

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday 9<sup>th</sup> July, 2015

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

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

### PRAYERS

### STATEMENTS

#### COLLAPSE OF MUMIAS SUGAR COMPANY IN KAKAMEGA COUNTY

**The Speaker** (Hon. Ethuro): Sen. Wako, do you have a statement to issue?

**Sen. Wako:** Yes, Mr. Speaker, Sir but the questioner, Dr. Khalwale, is not here. Should I continue?

**The Speaker** (Hon. Ethuro): No, just hold on. That is the statement “h” which is the last one. Probably he figured out that by the time we get to that point, he would have entered the Chamber.

Let us move on to statement “a”. Should we move on to “b”? Is there no one to respond? Let us move on to statement “c”. Where is Sen. Haji?

**Sen. Haji:** I have very many of them to respond to but I have a sore throat.

**The Speaker** (Hon. Ethuro): You have only “c”.

**Sen. Haji:** Sen. Murungi is not here.

**The Speaker** (Hon. Ethuro): He is not here. Let us give him some time. We could deal with statement “d” and the Senator is here.

INSECURITY ALONG THE TURKANA AND  
WEST POKOT COUNTY BORDERS

**Sen. Haji:** Mr. Speaker, Sir, Sen. (Prof.) John Lonyangapuo requested for a statement regarding the issue of security along the Turkana and West Pokot county borders. The Senator wants to know;

(1) Whether the Government is aware that the leadership of the two counties signed a mutual agreement that as a first step to end insecurity in the area, no construction or any other development should be undertaken by either side without the concurrence and full participation of the other.

(2) Whether the Government is aware that the Turkana County Government is currently constructing a road from Kainuk, Turkana County, to Sarmach in West Pokot County thereby renegeing on the agreement.

(3) Whether the Government is aware that as a result, tension is building up between the two communities.

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

Mr. Speaker, Sir, the Government is not aware that leaders drawn from Turkana and West Pokot counties had agreed that no development should be undertaken in the disputed area along the common border by either Government without the concurrence and full participation of the other as a first step to end insecurity in the area.

However, the Government is aware that Turkana County Government had commissioned the construction of a road from Kainuk to Sarmach, which heightened tension between the two communities living along the border. The project was thus stopped barely eight kilometres from Kainuk and normalcy has since been restored.

The national Government through the national Government administrative officers has been sensitizing the communities living along the border to co-exist peacefully. Peace caravans have also been held in the area to forestall flare up of hostility between the two communities.

Thank you, Mr. Speaker, Sir.

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, may I thank the Chairman for bringing the response as I sought. I also want to confirm that because of the intervention of Sen. Munyes, other leaders and I, that construction on that road was stopped because it was already causing problems between the two communities. However, the first part of the answer from the Government has really surprised us. This is because in January this year, the leadership of over seven counties sat in Boma Inn Hotel and came up with a blueprint, which the Minister signed and he has disowned it.

The blueprint indicated, among other things, that no kind of construction should take place in some of the disputed areas, unless the two county governments, supervised by the national Government, are involved. We repeated this plea under the chairmanship of the Deputy President twice in his Karen Office. The President did also meet all of us. So, I am surprised by that answer, that “the Government is not aware”. I am wondering

what they are not aware of, yet whatever they have been chairing has been agreed upon. It looks like they just put those agreements in their drawers and forgot about them.

**Sen. Haji:** Mr. Speaker, Sir, I apologize if that is the case. But I can, perhaps, guess that the Ministry is overwhelmed with so many other assignments and statements. There might have been an oversight. Since things are now moving on very well, I want to apologize to my brother.

**Sen. Munyes:** Mr. Speaker, Sir, at the time Sen. Lonyangapuo requested for this Statement, there was a lot of conflict in Turkana and West Pokot. But I must report to this House that matters have been calm for the last three weeks. We want to encourage the two communities to work in harmony and develop joint projects that will help improve the economy and lifestyle of our people there. I would only encourage the leadership of Turkana and West Pokot to consider initiating the stalled projects, like the eco-lodge that was stopped by West Pokot from being constructed in Turkana. We could also meet as a county in supervision of the national Government and see whether we can restart these activities in that part of the world.

**The Speaker** (Hon. Ethuro): Sen. Haji, I am at a loss whether you should respond or Sen. (Prof.) Lonyangapuo should do so, but you are the Chairman.

**Sen. Haji:** Mr. Speaker, Sir, actually I only want to say that it is very encouraging to hear both leaders talking of peace in the area. His suggestion is very good and I hope that we will sit with my friend, the Senator for West Pokot, and do whatever is necessary. I will convey the same message to the Cabinet Secretary, so that you can get any assistance that you require from the Government.

**The Speaker** (Hon. Ethuro): Sen. (Prof.) Lonyangapuo, I think that is very clear. What do you have to say?

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, I just want to expound on what my brother, Sen. Munyes, said. I want to confirm to this House that the problems that we have been reading about in the newspapers since April this year have stopped, because of commitment from elected leaders and other stakeholders on the ground from the two communities and even in Baringo and Samburu. Some of the stalled projects in the near future will now have to be done because of the path that we have chosen to walk.

The only caution that we put across was that no county government should do anything without the involvement of the other. If there is a dispute, we should determine what is supposed to be done and involve the local people on the ground. Projects should not be started on one side of the county without involving the other. We are committed and trust God.

**Sen. Leshore:** Mr. Speaker, Sir, I just want to compliment my two colleagues from West Pokot and Turkana because, for the first time, I have heard Prof. Lonyangapuo calling Sen. Munyes “my good brother.” I think all of us must compliment them, because since I became a politician, the two tribes have been enemies. We have now started enjoying peace since we started the peace caravan about a month ago. I must compliment all the leaders from the North Rift, including you, for supporting us.

Thank you very much.

**The Speaker** (Hon. Ethuro): Sen. Leshore, I thought you wanted to be enjoined also in being called “my good brother,” since you qualify.

Next Statement.

What is it, Sen. Dullo?

**Sen. Adan:** On a point of order, Mr. Speaker, Sir. I have two Statements that are not in the Order Paper. With your permission, I could issue them.

**The Speaker** (Hon. Ethuro): We must appreciate the enthusiasm of Sen. Dullo and I cannot hold it against her. I think it is something to be celebrated, but let us at least go through what is already on the Order Paper and then we will give you an opportunity to respond. At least one of the Statements on the Order Paper was deferred yesterday.

CAUSE OF FREQUENT POWER FAILURES IN  
KISII AND MURANG’A COUNTIES

**Sen. Mwakulegwa:** Mr. Speaker, Sir, I wish to read a Statement on the question which was asked by the Senator for Kisii, Sen. Obure, and a supplementary one by the Senator for Murang’a, Sen. Kembi-Gitura.

**The Speaker** (Hon. Ethuro): Sen. Mwakulegwa, this is (g).

**Sen. Mwakulegwa:** Mr. Speaker, Sir, you called out (g) after (h). That is why I am saying that it is a typo error.

**The Speaker** (Hon. Ethuro): I do not see Sen. Obure’s name on the matter, neither do I see Sen. Kembi-Gitura’s name.

**Sen. Mwakulegwa:** Mr. Speaker, Sir, the request I had at that time was that the Senator for Kisii asked this question while the Senator for Murang’a asked a supplementary question. Therefore, I have a substantive answer for Kisii and, then, a supplementary answer for Sen. Kembi-Gitura.

**The Speaker** (Hon. Ethuro): Proceed, Sen. Mwakulegwa.

**Sen. Mwakulegwa:** Mr. Speaker, Sir, the Senator for Kisii sought a Statement and I wish to clarify as follows:

One, on the causes of frequent power failures in Kisii, Migori, Homa Bay and Nyamira counties; the power interruptions can be broadly categorized into four main areas; sustained breakdowns, transient breakdowns, controlled outages and planned outages.

Over the period under query, analysis of the causes of breakdowns was found to be and not limited to the following; broken poles and conductors, trees and tree branches falling on lines, equipment failure, illegal extensions and tapping of electricity. Thirdly, the interference through road construction, people cutting trees, vehicles knocking power poles, birds causing short-circuits across the overhead conductors.

As I said, there are mainly four areas: Sustained breakdown, there were 54 instances; transient breakdown, there were 23 instances; controlled breakdowns, there were 24 instances during the period and planned outages were three.

Secondly, on whether the Kenya Power (KP) fully appreciates the implications of power failure or disruptions on the economy and the social activities of the citizens in the affected counties, the KP, of course, appreciates the impact of power failure on businesses, social activities and the economy at large. They maintain a 24/7 vigilance of the network. Emergency crew and patrol teams are stationed in all the five counties; Kisii, Migori, Homa Bay, Nyamira and Murang'a. They are able to respond to any emergency calls and attend to any reported incidents and interruptions.

Planned outages are carefully arranged for continuous maintenance works of the network and the controlled outages are done to preempt situations found potentially threatening that may result in power failure if not attended to promptly.

Mr. Speaker, Sir, to ensure a robust system, the KP has continuously improved and modernized its operations. The *Boresha Stima* fixing the network initiative has been carried out in Kisii, Homa Bay, Migori and Murang'a counties. To further improve reliability and stability of power supply, extension 132kv line from Chemosit to Kegati in Kisii County has been done. An ongoing extension of the same to Awendo in Migori County and establishment of 132/33kv stepdown substation is meant to shorten the overstretched 33kv lines which traverse the four counties.

Thirdly, on if the KP has made any efforts to explain to the customers any challenges being experienced and what has been done to address the challenges; the planned outages are normally advertised in the daily newspapers on Thursdays, in the *Daily Nation* and *The Standard*. A minimum of 48 hours notice is given to customers in the areas that the interruptions will be carried out. This is according to the law. Special advertisements are also done on any other day or in few occasions when it is found necessary to keep the customers well informed.

The power of one number is now fully operational and customers can register complaints or queries any time through 95551, the KP contact line. On the other hand, the communication department of the company has continuously released bulletins and necessary information to the public using appropriate communication channels.

The recent restructuring of the company resulted in the appointment of county business managers who are in close communication with county governments on various aspects of power system development and operations.

