due responsibility and role as Senate is to protect the interest of the counties. I think this is one of the ways in which we can do so. A sort of evaluation and mapping across each of the 47 counties in terms of establishing what their needs are is going to be critical. I suggest that for this team to be effective, we need very well equipped personnel, in terms of human resources. I would propose some grouping so that different people go to the 47 counties and do assessment. The groupings should cover the entire region for the select committee to quickly go into the counties and do the mapping or seek the cooperation of the county governments' leaderships so that this process is seamless. They should also inform them in advance what they will do so that they can expedite their work. We need to find out these particular areas and processes that are needed. We should table the processes and make proposals about how to fill these resources.

I think it will be nice for the Select Committee to come up with a timeframe, so that we can map out to what extent we expect the deliverables to be done. I do not think that it is going to be any mean task. It is going to be a difficult task, but one that will help us to fulfill one of our responsibilities; taking care of the interests of the counties, so that

at the end of the day, they have the right infrastructure and place to go and do their work properly.

Mr. Temporary Speaker, Sir, it will also give the dignity that is so deserved within the county governments and is very critical. We will then have members of staff who are proud of where they work and what they do. This is similar to what we were discussing the other day on the County Hall of Fame Bill. It creates a same sort of notion; creating capacity within the counties, so that in future the employees can be proud of the work that they do. In future, they can say that they served at a certain capacity within specific counties and showcase what it is exactly. This inquiry will take some time, but I think that is critical.

We need to have a form of monitoring and evaluation, even as this work is going on. We can have mid-term and end-term evaluation just to see how the exercise is going and what sort of problems are coming up. To emphasize, a lot of observations will be needed. Many officers will probably tabulate what is missing within their counties, but I think that a lot of observation will be necessary just to see. We should also not forget that we have now gone digital.

We also hope that even as we are looking at the facilities that are there within the county governments, we should think about the impact of technology and improving performance. Therefore, part of a very important component for this particular Select Committee would also be to inject a level of not just thinking about the infrastructure and buildings, but the hardware and software. That will also come with the need for capacity building moving forward, which this Select Committee would need to look into.

Mr. Temporary Speaker, Sir, I am confident that with Sen. (Prof.) Lonyangapuo and Sen. Obure, coming on board to join the other seven Senators who have been listed, everything will be very good. I also note that there is gender inclusion, but there is no balance. This is a pattern in the Senate. We need to be cognizant of the one-third gender rule and try as much as possible to include it. This is because the contribution and recommendations of women are needed in the select committees. It would be good, as we move into the future, that we continue to balance these committees as appropriately as possible.

I beg to second this amendment.

The Temporary Speaker (Sen. Mositet): The amendment has been moved and seconded. I will now propose the question of amendment and after that; we are going to debate the amendment, dispose it and then go back to the original Motion.

(Question, that the words to be added be added, proposed)

Sen. Murkomen: Thank you, Mr. Temporary Speaker, Sir. First of all, I would like to congratulate Sen. (Eng.) Muriuki for coming up with such an innovative Motion. I remember very well when Sen. Obure was the Minister for Roads and Public Works and Sen. (Prof.) Lonyangapuo his Permanent Secretary. At that point in time, I was serving as a member of the taskforce on devolved Government. When they proposed that we needed

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model county infrastructure for all the counties in the Republic, there was uproar. At that point in time, because of the suspicion that existed, many people felt that it was not fair for the national Government to prepare those infrastructures because some people also imagined that – and this is a culture that has grown in our country – if we did that, many people were going to make a kill out of it and that it was intended to give business to certain people. So, there was an uproar and people said: “Let us not build the infrastructure and wait for the time when the county governments come into place and construct those facilities.”

Mr. Temporary Speaker, Sir, you now realise what has happened. We have the division of revenue formula that is not cognizant of those issues of infrastructure. We also have a Transition Authority (TA) that went ahead to share money meant for infrastructure equally to all the counties that had infrastructure and those that did not have. Nairobi City County got the same Kshs61 million that Elgeyo-Marakwet County got, yet it does not have infrastructure. Tana River County that did not have a single building got the same amount of money as Nyandarua, Tharaka-Nithi as well as West Pokot counties.