Fourthly, on whether the chairperson could state if the institution responsible for power distribution has any plan to compensate consumers for any losses incurred as a result of power failure or interruptions; I wish to report that in all occasions, the KP through its insurers, process customer claims for damaged equipment and property which may occur during the power blackouts or interruptions. This is done on a customer registering their complaints and immediate assessment is done by the company to determine the true cause of the damage and also rule out false claims.

On the issue of Murang'a; first, in terms of improving stability, there is construction and commissioning of Githambo 132kv line. The substation has greatly improved reliability and interconnectivity of the network in the greater area of the County of Murang'a and neighbouring counties. The distribution line is meant to evacuate power

from Githambo towards Murang'a Town where high instances have been experienced was delayed due to objections by land owners. However, it has now been resolved and the line is in use. Its commissioning early this year has greatly improved reliability to 75 per cent.

Secondly, the other ongoing projects in Murang'a County are; construction of 66/11kv substation at Kahaini to be supplied by via Mang'u 132kv substation to reduce the length and the loading of the existing feeder.

Thirdly, commission of the Sagana-Kutus 132/33kv substation will enhance the system flexibility by enabling us feed Murang'a and the other environs like Sagana and Kamahuha, among others.

Fourthly, the commissioning of Kangema 33/11kv substation which is nearing completion would improve stability and reliability of power in Murang'a Town.

All the above ongoing projects plus the *Boresha* Initiative in May, 2015, have reduced instances of interruption not only in the four counties but throughout the country.

**The Speaker** (Hon. Ethuro): Proceed, Sen. Obure.

**Sen. Obure:** Mr. Speaker, Sir, first of all, I want to thank the Vice Chair for a very comprehensive response but you notice that in the month of April, 2015 alone, there were a total of 80 incidents of power blackouts in Kisii and the surrounding areas. This arose from various causes. This averages 6 to 7 blackouts per day. This is far too many and far too disruptive.

Mr. Speaker, Sir, I appreciate the efforts being made and I hope that the construction of the new sub-station will reduce the distance and therefore reduce the number of blackouts being experienced. Otherwise, I am grateful for the answer.

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, I also take this opportunity to thank the Vice Chair of the Committee for a very well researched answer and I appreciate the work being done in the several sub-stations being built. I can confirm that there is a tremendous improvement in the stability of electricity supply in Murang'a County. Since it is work in progress, I am quite satisfied by the answer given.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, I am not happy with the answer given by the Vice Chair despite the appreciation shown by the other two Senators. If you look at the efforts being made to stabilize power in Murang'a, we have about four sub-stations being built at the same time while in Kisii, Migori and Homa Bay, there is only one being built. Therefore, we are not seeing any alleviation to the already existing problem. The question is; is it a calculated effort by the Jubilee Government to marginalize the so-called non-supportive counties in politics so that they do not get enough power to maximize on the industrialization and improvement of the *per capita* incomes of their population?

**Sen. Kagwe:** On a point of order, Mr. Speaker, Sir. I have just heard the Senator from Kuria asking whether it is the policy of Jubilee Government to marginalize the so-called non-supportive counties when it is very clear that some of the areas he says are marginalized are extremely supportive of the President and the Jubilee Government even if they sit across the aisle.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

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

**The Speaker** (Hon. Ethuro): I will come back to you, Sen. Khaniri.

**Sen. Karaba:** On a point of , Mr. Speaker, Sir. I think it is important to note that many times when we have Statements here and attack the Government, we should also be mindful of what has happened since the Jubilee Government took over. I am sure that in South Nyanza where---

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

**Sen. Khaniri:** Mr. Speaker, Sir, I rise on a point of order to bring to your attention that the Senator for Nyeri referred to the Senator for Migori as the Senator for Kuria. Is there a Senator for Kuria in this House? Is he in order?

**The Speaker** (Hon. Ethuro): Sen. Kagwe, what did you say?

**Sen. Kagwe:** Mr. Speaker, Sir, I said exactly something connected but not quite. I referred to him as “my friend from Kuria”. I would like him to deny that he is not from Kuria.

**The Speaker** (Hon. Ethuro): Order! I thought Sen. Khaniri was going to suggest to me that both Sen. Kagwe and Sen. Karaba were completely out of order. The Senator for Migori asked a very legitimate question. I am convinced that the Vice Chair has sufficient capacity to respond on the basis of the good knowledge that he has. I do not think it is difficult for him to prove otherwise given that the Members who sought the Statements across the political divide are completely satisfied.

Proceed, Vice Chair.

**Sen. Mwakulegwa:** Mr. Speaker, Sir, I have the capacity and the capability to respond to the question by the Senator for Migori. We have *Boresha Initiative*. This means that they can shut down the lines for two or three days to clean the system. That is why I said that there is an improvement countrywide. I stated that there are two substations being constructed; one in Chemosit and another one in Awendo which will supply South Nyanza. Therefore, Kenya Power has a target to make sure that there is power 24/7. If by any means, the Senator for Migori comes up with details, I will take up the matter. In terms of interruptions, especially during the rainy seasons, our distribution system is overhead. When you look at other countries like South Africa, the distribution system is underground. Therefore, when it rains, the trees fall and power might be interrupted.

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Khalwale is not yet in the House. So, we can defer his Statement to Tuesday.

Is the Chairperson of the Standing Committee on Health here?

OUTBREAK OF MALARIA IN THE  
WESTERN REGION

**Sen. Kittony:** Mr. Speaker, Sir, I know I promised to give the response today but it has been difficult to get any answer unless I now use the power given to us by Article 125 of the Constitution. We have not been able to get through to the Ministry, so I have no answer. If you allow, I invoke Article 125 of the Constitution on power to call for evidence. I do not have any other option. I do not want to disappoint the Senator for Vihiga again.

**Sen. Khaniri:** Mr. Speaker, Sir, I consulted the gracious Sen. Kittony a while ago. She told me that they have not received the answer from the Cabinet Secretary. I brought to her attention that the Constitution under Article 125 gives us the powers to compel these people to give the answers that we require as a Senate. I am glad that she has bought the idea. I want to request that we expeditiously issue summonses and invoke Article 125 in full and in totality to ensure that we get the answers because the matter at hand is urgent and requires very quick response. We are talking about outbreak of malaria which is a serious issue.

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir. I am in the Committee on Health. The Vice Chair has given adequate reasons why the answer has not been given to this House. I want to communicate to the House that the reason the Ministry could not give us the answer is because they are busy signing performance contracts. It is very disturbing that the Committee has to be given such a reason for getting a reply to a medical emergency in this country. I wanted that to come to the notice of this House.

**The Speaker** (Hon. Ethuro): That matter was raised last time and we had quite a debate about it. This is a House of records. I do not think we needed to raise it again.

**Sen. Obure:** On a point of order, Mr. Speaker, Sir. I had put a request to you for approval so that I can seek a Statement. I have just received it right now. Could I ---

**The Speaker** (Hon. Ethuro): Yes but first, let us finish with the Statements before we go for the requests.

Sen. Adan, there was the issue regarding the visa for South Africa.

**Sen. Kembi-Gitura:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): What is it, Sen. Kembi-Gitura?

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, before we proceed, Sen. Khaniri owes me a Statement. He told me that he had it on Tuesday, so I thought he has kept it for today. I do not know what is going on because this is taking too long. I know that Sen. Khaniri is a very efficient Vice Chairman of the Committee, so I am surprised that he told me that he had Statement on Tuesday and now he does not have it.

**The Speaker** (Hon. Ethuro): Hon. Members, I had already called out Sen. Adan to issue a Statement.

Proceed, Sen. Adan.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*



STRINGENT VISA CONDITIONS IMPOSED ON KENYANS  
BY THE SOUTH AFRICAN HIGH COMMISSION

**Sen. Adan:** Mr. Speaker, Sir, I wish to respond to the Statement sought by Sen. Kagwe of Nyeri County. Pursuant to Standing Order No.45 (2) (b), he requested for a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the treatment of Kenyans applying for visas to South Africa at the South African High Commission in Nairobi. In the Statement, the Senator sought to know the following:-

(1) State whether South Africa had adopted hostility in its relations towards Kenya and if so, why?

For the last five years, Kenya and South Africa have experienced challenges resulting from different immigration policies, particularly on visa and work permit applications. It is important to note that Kenya does not levy visa fees to South Africans visiting Kenya for less than one month and no visa is required for the same period. South African visitors who require to stay in Kenya for more than one month can apply and obtain visas at our ports of entry. Kenyans on the other hand are subjected to a referred visa regime in order to enter South Africa for business, holiday, study, or medical tourism.

Mr. Speaker Sir, in addition, South Africa requires Kenyan nationals transiting through South Africa to obtain transit visas even when the person transiting does not leave the airport. Kenyans holding diplomatic passports visiting South Africa for less than a month are allowed entry without a visa.

In December 2013, the Government of South Africa outsourced the visa application process to a private company. In addition, a visa processing fee of US\$70 was imposed, whether or not the visa is granted. However, holders of Kenyan diplomatic, official, service passports and official delegations holding ordinary passports requiring visas to travel to South Africa on official visits continued to apply through the South African High Commission, provided the applications are forwarded through the Ministry of Foreign Affairs and International Trade.

Mr. Speaker Sir, we are aware that obtaining residence permits by Kenyan nationals who have either secured employment individually or work for multilateral organizations based in South Africa is long and tedious. Kenyans travelling to South Africa for medical purposes are usually granted a visa for the duration of treatment not more than three months. In the event that the treatment is extended, the person seeking treatment is required to return to Kenya to extend the visa. Students are granted a one year renewable study permit whose renewal is expected to be effected back in Kenya.

(2) The second question is to indicate if Kenya was reciprocating with similar difficult terms for issuance of visas to South Africans wishing to visit Kenya.

Mr. Speaker sir, in June 2014, Kenya instituted similar conditions on visa applications by South Africa nationals on reciprocal basis. However, following pressure from the private sector, Kenya unilaterally withdrew the reciprocal measures.

(3) Explain what actions the Government of Kenya has taken to remedy this situation and ensure Kenyans wishing to visit South Africa are reasonably facilitated.

Mr. Speaker Sir, in the last few months, the Ministry of Foreign Affairs and International Trade has actively engaged the Government of South Africa in an effort to remedy the current situation.

In August 2014, the Principal Secretary, Dr. (Eng.) Karanja Kibicho met with the South African High Commissioner, His Excellency Rabubatsi Super Moloi. The two officials directed the respective technical officers from the South African High Commission in Nairobi and the relevant Ministries, Departments and Agencies (MDAs) in Kenya to meet and agree on how to streamline the visa issuance process. The technical experts met on 18<sup>th</sup> August, 2014 and it emerged that the biggest challenge facing South Africa was the passage of illegal immigrants from South Sudan, Somalia, and other countries using Kenya as the preferred route to illegally enter South Africa.

Mr. Speaker Sir, in May 2015, His Excellency Mqulwana, the new South African High Commissioner to Kenya, following a meeting with the Principal Secretary, Dr. (Eng.) Karanja Kibicho, informed the Ministry as follows:

(a) The imposition of the US\$70 visa processing fee was a statutory requirement set by the Government of South Africa and the High Commission was not in a position to abolish it;

(b) New students would now be given visas lasting the entire duration of their study and continuing students will no longer be required to travel to Kenya to renew their visas;

(c) Medical visas will be processed and issued upon confirmation or proof of continued treatment at the receiving facility. Visas will be immediately issued to three accompanying relatives;

(d) Visas for Government officials undertaking official visits will continue to be processed at the South Africa High Commission, as long as they are accompanied by a note *verbale* from the Ministry of Foreign Affairs and International Trade. The High Commission will undertake to fast-track the issuance of these visas;

(e) Finally, the issue of transit visas was still outstanding and it was recommended that the matter needed to be discussed at a forum bringing together officials from the Department of Immigration of Kenya and the Department of Home Affairs of South Africa.

Mr. Speaker, Sir, in June 2015, the Cabinet Secretary, Amb. (Dr.) Amina Mohamed met with the South African Minister for International Relations and Cooperation, Her Excellency (Ms.) Maite Nkoana-Mashabane on the sidelines of the African Union Summit in Pretoria where the Cabinet Secretary indicated that in the event that the current impasse is not resolved, Kenya is ready to resort to reciprocal measures on visa issuance. The meeting resolved that the Minister for Home Affairs of South

Africa will send a high-level delegation to Nairobi to discuss immigration matters with their counterparts at the State Department of Interior and resolve outstanding matters.

Mr. Speaker, Sir, in this regard, The High Commission of the Republic of South Africa has informed vide their Note *Verbale* No.193/2015 dated 2<sup>nd</sup> July 2015, that officials from the Ministry of Home Affairs intend to visit Kenya from 3<sup>rd</sup> to 5<sup>th</sup> August 2015. The Ministry of Foreign Affairs and International Trade is hopeful that significant progress will be made during the meeting to be held in August on outstanding visa processing issues. In addition, the Ministry will continue to engage the Government of South Africa to ensure that bilateral relations with the Republic of South Africa are strengthened for the mutual benefit of the citizens of both countries.

I thank you Mr. Speaker, Sir.

**Sen. Kagwe:** Thank you, Mr. Speaker, Sir. I raised this question in response to very many problems that Kenyans are experiencing with regard to travelling to South Africa, including Members of this House. Just a while back, I remember Sen. Boy Juma Boy told me that he could not travel through South Africa - not because he wanted to go there, but even being in the airport without leaving it, he needed a visa.

South Africa is supposed to be a friendly nation to Kenya. However, I believe that at the moment, they are treating Kenyans like poor cousins; with disdain, arrogance and disrespect. This is not how brotherly nations are supposed to treat each other. When you look at the trade between us and South Africa, they are basically the net gainer. So, one would imagine that under the circumstances, they would treat Kenyans with a lot more respect and modesty than they are currently doing. I would like to know how many people are currently paying US\$70 and not eventually getting the visa. They are basically losing their money and not getting the visa to travel to South Africa.

Mr. Speaker, Sir, when we are told that somebody in a hospital bed needs to come back to Kenya to get a visa so that they can go back to South Africa, that in a nutshell is hostility at the very best. Therefore, we are asking the Government, one, to speak to the South African Government so that they can treat Kenyans the way we treat them; with respect like brothers, sisters and people that we like. Kenya is not a banana republic and Kenyans are not trekking down to South Africa to go and look for mine jobs. Therefore, it is not necessary for them to treat us with such disdain.

Secondly, if the South Africans cannot reciprocate and treat us with respect, then it behooves on the Government of Kenya to treat the South Africans exactly the same way that they are treating Kenyans.

Thank you, Mr. Speaker, Sir.

**Sen. Kembi-Gitura:** Thank you, Mr. Speaker, Sir. At the risk of repeating, I would like to fully support what Sen. Kagwe has said about the reciprocity of the visa regime between these two countries. This is because I did not quite understand what the Chairperson said regarding why Kenya backtracked and then decided to issue visas anyway to South Africans, never mind that they were still very vigorously opposing or rejecting Kenyan applications for visas.

Mr. Speaker, Sir, as you very well know, countries collect a lot of money on visas at the embassies because it is not refundable. They know that there may be a lot of applications and they could very well be financing their embassy in Nairobi through the visa fees collection, which are then not refundable, as it is referred to as Appropriations-in-Aid (A-in-A).

My request to the Chairperson of the Committee is that the Ministry of Foreign Affairs and International Trade of the Government of Kenya needs to be extremely firm on this issue and not to backtrack, because I do not believe that any country needs another one more than the other one needs it. This is why the theory or the sense of reciprocity is there, because nations need to treat each other with decorum and respect particularly for the citizens. After all, we are all African countries and we need to have much more respect for each other. I think that it is an issue that---

**The Speaker** (Hon. Ethuro): Order, Sen. Kembi-Gitura.

Please proceed, Sen. Kajwang.

**Sen. M. Kajwang:** Thank you, Mr. Speaker, Sir. I am not responding to that Statement. I would like to request for a Statement. I wonder if this is an appropriate time.

**The Speaker** (Hon. Ethuro): This is definitely not an appropriate time.

Please proceed, Sen. Kittony.

**Sen. Kittony:** Thank you, Mr. Speaker, Sir. This issue of South African Visa is indeed paining. The other day, a student from my county was taken to Robben Island because her visa had expired. That put the parents into agony. So, the South African government has to respect this country or we will also treat them in the same way that they have treated us. I think that the Ministry of Foreign Affairs and International Trade should do something about this issue. I feel a lot of pain when I see people walking to the counters at the Jomo Kenyatta International Airport (JKIA) and getting visas without any problem; and yet getting visas to other countries is a nightmare. Why then are we so cheap as a country? We really need to review our policies and ensure that we are equally treated as human beings of the same by the same Creator.

Thank you, Mr. Speaker, Sir, and I support what ----

**The Speaker** (Hon. Ethuro): Order, Senator! I really want to warn you, Members, that this is not an open debate. I know that it is an important issue, but we have used a process that has certain limitations. So, you only seek clarifications.

**Sen. (Dr.) Machage:** Thank you, Mr. Speaker, Sir. Is the Chairperson still convinced that South Africa is a friendly country? If so, what reasons does the Chairperson have to be convinced as so?

**Sen. Hassan:** Thank you, Mr. Speaker, Sir. My clarity from the Chairperson is that I did not quite get the reasons why South Africa imposed such apartheid type of visa requirements on a black population. Secondly, I heard the Chairperson say that they were going to reciprocate if these measures are not put into place. Why can we not reciprocate first and then negotiate from a position of strength, so that we impose these restrictions tomorrow? When we negotiate, we should do it on both ends, so that if South Africa wants us to lift the restrictions, *vis-à-vis*, they lift their restrictions.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

**The Speaker** (Hon. Ethuro): Hon. Senators, although the Chair does not participate in this business, but Sen. Hassan, if we are decrying the fact that a friendly country is not treating another one in a friendly manner, why would you also want to do the same? We should instead seek improvement for all.

Please, proceed, Sen. Ndiema.

**Sen. Ndiema:** Mr. Speaker, Sir, I thank the Chairperson and the Ministry for being frank and saying that the South African visa regime on Kenyans is hostile and wanting. The Chairperson indicated that the Government of Kenya had reciprocated by instituting similar measures but had to withdraw them. Could she clarify what interest forced us to backtrack on what we had undertaken?

The visa regime that South Africa has with Europe is much better and yet we are their brothers in the same continent. We were with them in the struggle for independence. Why is South Africa favouring Europe against her own brothers and sisters in Kenya?

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. I just want to seek a clarification about the seven day window that is given for visa application. A delegation that had Members from the Senate was denied visas and missed a very important meeting in South Africa, where they were even scheduled to make a contribution. The reason that was given was that there has to be a seven day window. Even after the seven days when there was still a chance to travel, we were denied the visas.

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

*[The Deputy Speaker (Sen. Kembi-Gitura) took the Chair]*

It is not so much about not being given the visas but the level of communication and the way the matter was handled in a way that was very demeaning especially for the Members. We were shocked that even after applying for the visas, we were denied.

I wonder whether we are more courteous when it comes to us giving visas to South Africans and how we need to go about it. We need to open up and that clarification needs to be made clear. We need to open very clear lines of communication between this country and South Africa so that such processes can be done expeditiously and properly as would have been expected.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I think many nations are taking Kenyans for granted and more so as a country. When it comes to issuance of visas to other countries, may be it is only Kenya which is suffering but not the foreigners coming to Kenya. To get a visa to Britain, you have got to go to South Africa before you are issued with a visa and it is very expensive and even impossible to get it.

I am asking the Committee on National Security and Foreign Relations to scrutinize and find out whether it is just Kenya which is being marginalized by other countries in the world or there is something wrong that we have done to the international community because it is well spread.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

**The Deputy Speaker** (Sen. Kembi-Gitura): Just a point of correction, Sen. Karaba. For the UK visa, you do not have to go to South Africa physically. It is the visa that is processed in South Africa and not in Nairobi.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, but it takes too long.

**The Deputy Speaker** (Sen. Kembi-Gitura): Yes, it was just a correction. I thought it was important to make that correction for you.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, it is that processing that we are wondering why it should be done in South Africa.