That mistake was occasioned by the mismanagement of the transitional process before and after elections by the TA. Therefore, this House being the guardian angel of devolution, and the protector of county governments, cannot sit down when a county assembly in Nyandarua County is carrying out its responsibilities in a hotel. We are told that they started off from a church and then moved to a tent structure. That is a shame. This House is there to defend counties. When this Committee which is being formed comes back with a report, I would like this House to be bold enough and say that even if their recommendations do not favour Elgeyo- Marakwet County, I, as the Senator for Elgeyo-Marakwet County, will defend something that affects Mombasa, Kajiado, Kisii or Homa Bay counties. This is because I have a responsibility to defend those counties, because this House operates as collegiate and a team in ensuring that we protect even the weak counties.

Mr. Temporary Speaker, Sir, we must therefore not shy away because I have heard debate here at one point in time as to why we should assist Tharaka-Nithi, Nyandarua or Tana River which have dire situations. Those three counties are worse off than Elgeyo-Marakwet County which has at least one or two facilities that we renovated. However, the three counties are the “worstly” affected counties, if there is something like that in English. I encourage the Committee not to go back and say that every county needs this money. Let us be honest with ourselves. If Uasin Gishu, Nairobi, Kisumu or Mombasa counties have facilities, let us not lump them together with historically marginalized areas that have no single facility.

Mr. Temporary Speaker, Sir, I advise this Committee that when you go to find out the facts, please, look at them objectively. If you come from a county that has facilities, consider your brothers and sisters who do not have facilities. That way, we can provide infrastructure on a priority basis and also push national Government institutions that deal

with capacity building to ensure that money is availed to assist counties that are in dire need of facilities.

Therefore, we are and have been ready to continue doing our job as a House. Many people have asked us what exactly a Senator does in terms of ensuring that there is a road, health facility or other things that change the lives of people in a county. They may not see. One of my constituents asked me that question when I was at a radio station last night. I told him that Senators are like wind. You cannot see wind neither does it have a colour but you know it is effect. If wind blew, you will see trees swaying and if it blows strongly, it can even clear an environment.

Mr. Temporary Speaker, Sir, that is the same way you cannot put a finger as to exactly which road the Senator constructed or the health facility he or she bought medicine for. By sitting here, we defend, allocate resources and provide legislative framework to assist counties to work and ensure that they get enough resources. This Senate is in the situation that it is in because we stood firm and said counties must get resources. As a result of that, the Senator plays a role for the county outside the county so that those who sit in that county may use the funds allocated to make a difference in people's lives. Therefore, we are a team and we have a collective responsibility to work closely with county assemblies.

Let me speak to this issue of county assemblies. While in Tokyo during a trip to Japan, I read that some governors were complaining that enough resources had been given to county assemblies and that the autonomy of county assemblies was being secured by the Senate. The only governors who are complaining are those who have taken advantage of the weaknesses of county assemblies to misuse and steal public funds for personal gain. Every reasonable county has an executive member led by the governor who must warn themselves and appreciate that a strong county assembly means a strong executive.

Truth be told, Kenyans need to be educated on the right position of the law. Development in the county is largely a responsibility of county assemblies. This is because they have this great responsibility of budgeting for the county. They are the ones who allocate money that goes to what project; they have the final say when it comes to the budget in the county; they pass county development plans and oversight the county executive to ensure that the money is used for the intended purpose.

Mr. Temporary Speaker, Sir, we cannot weaken the county assemblies by giving them less resources and yet they do not have staff to assist them. It is because of a serious staff that this Parliament is what it is today and operates smoothly. We have staff who work in the legal and budget departments and Committee clerks who perform all the oversight work so that the Senate can table reports and hold the national and county governments and the National Assembly accountable.

We must enable all county assemblies to have the capacity to perform their oversight role by hiring requisite staff, put in place enough infrastructure for committees to meet and have an office and staff for every MCA in their wards. When we do this, we

are not playing politics but exercising constitutional responsibility to ensure that county assemblies are operating.

Mr. Temporary Speaker, Sir, it is a shame and I have said this over and over again that we like underrating the responsibilities of county assemblies; that as a House, County Executive members and governors can preside over a meeting where they are conspiring with other constitutional offices like the Commission on Revenue Allocation (CRA) to actually deny resources to county assemblies. It is a shame that an independent institution would side with one arm of the county government and not the other. It will be a shame for them to lie to the public that giving money to county assemblies for them to be strong is less important than when they are giving it to county executives, and that, it is a bad thing for them to go for benchmarking, training and capacity building.