**The Deputy Speaker** (Sen. Kembi-Gitura): It is a good question.

**Sen. Mugo:** Mr. Deputy Speaker, Sir, I support this issue very strongly. We travelled to South Africa with Commissioner Ali who is one of our appointed commissioners from outside Parliament. We were shocked when he was denied entry just because the name on his yellow fever card and the passport did not match completely and the date of birth. We tried to plead with the Ministry and our High Commission was even alerted. The immigration would not even listen to the High Commissioner when she tried to plead with them and even refused to allow her to come in to see Commissioner Ali and try to plead for him.

Definitely, we are being mistreated and South Africans are not reciprocating our kindness. Kenya was very instrumental in helping them to get Independence when they had apartheid. Those of us who got in raised this even with the Parliament of South Africa. Of course, they were non-committal and a bit sorry but it is the immigration.

Mr. Deputy Speaker, Sir, I would also request that the Ministry of Foreign Affairs and International Trade complains on our behalf about the mistreatment of a Commissioner and an hon. Member of the Kenyan Parliament. He is not an elected Member but he is in a Commission and a former MP.

**Sen. Mwakulegwa:** Mr. Deputy Speaker, Sir, is the Chairperson aware that Kenyans who have been working in South Africa have been denied work permits? While we keep issuing work permits to South African citizens, Kenyans are being sent back. Many of them from my former employer are back and jobless while we have many South Africans being given work permits as they wish.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Kagwe, I will give you the Floor if you want but after Sen. Adan has spoken on the issue and I will most likely close the issue.

**Sen. Kagwe:** On a point of order, Mr. Deputy Speaker, Sir. In view of the very strong sentiments that have been expressed by Senators – I know that Members of the National Assembly are also of the same view – would I be in order to request the Chairperson to speak to the South Africans in the event that they insist on the same? Would I be in order to propose that if South Africa will remain hostile to Kenya and other African countries, whether it is not in order for the Kenyan Ministry of Foreign Affairs and International Trade to request that the Pan-African Parliament situated in South Africa be moved to Kenya or Ethiopia so that it can be in a country where members can travel respectfully and with dignity?

**The Deputy Speaker** (Sen. Kembi-Gitura): Very strong sentiments. I am sure that the Chairperson will assist on this issue.

**Sen. Khaniri:** On a point of order, Mr. Deputy Speaker, Sir. I highly appreciate what Sen. Kagwe has just said. However, I think we are going against Standing Order No.86 – speaking twice on a Question. It says:

“No Senator shall speak more than once to a Question except in the Committee of the Whole.”

Sen. Kagwe had spoken on this matter ---

**The Deputy Speaker** (Sen. Kembi-Gitura): This is not a Question but a point of order. This is not a Motion and so Standing Order No. 86 will not apply. These are points of order that have been raised. I do not think Sen. Kagwe has done anything wrong.

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, in light of the sentiments expressed by my colleagues, I think this is a very well documented matter on the kind of attitude and treatment that not only the people of Kenya, but the rest of Africa have been receiving from South Africa. This has to be recorded clearly. If we can remember, very recently there were videos that did rounds all over the world of people being butchered mercilessly in South Africa.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Wamatangi. I do not want us to go out of the ambit of the matter before us. The matter before us has to do with the South African Visa regime. If you wish to discuss South Africa as a country, you must remember the provisions of our Standing Order No.90. I am not going to allow you to take that tangent.

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, I stand guided. I was only trying to build the momentum for my case.

**The Deputy Speaker** (Sen. Kembi-Gitura): I will not allow you to take that line. Speak on the issue at hand.

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, this is an attitude that has been assumed. It is not a coincidence. The best remedy is to ensure that a complimentary attitude is also assumed by us. We may argue that two wrongs do not make a right, but we also have citizens of this country who require equal consideration and humane treatment by the Republic of South Africa. I support what Sen. Kagwe has said; that if the attitude of the South African Embassy in relation to issuance of visas to Kenyans does not change, we need to mete out in equal measure, a similar attitude and requirements for them, including moving our Embassy from there.

**Sen. Adan:** Mr. Deputy Speaker, Sir, I want to agree that this has generated a lot of interest and discussion. There is some kind of disappointment amongst Kenyans who are applying for the South African Visa. Nevertheless, the Ministry has owned up to the challenges they are facing, and that was elaborately explained in the Statement which I have just read. We should appreciate the efforts made by the Ministry of Foreign Affairs and International Trade to make sure that Kenyans are not suffering as a result of the stringent measures that have been put in place by the South African Embassy.

I was asked whether South Africa is still a friendly State, and I would say, yes, we are still friends because friends agree and disagree. Whenever you disagree, you sort out issues between yourselves.

In the Statement, we had actually reciprocated the measures that the Sought African Embassy had put in place, but unfortunately this was lifted because so many traders complained about these measures. I have further explained in the Statement where Ambassador Amina had to pull one of the officials of the South African Embassy in Ethiopia to explain the current situation that Kenya is facing as a result of visa applications.

I have also said that between 3<sup>rd</sup> and 5<sup>th</sup> August, the South African Ministry of Home Affairs will be visiting Kenya to iron out issues that are affecting the two countries.

Finally, I may not be privy to the challenges faced by the Parliamentary Service Commission (PSC), but it is a matter that we will bring to the attention of the Ministry and make a follow up so that they can explain to us what really happened and why it happened. I would urge the House to be a bit patient because some of these issues are being sorted out and it is important that we are not very strict and harsh to our friends. We should find a way of ironing out these issues with time. As the Ministry has assured us, if things are not going to work out, we are going to reciprocate the same measures.

Thank you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Adan, I would like to get it straight from you if that is your final answer to this Statement or you have left it open ended; that you are going to make further consultations and come back to the House. There is the issue of the PSC and several other issues that were raised by your colleagues that you have actually not dealt with. I know you cannot talk about reciprocity from where you are standing, but is your answer final?

**Sen. Adan:** Mr. Deputy Speaker, Sir, I have said that there are a lot of issues that were brought out in the discussions. We will be able, as a Committee, to get further clarification on those issues probably by the end of next week or Thursday next week.

**Sen. (Dr.) Machage:** On a point of order, Mr. Deputy Speaker, Sir. I am actually not surprised that you also noticed that there was open endedness in the reply from the Vice Chairperson with her reconciliatory approach to the whole thing. This may be because it is Ramadhan season and she may not want to speak badly.

Would I be in order to request that this House calls the Cabinet Secretary for Foreign Affairs and International Trade to appear before the House to answer some of these questions in detail?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Machage, you know that we have been calling Cabinet Secretaries here quite often. A lot of issues that have been raised from the House – I dare say all of them very important and pertinent – I do not know whether the time is ripe to ask her to come here or whether you would like to have further consultations and then come back on Thursday next week with an answer.



**Sen. Adan:** Mr. Deputy Speaker, Sir, I would request the House, with your permission, to let me respond to the issues raised in the House by Thursday next week and if they are not satisfactorily answered, then we could summon the Cabinet Secretary, with your permission.

**The Deputy Speaker** (Sen. Kembi-Gitura): So, in the first instance, Thursday next week.

STATUS OF REGISTRATION AND ISSUANCE  
OF NATIONAL IDENTITY CARDS

**Sen. M. Kajwang:** Mr. Deputy Speaker, Sir, pursuant to Standing Order No.45 (2) (b), I wish to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the status of registration and issuance of national identity cards.

In the Statement, the Chairperson should address the following specific issues:-

(1) What measures the national Government is taking to decentralize the processing and issuance of identity cards to counties, considering that delay in issuance of the document locks out the applicants who are mainly women and youth from economic opportunities?

(2) Could the Chairperson provide a per county break down of all the applications received, processed and issued between 1<sup>st</sup> July, 2014 and 30<sup>th</sup> June, 2015 and indicate the number of applications rejected per county?

(3) What were the budgetary allocations for registration and issuance of national identity cards in the 2014/2015 and 2015/2016 financial years, and whether he could provide the per county breakdown of the disbursements?

(4) What were the targets for national identity registration in the 2014/2015 and 2015/2016 financial years and whether he could provide per county breakdown?

(5) Could the Chairperson provide per county breakdown of uncollected identity cards and explain what strategies are being employed to ensure that the documents are collected or delivered to the owners?

(6) Could the Chairperson also update the Senate on the current status of the ongoing digital identity project?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Adan, how much time do you require for this?

**Sen. Adan:** Mr. Deputy Speaker, Sir, I request that the Senator gives us about two months so that we give a comprehensive answer. This is because he has inquired about uncollected identification (ID) cards and other issues. We request that he gives us that time so that we provide him with a comprehensive report in terms of what is happening and also about the budgetary allocation for that particular Department.

Thank you, Mr. Deputy Speaker, Sir.

**Sen. M. Kajwang:** Mr. Deputy Speaker, Sir, I would like to seek your guidance. Two months sounds exceedingly long. I wish that that could be fast-tracked. Being a

digital Government, I believe that the data is available at the click of a button with just the right intervention.

**The Deputy Speaker** (Sen. Kembi-Gitura): The ID cards that are lying uncollected are physical but not digital. That may be a bit difficult.

However, Sen. Adan, two months seems very long. You must tell Sen. M. Kajwang the truth that in two months, we shall have gone on recess and even come back. So, you are talking about September. Am I right?

**Sen. Adan:** Mr. Deputy Speaker, Sir, even if I request for one month, we will still be on recess if I am not wrong. Maybe, the secretariat needs to confirm that. We are supposed to go on recess from 31<sup>st</sup> July, 2015, to 15<sup>th</sup> September, 2015, according to the information that I have. Therefore, I request the Senator to allow me the two months that I have requested so that we physically go to the ground. You know that some counties are very far. I request if he could bear with us and allows us two months so that we provide a comprehensive report.

**Sen. M. Kajwang':** Mr. Deputy Speaker, Sir, owing to that explanation, we could wait for two months.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you very much.

So, Sen. Adan, that should be on the 1<sup>st</sup> Thursday in September after we resume from recess.

#### MYSTERIOUS DEATH OF CORPORAL BERNARD OKINDO MAGETO

**Sen. Obure:** Mr. Deputy Speaker, Sir, I rise to seek a Statement from the Chairperson of the Committee on National Security and Foreign Relations regarding the death of Bernard Okindo Mageto, a police officer who was found dead at his station of duty on Friday, 19<sup>th</sup> June, 2015.

Corporal Bernard Okindo Mageto was attached to the Administration Police (AP) and deployed at O'Moraa AP Camp, Kegogi; Marani Sub-County in Kisii County.

In the response, the Chairperson should address the following:-

- (1) the circumstances which led to his death;
- (2) whether the police carried out investigations on this incidence, and if so, give the outcome of the investigations;
- (3) why the National Police Service (NPS) was not represented at the burial ceremony of the deceased in keeping with the tradition observed by the Service;
- (4) whether a post-mortem examination was carried out, and if so, what were the results; and lastly,
- (5) whether the family of the deceased officer should expect to receive any compensation or terminal benefits in respect of services rendered to the state, and if so, how much and when will the benefits be paid.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Adan.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

**Sen. Adan:** Mr. Deputy Speaker, Sir, I request Sen. Obure to allow us two weeks to come up with a response, if that is okay with him.

**The Deputy Speaker** (Sen. Kembi-Gitura): That sounds reasonable.

**Sen. Obure:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you.

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION OF STUDENTS AND TEACHERS FROM NZELUNI ACADEMY, MUTUINI PRIMARY SCHOOL AND CHEBARA BOYS HIGH SCHOOL

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senators. Before we proceed, I have a short communication to make.

Hon. Senators, I wish to recognise the presence of students and teachers from Nzeluni Academy in Kitui County, students and teachers from Mutuini Primary School in Nairobi County and students and teachers from Chebara Boys High School in Elgeyo-Marakwet County. They are all seated in the Public Gallery.

In our usual tradition of receiving and welcoming visitors, hon. Senators, I extend a warm welcome to them. On behalf of the Senate, and on my own behalf, I wish them a very fruitful visit.

*(Applause)*

*(Resumption of Statements)*

#### STATUS OF CASH TRANSFER PROGRAMME TO THE ELDERLY, PLWD AND OVC

**Sen. Musila:** Mr. Deputy Speaker, Sir, I had sought for intervention on a different matter. However, now that you have acknowledged students from Nzeluni Academy from my county, I join you in welcoming them to the Senate.

Mr. Deputy Speaker, Sir, some two weeks ago, if you will recall, the Cabinet Secretary (CS) for Labour and Social Welfare came and talked to us about the issue of cash transfers to the elderly, People Living with Disability (PLWD) and the youth; specifically, Orphaned and Vulnerable Children (OVC). The conclusion of that useful meeting was that in two weeks' time, she would come and address us on the issues that were outstanding on that day. Two weeks have since elapsed. I request the Chairman of the Committee on Labour and Social Welfare to tell us when we should expect the CS to come back as she had promised.

**The Deputy Speaker** (Sen. Kembi-Gitura): The Chairman is Judge Madzayo, is it not? I cannot see him in the House. Is there anybody from the Committee in the House?

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Well, Sen. Musila, you have been heard. The HANSARD will be placed before the Committee. I expect that the Chairman will give us an answer on Tuesday next week concerning what you have asked. I request you – if you will be around – to raise the same issue next week when, hopefully, the Chairman of the Committee will be in the House.

**Sen. Musila:** I am much obliged, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you.

That, to me, appears to be the end of Statements.

Sen. (Prof.) Lonyangapuo, do you have a Statement to make?

**Sen. (Prof.) Lonyangapuo:** Yes, Mr. Deputy Speaker, Sir.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 14<sup>TH</sup> JULY, 2015

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, before I make the Statement, I would like to recognise students from Chebara Boys High School because they are my neighbours. Sen. Murkomen who is my neighbour is not around. Chebara Boys High School is one of the leading schools in Elgeyo-Marakwet County.

Hon. Senators, pursuant to the provisions of the Standing Order No.45, I wish to present the business of the Senate for the week commencing on 14<sup>th</sup> July, 2015.

On Tuesday, 14<sup>th</sup> July, 2015, the Rules and Business Committee (RBC) will meet on Tuesday, 14<sup>th</sup> July, 2015, at 12.00 p.m. to schedule the business of the Senate for the week. Subject to further directions by the RBC, the Senate will 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, 15<sup>th</sup> July, 2015, the Senate will continue with business not concluded during the Tuesday Sitting, including Bills that will have been concluded at Second Reading and further consider the following Bills at the Committee of the Whole:

(1) The County Early Childhood Education Bill (Senate Bill No.32 of 2014);

(2) The Public Appointments (County Assembly Approval) Bill (Senate Bill No.20 of 2014); and,

(3) The Reproductive Health Care Bill (Senate Bill No.17 of 2014).

The Senate will consider any other business scheduled by the RBC.

On Thursday, 16<sup>th</sup> July, 2015, the Senate will consider Bills at the Second Reading stage, deliberate on Motions and any other business scheduled by the RBC.

Let me take this opportunity to sincerely thank you, hon. Senators, for availing yourselves to dispose of the business that was scheduled for this week. The following Bills were concluded at the Committee of the Whole and passed:

(1) The National Government Coordination (Amendment) Bill (Senate Bill No.30 of 2014);

(2) The National Drought Management Authority Bill (National Assembly Bill No. 42 of 2013); and,

(3) The Parliamentary Service (Amendment) Bill (Senate Bill No.21 of 2014).

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

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

*(Sen. (Prof.) Lonyangapuo laid the document of the Table)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. (Prof.) Lonyangapuo. There will be no more requests for Statements.  
Next Order!

## MOTIONS

### ESTABLISHMENT OF NACC COUNTY OFFICES

**Sen. Leshore:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to move this Motion which has been lying on the corridors of this House for the last one year.

I beg to move:-

THAT, cognizant that the core mandate of the National AIDS Control Council (NACC) is to develop strategies, policies and guidelines relevant to the prevention and control of HIV and AIDS in Kenya; noting that the operational structure of NACC has not been aligned to the Constitution of Kenya 2010; acknowledging the objects of devolution as set out under Article 174 of the Constitution; recognizing that under the Fourth Schedule, the health function has been devolved except for the health policy and referral hospitals; concerned that an estimated 1.2 million Kenyans are infected with HIV/AIDS and a 100,000 are infected annually; recognizing the need to achieve an “*AIDS free society*” by stepping up the fight against the pandemic at the county level, the Senate urges the National Government to set up the National AIDS Control Council (NACC) County offices in all County Headquarters with the National Headquarters providing overall coordination and that the resources allocated for the fight against HIV/AIDS be disbursed and managed at the county level.

Mr. Deputy Speaker, Sir, I brought this Motion because the HIV/AIDS pandemic which was first reported in Kenya 30 years ago has spread its tentacles to the villages. The promulgation of the Constitution of Kenya in August 2010 introduced devolution by establishing the national Government and 47 county governments. The Fourth Schedule of the Constitution outlines the functions of the national Government and county governments.

Some of the functions of the national Government with regard to health services include national referral facilities and health policies. Part 2 of the Fourth Schedule outlines one of the functions of county governments as county health services, which include county health facilities and pharmacies, ambulance services, promotion of primary health care, licensing and control of undertakings that sell food to the public, veterinary services (excluding regulation of the profession), cemeteries, funeral parlours and crematoria and refuse removal, refuse dumps and solid waste disposal. Some of the

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

functions assigned by Constitution were transferred to the counties by the Transition Authority.

Mr. Deputy Speaker, Sir, Kenya has the fourth largest HIV/AIDS epidemic in the world. In 2012, an estimated 1.2 million people were living with HIV/AIDS and roughly 57,000 people died from HIV/AIDS related diseases. Moreover, there are 1.1 million orphans of the epidemic. The first case of HIV/AIDS in Kenya was detected in 1984 and by mid 1990s, it was one of the major causes of mortality in the country, putting huge demands on the healthcare system as well as the economy. The HIV/AIDS prevalence peaked at 10.5 per cent in 1998 and by 2012, it had fallen to 6.1 per cent due to mainly the rapid scaling up of the Anti-Retroviral treatment (ARVs).

Mr. Deputy Speaker, Sir, the Kenya HIV/AIDS epidemic is often referred to as generally affecting all sections of the Kenyan society including children and adult women and men. The HIV/AIDS testing and counseling in Kenya has adopted successfully a number of strategies in HIV/AIDS testing and counseling, including provider initiated testing and counseling, outreach tests and counseling, home-based testing and counseling, integration of home-based testing and counseling in anti-natal care, sexual and reproductive health services. The above strategies have been so successful progressively throughout the years, that by 2013, the number of tested and counseled was about 6.4 million people.

The statistics have, though, indicated significant disparities between men and women. In 2012, 35.8 per cent of men had an HIV/AIDS test the previous year, 2011, compared with 47.3 per cent of women. To correct this disparity, there is need to increase testing among men with community based testing programmes. In 2012, nearly half of all Kenyans – 40 per cent - living with HIV/AIDS were aware of their status. However, an exceptional number of pastoralists and rural people did not know their HIV/AIDS status.

Mr. Deputy Speaker, Sir, the Kenya AIDS Response Progress Report of 2014 indicates that the prevalence estimates by county show geographical variability of HIV/AIDS burden across the country. Estimates indicate that prevalence ranges from as high as 27.1 per cent in Homa Bay County, which is represented by Sen. Moses Kajwang, to the low of 0.2 per cent in Wajir County. Ten counties have estimated prevalence higher than the national average, while seven counties have a prevalence of less than 2 per cent. The variability shows the need to design programmes that address specific underlined issues in the counties. The leading in Kenya right now is Homa Bay County with 27.1 per cent. It is followed by Kisumu County, 18.7 per cent; Siaya County, 17.8 per cent; Migori County, 13.4 per cent; Mombasa, 11.1 per cent; Turkana County, 9.9 per cent; Kisii County at 8.9 per cent. The lowest is Wajir County with 0.2 per cent; Marsabit, 1 per cent; Mandera, 1.3 per cent; Lamu, 1.3 per cent; Tana River County, 2 per cent; Makueni County, 5.6 per cent; Nakuru County, 5.6 per cent; Vihiga County, 6 per cent and Kwale County, 6.2 per cent.

The overall coordination of Kenya's national response to HIV/AIDS is the responsibility of the National AIDS Control Council (NACC). It is assisted by decentralized structures such as District Technical Committees and Constituency AIDS

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Control Committees in collaboration with central coordination bodies for civil society, private sector, AIDS coordination units, Government Ministries and departments.