We must defend county assemblies from this mudslinging campaign and propaganda that is being instigated. I am aware that in a number of county assemblies including Bomet, the county executive led by the governor are doing everything possible to ensure that they frustrate the independent powers of county assemblies to carry out oversight and ensure that planning for the county is what the people told them through public participation that must be carried out in every ward to ensure that the real issues that the people of our counties face are addressed. That is why we must ensure that county assemblies guarantee every ward in the county a certain minimum amount of money for development so that these counties can grow and that we can make a difference.

Mr. Temporary Speaker, Sir, I support the amendment to the Motion. Sen. (Prof.) Lonyangapuo who has institutional memory as a former Permanent Secretary and Sen. Obure - former Minister - should be part and parcel of this Committee. They will carry with them institutional memories and come with the intention that they had at that time; go back and dig for the information in the Ministry of Public Works to find out what architectural designs were put in place and what kind of work had already been done by officers in that Ministry. They will then see how that can be translated to institutions in the counties which have dire need for infrastructural development.

Mr. Temporary Speaker, Sir, you cannot tell counties to remove the little that we have given them for development to build county headquarters. Let us bring them up to speed first for them to be like all the other counties that have those facilities. They can then start from where other institutions started.

I congratulate Sen. (Prof.) Lonyangapuo for bringing this amendment and Sen. (Eng.) Muriuki for bringing the substantive Motion.

I support.

The Temporary Speaker (Sen. Mositet): Well done Sen. Murkomen. I read the Motion as amended. So, I think will just continue to ask Members to debate.

I now call upon Sen. Elachi to contribute to the debate.

Sen. Elachi: Mr. Temporary Speaker, Sir, I also rise to support this Motion. If you remember well before we went for the first recess, Sen. (Eng.) Muriuki requested this House to pass a Motion on the same issue. I know at that time Members did not want to

agree. I hope that as we move on with this Motion, we shall see Members support this noble initiative and ensure that counties that do not have designated areas for their offices get what they are requesting for.

It is sad that this is our second year. We knew very well that when we had local authorities, we had offices and most counties benefitted from that. Today, we have challenges even in Kiambu.

[The Temporary Speaker (Sen. Mositet) left the Chair]

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

Kiambu County is fighting to ensure that, indeed, their county government goes back to the area that was designated as the headquarters which is Kiambu Town. I hope that even as we think of ensuring that Tharaka-Nithi, Nyandarua and--- Today we saw a message from Kilifi requesting the Senate to intervene so that they can have their offices constructed.

We know for a fact that the governors of those counties are also thinking the same and willing to construct not only their offices but the county assembly offices to ensure that before we go to the next elections, most counties will have foundations of their offices and places where they can call county assemblies where debates can be carried out in a proper way. They should also be able to have offices from which they can be able to serve their people.

Mr. Temporary Speaker, Sir, when you look at the counties that are suffering today, a county like Tharaka-Nithi, where they have proposed to have their offices is way out from developed infrastructure. I hope that even as they start building, they will look at the issue of infrastructure and consider how their people will access those places for services. As much as we even look at the other counties, one of the things we must ensure is that those offices are accessible to the people. They should be close to where the people can get services.

When I look at Nyandarua County, they are spending a lot of money to pay for the rented premises. Those people who are landlords today will not be very happy to see any county government moving out from their premises. We should go by what Sen. (Prof.) Lonyangapuo had proposed; that we had clear designs that were done by the Ministry of Public Works and I hope that the same drawings can be given to Kilifi County so that they can also use them without spending a lot of money to come up with new ones.

Mr. Temporary Speaker, Sir, I know we also have an issue with CRA. I am aware that they have done a circular to the effect that it will not be important for county governments to use money for infrastructure at the moment. It is very important for every county to have their offices done before the next county governments come into place. This was the beginning of county governments and, therefore, it was very important to do the basic foundation of everything that was needed so that the next county governments

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that will come in will not spend any money on infrastructure but will start to implement projects that will make their people change their socio-economic lives.

As we move on, it is important that we also refer to TA to tell us what happened when they were doing their mapping. It is important for them to be responsible for some of the ills they committed, especially for Nyandarua County knowing very well that at that time Nyandarua was using Nyahururu and by the time they were allocating the Kshs60 million that they gave the governors to start their offices, they would have thought better to ensure that those counties that do not have any infrastructure of the defunct county councils, would have been given priority to start building those offices. In fact, the clerks who were proposed to go there at that time would have done that for the county assemblies and the county governments that came in.

More interestingly is how the governors have been able to buy their houses. The governor first purchases his house without worrying where his county assembly is going to sit and pass laws for him to be able to deliver to his people. It is important to look at our priorities.

Sen. Obure was the Minister at that time and Sen. (Prof.) Lonyangapuo was the Permanent Secretary and, therefore, it would be important for them to enlighten Kenyans to understand what type of county assemblies and county governments we were expecting to see. Therefore, I support the amendment to include them. We should also agree on the designs; whether we agreed to build vertically or horizontally. We should build for posterity.

I am very worried for Parliament where we have a habit of carrying out very many constructions. Sometimes when you point fingers at others, when you go back to your house, you will realize that you have even a much bigger problem. I have no idea how much we are spending in terms of public funds in doing that infrastructure. We should ask ourselves whether this is the right place Parliament should be or think of shifting.

Right now, we are expecting the President of the United States and you can now see how the town centre is becoming impassable. In future, we should think of relocating Parliament. As the county assemblies and county governments grapple with this problem, particularly those that do not have any working ground, the Parliamentary Service Commission (PSC) should also be thinking about the future of Parliament; whether we could relocate some of our offices.

Mr. Temporary Speaker, Sir, Sen. (Eng.) Muriuki has fought so hard for his county with regard to offices and I hope that this august House will pass this Motion and ensure that we can sit down with the national Government and see whether the National Treasury can assist to ensure that they get premises to operate from before 2017. It will be a good gift to give to the counties. The next county governments that will come in will appreciate us for having ensured basic foundation for them to operate from.

With those few remarks, I beg to support.

Sen. M. Kajwang: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to comment on the Motion moved by Sen. (Eng.) Muriuki. When we were

discussing the Division of Revenue Bill, there was an attempt to include a few counties where there was a feeling that they did not possess adequate infrastructure and provide certain funds for them.

On hindsight, I think it was a good decision that this Senate made to shoot down that amendment. If you recall the acrimony that followed the Division of Revenue Bill that was passed by this Senate, probably these counties that lacked headquarters would have fallen victim to the usual infighting that has characterized the relationship between the Senate and the National Assembly and the commentators out there in the media. It was a good thing that this particular matter lived to see another day.

I support this Motion and the amendment to the Motion. By bringing in Sen. (Prof.) Lonyangapuo and Sen. Obure, these are two Kenyans who have offered a lot of service to this country and they have a lot of institutional memory. I believe that they are going to add value to this Select Committee.

Mr. Temporary Speaker, Sir, our counties are at different levels. All of them were given Kshs61.5 million by the Transition Authority (TA). This is one area that we need to agree on as the Senate; how we will get to the bottom of how the Kshs61.5 million was utilised.

Mr. Temporary Speaker, Sir, I am informed that there is a court ruling that bars this Senate from scrutinising the expenditure of Kshs61.9 million because that came from the TA. All indications are that the money, probably, was not used in the best interest of counties that were supposed to benefit from it. Whereas some counties inherited fairly good structures, there are others like Nyandarua, Tharaka-Nithi and Lamu where things are not still very good.

Mr. Temporary Speaker, Sir, I visited Lamu County and found the Governor sitting in a rented office. It was not too shabby but rented. That means that the Governor is at the mercy of the landlord who could decide to increase rates or evict him at any point in time. Government institutions need a permanent address. They need an address where people could get to even with eyes closed. That is why I support that all counties need to have a good and permanent address even if they are not very flashy and lofty.

There are certain counties including the county that I represent, Homa Bay County, that have gone ahead to acquire land for construction of new county headquarters. There are certain counties that have gone ahead and purchased very opulent mansions and bungalows for their governors. The story of Kilifi County is still very fresh. The county spent about Kshs140 million to purchase a beachfront house for the Governor. That reminds us of the words of one envoy who said that there are certain people who eat so much that they vomit on the shoes of others.

When a county spends Kshs140 million to buy a palatial house for the Governor yet another county operates from a rented premise or shabby tents, that tells us that there is some disparity that this Senate needs to come in and cure. One of the things governors said was that there are no guidelines. Therefore, there is nothing that stops them from spending Kshs200 million or Kshs400 million in buying a mansion for a governor.