Mr. Deputy Speaker, Sir, the mandate of the National AIDS Control Council (NACC) is to ensure a multi-sectoral coordination and implementation of national response through provision of policy and strategic framework, mobilisation and coordination of resources, prevention of HIV transmission, care and support for those infected and affected by HIV.

The NACC has four main objectives stipulated in the Kenya National HIV/AIDS Strategic Plan for 2009-2012/2013. Kenya National AIDS Support Programme III reduced the number of infections by 50 per cent, AIDS related mortality by 25 per cent, HIV related morbidity and HIV impact at household and community level.

The Kenya National AIDS Support Programme III has emphasized four primary--

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Leshore, will you allow me to bring to your attention the provisions of Standing Order No.84?

**Sen. Leshore:** Yes, Mr. Deputy Speaker, Sir,

**The Deputy Speaker** (Sen. Kembi-Gitura): You may want to look at it.

**Sen. Leshore:** Yes, Mr. Deputy Speaker, Sir.

As I conclude, according to the World Bank, in combating HIV and its benefits, the Government needs to devolve functions. It should transfer authority, decision making, finance management and *quasi* autonomous units to county governments.

Mr. Deputy Speaker, Sir, devolution has been recognised as a possible answer to many of the governance problems as we bring services closer to the people. It is noted that some of the operational and coordination problems including off-loading its control and prevention programmes, would be addressed by a devolution programme which will accelerate the implementation of projects at all levels of society.

It is observed that those living in urban areas normally have better access to health care than those living in rural areas. Devolution is also viewed as a means of mobilizing skills, commitment and resources at the local level to deliver educational, counselling, medical and support services to a variety of targeted groups.

Mr. Deputy Speaker, Sir, through devolution, HIV/AIDS services and programmes are also possible to develop factors and main programmes specific to a certain county. That is to effectively monitor the progress that has been achieved and identify where more needs to be done.

Devolution assigns specific services to specific counties. They can identify problems that are specific to a county, their needs and the resources they may require. Through devolution, the NACC resources will be brought closer to the people and funding will be based on the tailor-made programmes specific to each county. This is one of the ways of giving counties more funds. The 2013/2014 NACC budget was about Kshs700 million. If we were to give Kshs100 million to each county, then, Kshs470 million will go to the counties while Kshs370 million will remain at the headquarters for purposes of administration and coordination.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Mr. Deputy Speaker, Sir, devolution can help to involve the private sector, volunteer organisations, churches, clubs, political parties, unions, communities and other groups at the local level to respond to this pandemic. Devolution increases the responsiveness of programmes to local needs by involving local groups and communities in programme planning and implementation. It also enhances self-reliance and sustainability of programmes that are genuinely on an operated local organisation.

To devolve NACC, the right governance organisation structures should be developed by opening county offices with coordination at the national level. This will enable community participation so as to adjust service delivery to the specific community needs, governance and accountability structures right down to the grassroots. Wielding political support and understanding of devolution policies and objectives is also required.

**The Deputy Speaker** (Sen. Kembi-Gitura): What is it, Sen. Hassan?

**Sen. Hassan:** On a point of order, Mr. Deputy Speaker, Sir. I thought that I should do the honours of service to Sen. Leshore. When you told him to take note of Standing Order No.84, he may not have referred to it. It states:-

“No Senator shall read a speech but a Senator may read short extracts from written and printed papers in support of an argument and may refresh memory by reference to notes.”

As he finishes his speech, I also thought--

**Sen. Leshore:** Mr. Deputy Speaker, Sir, this is not a speech. I was just referring to the points and I hope my dear colleague will understand.

Devolution of the NACC will create an effective grants management system, strengthen the management and administrative system with NACC and create linkages among organizational, local and implementing agencies.

Mr. Deputy Speaker, Sir, in conclusion, every year, we celebrate the World AIDS Day on 1<sup>st</sup> December. I urge Kenyans to observe that. Efforts to prevent the spread of the disease have been stepped up. Awareness campaigns, improved health facilities and antiretroviral drugs have been provided by the Government and health partners.

I beg to move and call upon Sen. (Prof.) Lonyangapuo to second.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. Leshore. Proceed, Sen. (Prof.) Lonyangapuo.

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, I rise to second this Motion by Sen. Leshore. On the outset, I congratulate him for bringing this Motion in good time. As he said, the Motion has been with us for some time, but because of the bulk of work that was before the Senate, it took this long for it to be brought before the Floor of the House.

In 2010, we passed a new Constitution and it clearly identified the functions and powers of the county governments as well as the functions and powers of the national Government. In this particular case of health, what was devolved was the county health services which include; county health facilities, pharmacies and promotion of primary healthcare for the people of Kenya.



Whatever strategies the central Government had in place were supposed to be carried along in the new dispensation. Sen. Mugo was the Minister in charge of health services in the country together with Sen. (Prof.) Anyang'-Nyong'o and they came up with very brilliant programmes to mitigate health issues that affect Kenyans. One such issue is that of HIV/AIDS, which is a threat to the lives of our people. The strategies that the Ministry had come up with were not devolved yet the functions were devolved. The funds are also allocated in every financial year. The problem is that we have not devolved the strategies by the Ministry of Health except a few interventions which were already in place.

In the North Rift, there were interventions by the Americans using a programme called Ampath. When we devolved, there was excitement all over and new employees left their plum jobs from Nairobi and other towns to the counties. The originator of this Motion is saying that we should have also decentralized the department called the National AIDS Control Council to all the 47 units especially in the top hospitals in the counties.

This would mean that county governments should have been brought on board and given the status of the county in terms of how the HIV/AIDS scourge has affected the people of that county. If there were more funds set aside by the national Government in fighting and mitigating the effects of HIV/AIDS, the funds would have been devolved to the counties hit hard by the scourge. There are some counties which are leading in this HIV/AIDS scourge. Therefore, one would imagine that the money from the national Government would proportionately be taken to Homa Bay, for example, so that the problem can be fought head on. The officers who had already been trained should also have been seconded to the county governments.

The challenge is that when county governments came into place, there was no law that regulated the employment of civil servants. You will be surprised that in the county hospital of Homa Bay, West Pokot or Kapenguria, the local employees aligned themselves to the new leadership and were given jobs. They may not have been experts in this field but since there was room for people to transfer, they took advantage. This is because when devolution kicked in, a number of professionals in the hospitals left. There was a window in which we almost seemed to have lost the war. Today, people are talking about misuse of funds in the counties but nobody is talking about the silent killer in the counties. Where there is money being misused, there is an increase of carelessness in the lives of people to the extent that we are not surprised if there is an increase of this problem in our counties.

Mr. Temporary Speaker, Sir, as I have said, a number of people transferred to the counties but this problem may have increased. We should not bury our heads in the sand. The originator of the Motion says that the National AIDS Control Council (NACC) that used to be very visible has disappeared. They used to have programmes on television, radios and in newspapers. The reason is that some of the donors may have pulled out. The Moi Teaching and Referral Hospital in Eldoret was not hard hit because the Ampath programme brought many facilities. Some of the beneficiaries are West Pokot and

Kapenguria although it has now scaled down funding. The Government needs to pay attention to this situation because it will lead to a tragedy because we might lose people who are more active in nation building.

Mr. Temporary Speaker, Sir, looking at the figures stated here, there are 1.5 million Kenyans infected but there is silence. There is concerted effort to fight corruption up to the level of the counties and we also want people who are involved to step aside as those at the national level did. As we focus on corruption and terrorism, we are forgetting a more serious problem because of the lifestyles of Kenyans. There is a Bill by Sen. Sijeny addressing the issue of reproductive health care but this problem should not be swept under the carpet. This Motion proposes that we should devolve this and we hope that the relevant Committee will visit county governments to get a report.

The county governments should set aside a certain amount of funds from their budgets to address this issue. There is over Kshs50 billion remaining in Nairobi here and part of it should be utilized to mitigate this problem. The other day, we had a problem with the funding of county assemblies which had claimed that they are being marginalized and oppressed by the county governments. We allocated a lot of money to Turkana County and that is one county that has this challenge. So, I would expect that as they do their revised estimates, this problem will fully be addressed. My county has been placed at 2.4 per cent but we must reduce it to the lowest level acceptable.

Mr. Temporary Speaker, Sir, I support this Motion and ask that as soon as we pass it, we should follow it up quickly and even the departments in charge of health in the 47 counties should write to the donors across the world who have been working with us across the board. In fact, they have the desire to work with the counties. For that matter, we must consider this Motion from the perspective of saving our people. We do not want to go to 2017 general elections with many people dead because of this problem.

Mr. Deputy Speaker, Sir, I second.

*(Question proposed)*

**Sen. Ongoro:** Mr. Deputy Speaker, Sir, I start by appreciating the effort of Sen. Leshore for bringing such an important Motion to the Senate. Sadly, it has been lying around with us for about one year. During that time, we must have lost so many people to this pandemic.

In the spirit of devolution, decentralization and of our new Constitution, I support the decentralized of the support structures of the management of this pandemic called HIV/AIDS to the county level. It is only through this that we will have critical mass of people availing themselves for testing. It is only through this kind of management structure that we will have a management system that will be people-centred and closer to the people at the county level. It is only through this kind of decentralization and approach that we will facilitate a more serious approach on the issue of civic education on matters pertaining to this disease. As I speak, there are communities which still have a lot of misinformation and fear towards anybody who is suspected to be infected.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

Mr. Deputy Speaker, Sir, the HIV/AIDS scourge has robbed this country of the human resource which is so expensive and irreplaceable. It targets mainly the young, energetic and intelligent middle aged people. It is so sad that we have lost so many people to this disease. The cost implications to this nation alone in terms of medical facilities and expenses both at the individual, family and national level, is so huge. If only we could change the approach to be more centred on prevention than cure, it will help to prevent many deaths.

In this country, particularly in this Senate, I am sure, we have all suffered the consequences of HIV/AIDS, either directly or indirectly by losing a friend, a relative, a workmate or somebody known to us at a personal level. It is very painful.

As I support this Motion, I urge the Mover to consider amending it at the right time to state that counties with huge populations like Nairobi, Mombasa, Kisumu, Nakuru and Kakamega be allocated more resources to allow them the benefits of establishing more centres within their counties. These are counties that deal with huge populations.