I hope that the Select Committee – as it will be looking at the state of county headquarters and county assemblies – will extend a little bit and make certain recommendations that could guide our governors and people who run devolved units of government so that they do not become too extravagant at the expense of other immediate priorities in our counties.

Mr. Temporary Speaker, Sir, the root cause of some of the problems we witness, probably, could be what we call the National Government Coordination Act. The Constitution said that the provincial administration would need to be realigned to be consistent with the new Constitution. However, we went ahead and came up with the National Government Coordination Act which set up structures that were parallel to the structures that were set up by the County Government Act. What has happened is that in every county, you have the governor on one side and the county commissioner on another. These are two bulls in the same kraal but you will find them fighting whenever there is a state event, a national day or whenever people are looking for offices. You will find them fighting for supremacy.

When you move to the constituency, you will find that the governor has appointed a sub-county administrator and the national Government also has a sub-county administrator. When you go to the ward, you will find two animals with the same name but representing different arms of the government. When you go to the village, you will find the same thing. There is duplicity of structures and offices in this country. That is why you will find, in certain counties, enough buildings and premises that can host the structures of a county government but have been taken up by representatives of the national Government.

Mr. Temporary Speaker, Sir, the office of my Governor in Homa Bay County is a very cramped space. The Office of the County Commissioner for the same County is a very humongous, liberally spaced and furnished. We need to go back and ask ourselves whether the provincial administration was properly realigned and whether the structures that we set up are helping this nation.

I visited my County Commissioner. I wanted to discuss with him certain issues relating to disaster management. He was aware of the disastrous scenarios. However, he had absolutely no ability to respond to them. I asked myself; why then do we have a county commissioner at the local level who cannot respond to disasters?

I asked my County Commissioner about cash transfer programmes because that is also a national Government initiative but he could not give me a ready answer. I asked him about *Uwezo* Fund but he told me to talk to the MPs concerning that. I asked him about insecurity but he asked to set an appointment with the police commanders. I asked about roads and I was referred to either the County Governor or Members of Parliament (MPs). I asked about other things relating to education – both primary and secondary education – and I was told that it was being handled by MPs through the Constituencies Development Fund (CDF).

The question then is, why do we need to have parallel structures when a lot of the things they purport to do are either being done by MPs or are still being done by the

national Government? If we reviewed the place, structure and roles created by the National Government Coordination Act, perhaps, in certain counties, we would release more offices which could be used to support devolution.

Mr. Temporary Speaker, Sir, I support this Bill. However, I urge that we prioritise certain issues. For example, when we included these figures in the Division of Revenue Bill, there were some proposals to allocate about Kshs400 million to the respective counties. When you ask yourself how much that could do to health care, you, probably, might say that you could make more wins by investing that in health care rather than investing it in new fancy offices. We must also not be seen as a House that is bent on ensuring that we pad representatives rather than responding to the real needs of this nation.

If you look at the density of doctors in this country, statistics indicate that there could be about two doctors for every 10,000 people in Kenya. If you look at the density of Members of County Assemblies (MCAs), it is almost the same. Probably, there could be more doctors than MCAs but the number is not very different. However, if you look at how much we spend on MCAs compared to what we spend on doctors, you will realise that we spend much more on MCAs on average compared to what we spend on doctors in this country. We need to ask ourselves whether that is the kind of prioritisation we want to promote.

Looking at things like provision of water – because issues of water touch on our women, children and youth – should we use Kshs400 million to build sparkling new offices or should we use the money to prioritise issues of water?

Mr. Temporary Speaker, Sir, I support this Motion. However, I urge that we prioritise certain issues. We were very clear when we started that there were about four or five counties that were in dire need of new county headquarters. Where certain counties have certain minimum infrastructure, I urge that we do not open the Pandora's box and propose that we bring down buildings and put up new infrastructure. I hope that the Select Committee will not come up with very interesting and crazy models to say that every county assembly should look like this Senate. That will have disastrous consequences on public finance in this nation.

Mr. Temporary Speaker, Sir, I also urge the Select Committee to extend a little bit and ask itself whether the Kshs61.5 million was used properly and whether there are certain lessons that could be learnt out of it. The Committee should also look at the heavy burden that the National Government Coordination Act is placing on counties and, probably, make certain recommendations concerning rationalisation or sharing of services between the two parallel structures.

Finally, Mr. Temporary Speaker, Sir, I urge the Select Committee to avoid unnecessary luxury. Already, we, the political class, are seen to be pampered. So, when we set up new offices, we should do so for posterity. Let us avoid situations where we propose leather chairs and very hi-tech equipment. That will be as if we are vomiting on the shoes of the people that voted us into office.

With those remarks, I beg to support.

Sen. Okong'o: Thank you, Mr. Temporary Speaker, Sir, for this opportunity to also support this amendment and the Motion brought by Sen. (Eng.) Karue, also referred to as the father of the Constituencies Development Fund (CDF). He is fighting for those marginalized counties in terms of office space.

On the amendment, the two Senators who have been brought on board are men of repute. They have the experience and expertise since they worked in the national Government which will be useful to this Committee. We have seen county governments and county commissioners differing more often than not in terms of space. That is an issue that we need this Select Committee to look into and come back to us with a very appropriate report on the action to be taken. This not only affects the county governments or the governors. The county assemblies also have their challenges. For instance, the County Assembly of Nyamira operated from rented premises for almost a year. As a result, a huge amount of taxpayers' money was used to pay rent. They were operating from church premises. So, this Motion is timely.

The Select Committee also needs to interrogate further the actions of the Transition Authority (TA) when they were undertaking some of the functions in the counties. Some of us are aware that the TA has been stifled by the national Government. In some cases, its mandate has been suffocated. Right now, the TA is surviving on donor funds. This issue is mindboggling. I do not understand how the Jubilee Government can stifle the TA which derived its mandate from the Constitution to operate and put counties in place. This is one among the many areas that I would like the Select Committee to look into.

Mr. Temporary Speaker, Sir, I remember a few months ago the Governor for Kisumu had earmarked some building for his operations, but the County Commissioner went there and demolished the sign posts. I, therefore, support this Motion so that these issues can be looked into. Since our role as the Senate is to protect the counties and devolution, this Select Committee should work with the counties and bring an appropriate report, so that we can have a clear picture on some of these issues.

We might not want to have a replica of all county assemblies or county governments. Some counties have diversities in terms of culture, which may influence the kind of structures to be put in place. Some follow their historical and cultural backgrounds of their regions. We do not want to create separate entities called county governments. We want to have counties which co-exist in diversity with the national Government.

I concur with the sentiments of my brother, the Senator for Homa Bay, that the Select Committee must look after the taxpayers' money. We toured Germany with the Liaison Committee a couple of months ago and visited assemblies under decentralized forms of government. Those assemblies have chairs which do not cost more than Kshs5,000. These are issues that the Select Committee should look into. As the people given the mandate by Kenyans, we should at all costs defend their interests and oversight the monies which have been given to them.

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

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Sen. Omondi: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this Motion as amended. I want to congratulate the Mover of this Motion and members of the Select Committee that is going to look into this matter.

Indeed, the time to handle this issue is long overdue. Every county is now coming up with buildings which cannot serve the citizens of this country well. As the Committee goes round, it should look into the matter of the facilities that are being used by the county governments. They also need to look into matters of accessibility to those county facilities. For example, the buildings where the Kisumu County Government operates from locked out a number of citizens, including the older persons, expectant women and persons with disabilities. They cannot climb the stairs to access the services that they require.

I urge my colleagues who will be undertaking this task that as they go round, they should encourage the county governments to come up with offices that can serve every Kenyan. The offices which serve most citizens, like the cash office, must be on the first floor. There should also be provision for ramps and elevators.

Mr. Temporary Speaker, Sir, it is a shame to see some of the county governments operating from shopping centres. They cannot make adjustments to their offices because the owners of such buildings have to give consent. Even if they are allowed to make adjustments, it is a waste of money because at the end of the day, those buildings do not belong to the county governments.

The TA must be given the facilitation they require. They need to account for the facilities and funds that were under the former municipalities and local authorities. If the TA is not funded, it cannot undertake this task properly. As a result, we might end up losing some of the facilities that were under the local authorities. It is a good idea to have this Committee in place. It will help us to understand what is happening in our counties and know which county needs support, which one does not and which county is moving on the right track and which county can be used as an example of the best practice as far as devolution is concerned. It will regulate and ensure that we have harmony and understanding within the county governments, for example, where to locate the headquarters of the county government by building consensus with the residents of that county.