In the same structure, we could also consider counties that are very vast though sparsely populated by allocating them more resources. If we allocate them the same resources as smaller counties with smaller populations, then this kind of approach will still not be effective because they are so vast. For example, nomadic communities need to have a tailor-made specific approach that allows the unit to move with the populations from place to place, targeting them for civic education, encouraging them to go for testing and to start early treatment.

Mr. Deputy Speaker, Sir, lastly, in the amendments that I am proposing, I encourage that we also have county specific research tailored towards the specific social-economic structures of the counties. This is because every county will end up with policies and structures that are more tailor-made to that specific county. Interestingly, as I listened to Sen. (Prof.) Lonyangapuo, I realized that we should consider the human resource laws and the lives that we lose through this pandemic. Of late, the Government has been thinking and acting outside the box because of the social ill of alcoholism. However, we lose a 100 times more through HIV/AIDS scourge. So, the Government should give it the same approach of thinking and acting out of the box with the urgency it deserves, commensurate with the budgetary allocation that it deserves.

The Government should allocate more resources in terms of budgetary allocations to specifically target the counties that have suffered the most consequences of this social ill because of mitigation effects that they are dealing with which are 50 or 100 times higher than other counties. If we give it that approach of tackling it through the lenses of the number of people that die through this illness, then, we will save another generation which will take it from where we will leave.

Mr. Deputy Speaker, Sir, without belabouring many points and repeating myself, I urge the Mover to consider those amendments at the right time.

Mr. Deputy Speaker, Sir, I support.

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, thank you for giving me an opportunity to contribute to this Motion and to compliment Sen. Leshore for coming up with the idea of this Motion. We are in a transition and the Motion by Sen. Leshore is actually a wake-up call on quite a number of other issues happening at the county and at the constituency.

Mr. Deputy Speaker, Sir, about 15 or 20 years ago, when the country was labouring with how to get closer to the people, quite a number of things were moved towards the constituency. The major one was the Constituency Development Fund (CDF). Along those lines and a little bit earlier, we had the District Roads Committees (DRCs), which eventually ended up being a Constituency Roads Committee (CRCs). When the Rural Electrification Authority (REA), came into being, it also ended up being a constituency committee. The HIV/AIDS committees operated from the then district level. However, the real effective unit of the committee was actually at the constituency.

Mr. Deputy Speaker, Sir, what Sen. Leshore has raised is Straightforward. He is asking us to redirect our efforts towards fighting this pandemic in counties. As Sen. (Prof.) Lonyangapuo said, from the national level, the effort to fight this pandemic is quiet. However, two months ago, the AIDS Committee from Ol Jororok came to see me in my office.

If you look at Article 117 of the Constitution, you will see that among the many principles of devolution, one of them was to bring services closer to the people by decentralizing state functions. Perhaps, we, as a Senate, must look at the law through which the NACC operates and amend it accordingly in order to achieve what is proposed in this Motion by Sen. Leshore.

As I said, a number of things were done at the constituency level where we had a Member of Parliament (MP) representing the interests of the constituency. This was done in good faith. However, because of not taking this function to the county level, we have ended up sidelining the county governments in terms of the services being offered by the NACC or any other body. When we continue with the old domain of concentrating on the constituencies, we find that many things happen with no reference to the governor or county government.

*[The Deputy Speaker (Sen. Kembi-Gitura) left the Chair]*

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

Madam Temporary Speaker, it is the same concept which also ends up with Senators being sidelined because no information comes to us. The mainstream information is quite often coming from the national Government to the units at the constituency level, which as I said, were done in good faith. However, it is time we revised that concentration.

Sometimes we see ourselves being sidelined as Senators. However, if you look at the structure from the national to the grassroots level, it is such that the Senator is not

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

involved and that applies to the Governor. It is sad that we are representing the interests of the county, but we do not get involved in any way. Even when the services of the NACC are devolved to the county, we are, perhaps, not going to be involved directly. I believe we need to know what is happening in the counties. We must play our oversight and leadership role as far as this service is concerned.

Madam Temporary Speaker, the Motion does not say who will operate at the county level. It only says the office will be opened at the county level. However, it is one of the functions that we should specifically say that since it is under health, it be devolved. We need to see county governments centrally involved in this so that they can effectively discharge their duties.

With those few remarks, I beg to support.

**Sen. (Prof.) Anyang'-Nyong'o:** Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to this Motion which was ably moved by my dear friend, Sen. Leshore, the Senator for Samburu County. The Motion is timely and very important.

My colleagues who spoke previously - who include; Sen. (Eng) Muriuki and you - have emphasized the prevalence of HIV/AIDS that continues to bedevil our nation in terms of its distribution nationally. We know there are certain areas which are more affected than others. They have also brought into focus the fact that health as a function has been devolved whereas the institution that looks after problems of HIV/AIDS, the NACC remains a national institution.

Madam Temporary Speaker, the mischief that this Motion tries to deal with is how the counties will deliver health programmes and projects, particularly those that regard HIV/AIDS while the key institution remains national. As I see it, the proposal in the Motion is to devolve the NACC to the counties. This is laudable and should be undertaken. While saying so, let us remember that it is, not only the bureaucracy of the NACC that we want to devolve, but two things as well; the functions performed by the NACC and the resources that they use to deal or run the projects and programmes of HIV/AIDS.

I want to bring to your attention a piece of information that is very important. The NACC's work has for a long time been largely supported by the donor community. Secondly, if you look at the Anti-retrovirals (ARVs) that have been used in this country by those infected by HIV/AIDS scourge and are prolonging their lives by their use, you will find out that our Government has devoted much less money to the purchase of ARVs than the donor community. The donor community has done that within the ambit of the NACC.

Once we devolve the NACC, we must come to an agreement with the donor community that the funds will now be channeled to the devolved NACC rather than the headquarters. This is because the implementing agency for HIV/AIDS will no longer be the national headquarters, but the devolved NACC. This is very important because if we just deal with the bureaucracy, it will not change a thing at all. The NACC is still running its programmes today across the nation, notwithstanding devolution.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

However, Sen. Leshore is concerned that we have effective structural setting at the county level that will be under the county government and that will specifically deal with HIV/AIDS prevalence in specific counties, because the prevalence varies from county to county. From the figures that we had at the Ministry of Medical Services, the prevalence of HIV/AIDS in a place like Homa Bay County and along the lakeshore, tended to be much higher than elsewhere. On the major routes for transportation; for example, from Mombasa to the border in Malaba and in Busia, the centres where transporters tend to stop at night before they proceed with their journeys, also tended to generate a high prevalence of HIV/AIDS. Thirdly, there is a tendency to have much more HIV/AIDS pandemic in urban areas than rural areas.

Those variations, therefore, must be taken into account when funds for fighting HIV/AIDS scourge are being disbursed to the counties. That means that the devolved NACC, in terms of the resources that they will get for fighting the HIV/AIDS, will not necessarily receive the same resources. However, they will receive resources in line with the degree of prevalence of HIV/AIDS.

Madam Temporary Speaker, there is a second issue. One of the most important frontline initiatives in fighting HIV/AIDS is information and prevention. People must be educated about the disease so as to avoid catching HIV itself. At this point, county governments do not really have good programmes for health education and awareness at the county level. Awareness and education is still a national function. It is important to develop the capacity of county governments, especially given that health is devolved to have the capacity for awareness and prevention.

Preventive healthcare in the province of public health is in the hands of county governments. You will not deal with HIV/AIDS pandemic as an isolated public health issue. It must be properly integrated into public health so that the awareness for preventive healthcare being carried out, targeting HIV/AIDS, should be part and parcel of public health awareness for all other diseases.

As Sen. (Dr.) Khalwale will confirm in his profession, the prevalence of HIV/AIDS is also accompanied by other opportunistic diseases which have weighed very heavily on our health expenditure. Such diseases as *Kaposi's sarcoma* afflicts most people who have HIV/AIDS. It means, therefore, that if funds will be made available to fight HIV/AIDS, then we must also avail funds to fight these opportunistic diseases. This is because when we give people ARVs when they are already suffering from these opportunistic diseases, we might not be doing a lot of good. We must deal with the opportunistic diseases while at the same time dispensing ARVs.

Madam Temporary Speaker, the ability of those who are afflicted by HIV/AIDS to continuously find out their viral loads will very much depend on the presence of laboratories with proper equipment for testing viral loads for patients.

One of the things that happened recently when counties got this central Government led equipping of facilities, is that much attention was given to the major known transmittable diseases and those non-communicable ones like cancer, diabetes and so on. It is assumed that in the era of HIV/AIDS, we have developed capacity in

equipment to have test labs, viral loads and so on. While some of the equipment is available in district hospitals and some health centres, it is not necessarily available in dispensaries. The whole idea of devolution is to take services closer to the people. The closest institution to the people in terms of health services delivery, both curative and preventive healthcare, is the dispensary followed by the health centre.

I remember when I was MP for Kisumu Rural in 2003 – thanks to Sen. (Eng.) Muriuki when we first implemented Constituencies Development Fund (CDF) – we developed a programme of establishing health facilities. Following World Health Organisation (WHO) directives, we decided that nobody should be further than three or four kilometres from the nearest health facility. In this regard, we mapped the health facilities that existed then. We then decided to add 12 new dispensaries that would make every resident in the former Kisumu Rural not be further than four kilometres from the nearest health facility.

Madam Temporary Speaker, in this regard, since the fight against HIV/AIDS should stepped up in certain areas where prevalence is higher, while devolving NACC institutions, we should also realise that devolution should go hand in hand with establishing these facilities closer to the people. That way, the testing of viral load, for example, should not be the preserve of district or sub-district hospitals and health centres. It should be devolved to the level of dispensaries because it is not rocket science. All our nurses who train at the Kenya Medical Training College (KMTC) are capable of being trained for this kind of tests. They are capable of working in dispensaries and dispensing these services.