Mr. Temporary Speaker, Sir, it will also be good if they get the views of the people within the counties so that if they are agree to the plans the county government has in terms of changing the headquarters or retaining where it is, or if they feel the location of the headquarters is not appropriate to them or is far away, and does not ensure that service delivery is close to the people, as is it required by devolution.

For devolution to address the needs of the people, there must be an understanding between the service provider and the person receiving the services. As this team goes round, they will know if the people receiving services from county governments are benefitting and are comfortable or not. If they are not comfortable, what can be done to ensure that devolution is benefitting them? Most of them are regretting and they do not

see the reason why devolution should be there. There are some wrangles and misunderstandings that are not being addressed.

If we, as a Senate, will listen to some of these issues and address them, everybody will appreciate the role of devolution and the Senate. We will move together as a team, a country and where everybody understands one another and supports the initiative and approach that is in place.

Mr. Temporary Speaker, Sir, we complement and need one another. For us to succeed, we must accept to work together as a team. County governments need the national Government and vice versa. As per the Constitution of Kenya, everybody has a role to play and complement one another. It is a must that we appreciate, listen and sit with one another. As we sit together and listen to one another, we will develop this country and ensure that devolution works for the betterment of the people of this country.

With those few remarks, I support the Motion. I also support the team that has been selected to sit in this Committee to address these issues. As the report will be tabled, we will find the way forward and ensure that devolution grows to the best knowledge of our understanding.

I beg to support.

The Temporary Speaker (Sen. Murkomen): Order, Senators. I want to make this clarification. So far, people have been contributing on the amendment that is adding Sen. (Prof.) Lonyangapuo and Sen. Obure. If you want to continue contributing to the main Motion, you may allow me to put the question on those two additions, so that I may give Sen. Mugo the Floor to make a contribution on the main Motion, if that is her intention. Is that okay with you Sen. Mugo?

Sen. Mugo: Mr. Temporary Speaker, Sir, thank you for the opportunity----

The Temporary Speaker (Sen. Murkomen): I have asked you a question: What people are contributing to in the Motion, is the amendment of two names. If it is okay with you, we may dispense with that amendment, and then you can contribute on the Motion.

Sen. Mugo: Mr. Temporary Speaker, Sir, I support the Motion with the amendments to add---

The Temporary Speaker (Sen. Murkomen): Sen. Mugo, you cannot say that you support the Motion with the amendments until they are passed. If I put the question with the amendments, you will then support them.

Sen. Mugo: Mr. Temporary Speaker, Sir, that is okay.

(Question, that the words to be added be added, put and agreed to)

(Question of the Motion as amended proposed)

Sen. Mugo: Mr. Temporary Speaker, Sir, I support this Motion with the amendments because they are important additions. There is value in knowledge and

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memory. We know that the two honourable Senators will add value because they have served at the highest offices in the country.

I support the Motion and congratulate Sen. (Eng.) Muriuki for his ingenuity and for always bringing valuable Motions which live to give credit to the development of the country.

We know that without proper infrastructure and proper offices, devolution cannot take root. Records, offices and professionalism go together to make a good foundation for devolution which Kenyans so much desire. It is important for the Senate to have this Select Committee so as to cater for the actual needs of each county. We commend the governors and the county officials for working hard in difficult situations and managing to establish county governments. They need the extra push-up and support for them to be fully successful. As much as the Committee is looking at the infrastructure, I would also call on it to look at how the services are being delivered. We know that there is a lot of hue and cry and whenever there is anything new, until people understand it properly, there are many shortcomings.

Mr. Temporary Speaker, Sir, the Committee should evaluate and see how the services are being delivered so that they support Kenyans to fully reap the benefits of this devolution. It should also evaluate the tax collections because from the beginning, the idea was that, in the long run, counties should stand on their own because they should add what they get from the national Government to what they have already collected. What is turning out now is that counties are depending 100 per cent on the national Government.

The Temporary Speaker (Sen. Murkomen): Order, Senator. Sen. Mugo, you will have 12 minutes next time this Motion resumes.

ADJOURNMENT

The Temporary Speaker (Sen. Murkomen): Hon. Senators, we have now come to the end of today's sitting. It is now 6. 30 p.m. It is time to interrupt the business of the Senate. Therefore, the House stands adjourned until Tuesday, 21st July, 2015 at 2.30 p.m.

The Senate rose at 6.30 p.m.