Finally, as universities keep multiplying in this nation, my proposal would be that before a student graduates with a medical degree in any private or public university, he must serve at least a year in rural health facilities. Nowadays, there are quite a number of universities training students in health discipline. They are graduating with diplomas, Bachelor of medicine, surgery level and so on. It must even be in the curriculum of all our medical institutions that they serve at a dispensary, health centre, sub-district or district hospitals. They need to have that experience of dealing with the prevalence of diseases at the local level if they will graduate as Kenyan doctors. Once they graduate, they can work anywhere in the Republic.

This idea of having the so called “barefoot” doctors as they are called in China and “family doctors” in Cuba, is noble. In China, before you graduate from medical school, you must serve for three years while in Cuba, you must serve must serve in a local health institution. This gives them an opportunity to serve the people and to know the diseases which are prevalent in the community before they can dispense health services.

Again, invoking the knowledge of my friend, Sen. (Dr.) Khalwale, you will realise that the spread of diseases is not uniform in all societies. Diseases occur as a result of certain environmental or dietary conditions and so on. Somebody doing a Bachelor of Medicine and Bachelor of Surgery (MBCChB) in Morocco and doing their practice in the

rural areas, may have a very different experience from somebody having the same degree, but doing their practice in Tana River, Nyandarua or Homa Bay counties.

Madam Temporary Speaker, in our country, we have not compelled our students who graduate with both medical degrees or diplomas, to have that experience and make sure that they do not get this idea that getting a medical degree entitles you to a white coat, stethoscope and working in urban centres or a good private health facility where you earn a lot of money.

I think being a doctor or a health worker is like a calling; it is like being a teacher. Those who have been good teachers in the past and those who taught us in primary, intermediate and high schools, are those who were really devoted to the profession. They did not just join the profession for purposes of eking a good living. Of course, a good living is important, but it should not be the primary drive for somebody who chooses teaching as a profession. In that regard, it should also not be a drive for somebody who chooses health as a profession. It requires some calling, dedication and commitment to serving humanity.

I commend Sen. Leshore for introducing this Motion. I call upon NACC to take this Motion very seriously and respond to the spirit of devolution by implementing the proposals that Sen. Leshore has asked for in this Motion.

I beg to support.

**Sen. (Prof.) Lesan:** Thank you, Madam Temporary Speaker. First of all, I wish to join my colleagues in thanking Sen. Leshore for bringing up this Motion. I heard him say that he filed his Motion over a year ago, but I hope it was going through the process.

Now that it is on the Floor of the House, I support it. The function of the NACC should be devolved to the counties. This should have been done with the rest of the other health functions.

This afternoon I wish to speak to matters of policy with regard to the HIV/AIDS epidemic in this country and elsewhere. About 100,000 new infections every year is very high. This is approximately 1.2 million cases added to the 1.2 million cases that are in existence. We know that HIV/AIDS is a killer disease. Therefore, we keep on losing these people who have been infected.

Madam Temporary Speaker, one of the functions of the NACC is to set policy which is aligned with our Constitution which states how we should carry on these functions. One of the causes which is documented, has been studied and which we are aware of and which has contributed a lot to these numbers, is homosexuality. I want to use this Floor to state that homosexuality is a despicable act. It is a very alien thing to the African community and, more so, to the communities which we represent in Kenya. Biblically, it is abominable. It is condemned both on earth and in heaven. It is a pity that it is contributing a lot to the spread of the HIV/AIDS in this country.

The NACC should look at the Constitution of the country and see how they can formulate and improve on policy. As it is at the moment, our Constitution states that it is only people of different gender; that is, man and woman who should get married. That is



as far as our Constitution is concerned. However, it says nothing about partnerships. I hope the NACC will go further and deal with issues like this.

Madam Temporary Speaker, at the moment, we are under pressure internationally to accept homosexuality as part of the basic human rights. We know that homosexuality is one of those acts that people engage in and that they can label anything a human right. I wonder whether suicide is a human right. I think homosexuality and suicide are one and the same thing. It is important that our laws state categorically and put regulations in place that can eradicate these scourges which are alien and being forced on us.

I am aware that the NACC is funded by international bodies. I am sure that soon accepting homosexuality will be one of the conditions for us to get funding for HIV/AIDS scourge. This will not take very long. Last year, I attended an international AIDS conference in Australia. However, I came back a very disappointed person. I hear in the next two weeks, hon. Senators from this House will attend the same conference in Vancouver, Canada. That conference which was meant to chart the way forward in order to eliminate some of these things has completely been taken over by HIV/AIDS activists. The issue that is being propagated in those conferences is homosexuality. They talk about the right of homosexuals to mortgages and participation in various activities.

These are the activists who very soon will force this country to adopt the resolutions of those acts that I have referred to as despicable and abominable. We should not accept them in this country. We should shout loudly against this vice more so, because the President of the most powerful State on earth is soon coming to this country. I am sure that one of those issues that he is likely to propagate and say it as a policy for his country is homosexuality. Kenya, being an African country, must stand up and tell him that this is alien in our communities and that it is one of the predication factors for the HIV/AIDS scourge. We must be able to resist it as much as we can.

Madam Temporary Speaker, the NACC should start to look at some of these issues and starts taking serious penalties on those individuals who are deliberately infecting others with HIV/AIDS. Penalties for these individuals must be enhanced as a deterrent measure so that we do not have to lose individuals who could have helped this country. I am sure the NACC can deal with some of these issues now that we are asking it to be more active at the counties where the individuals are and where homosexuality has not thrived as much as it has in urban areas. We should be able to nip this in the bud. The NACC should establish offices in the counties, so that they can deal with this scourge at the county level.

We know very well that the communities that we have in this country have different cultural behaviour. We have demonstrated that through research where certain cultural behaviours have contributed to the spread of HIV/AIDS pandemic. It is, therefore, very important that we devolve the NACC activities, so that they can work out specific strategies in the various regions where communities are practicing certain cultural behaviours that have led to the prevalence of HIV/AIDS.

It is very important that we support this Motion so that the NACC devolves some of its functions nearer to where the communities are so that they can impact the people

positively through its various programmes. This will reduce the number of new infections which is the biggest worry. If we can curtail the number of new cases we shall be moving towards an AIDS free society. We can do so, if we are able to support this Motion. The national Government should devolve the functions of the NACC to the various counties.

I support the Motion.

**Sen. Musila:** Madam Temporary Speaker, I also stand to join fellow Senators in supporting this important Motion, and also in the same vein, congratulate my friend, Sen. Leshore for bringing this matter to us once again. It is 31 years ago since the outbreak of HIV/AIDS scourge in this country. Precisely, this was in 1984.

Madam Temporary Speaker, Kenya, like the rest of the world, joined the fight against the HIV/AIDS pandemic with a lot of force. In this country, we even declared HIV/AIDS a national disaster. We went ahead to do many things, for example, HIV/AIDS testing and education, among other things. I can remember that even at places of work throughout the country, there was a committee on HIV/AIDS. Even in rural areas, there were cells of committees promoting awareness of HIV/AIDS. Regrettably, the momentum which started very well appears to have died sadly.

There was a time when about 700 cases of HIV/AIDS related deaths per month were reported in this country. Now, the cases have gone down. I believe that if the force with which we started the exercise continued until now, we would be very near to making our country an HIV/AIDS free society. Somehow, the momentum was lost.

Nowadays, nobody talks about the HIV/AIDS pandemic as it used to be. The only thing closer to HIV/AIDS warning that we see is the advertisement of trust condoms on televisions. This has happened after devolving health functions. As previous speakers have said, the idea of devolving health services was to reach the population down at the grassroots level. What is more important at this age and time than reaching out to the counties concerning issues of HIV/AIDS?

As I said, HIV/AIDS testing is almost non-existent. Supply of the ARVs drugs in the country is very erratic. As a result, opportunistic diseases like Tuberculosis (TB) have sprung up and even become more killers than other diseases. Thanks to the allowance of the HIV/AIDS scourge to continue in this country. One would ask himself or herself; why would we rely on donor funding for issues of national disaster like HIV/AIDS? I said this because the ups and downs of promotion or creating awareness about HIV/AIDS depend on the supply of donor funds. When donor funds are non-existent, we forget about HIV/AIDS.

It is high time we revived – with a lot of energy – the issue of creating awareness about HIV/AIDS, testing and ensuring that all people have access to testing facilities so that they know their status and, consequently, present themselves for treatment. I strongly believe that if we had continued in the manner in which we had started from the beginning, we would have gone very far by now.

The NACC did a very good job from the beginning. I had a discussion with some members of the body regarding the attitude of not moving as fast as they used to do. The answer was that they had no funds. It appears like the Government has, sort of, given up

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

on the idea of fighting the HIV/AIDS scourge. It appears as if we only wait for donors to give us money.

I can remember that there were issues of misappropriation of HIV/AIDS donor funds. Therefore, donors decided to withdraw. As results, I condemn misuse of funds meant for fighting HIV/AIDS which made the exercise go down. However, I still believe that we should not rely on donor funding on such important issues that have been declared national disasters like HIV/AIDS.

Madam Temporary Speaker, I want to touch on HIV/AIDS and devolution. I said this and this Motion also tends to suggest that devolution of services, whether education, health, roads or any other service was done with the aim of ensuring that services reach people at the grassroots level. Hitherto, the NACC would issue policies, but then such policies would die along the way before reaching the grassroots level. Therefore, the idea of devolution which has come timely – 50 years after Independence – was to ensure that things are done up to the grassroots level. How then relevant is it that we can devolve other functions and still allow HIV/AIDS policy and bodies like the NACC to be stuck at the national level?

That is why I support this Motion very strongly. We would like to see a branch of the NACC at every county headquarters. From there, they will operate throughout the county so that there is sufficient reach of the population on these very important matters.

Sen. (Prof.) Anyang'-Nyong'o mentioned about counties going even further and taking up services like HIV/AIDS testing and providing ARVs to dispensaries. This is the way to go. Once we have devolved functions to counties, we should not just stop there. We must ensure that other services like provision of ARVs and HIV/AIDS testing are provided. Perhaps, they should also provide one important service that, up to now, has not been emphasised. That is provision of food supply to victims.

Madam Temporary Speaker, as far as I know, many HIV/AIDS patients die because they do not have access to food. Food is very critical, particularly after taking ARVs. I want to believe that the professional doctor here, Sen. (Dr.) Khalwale, would agree with me that if you give a patient ARVs on an empty stomach, you will be killing him or her faster. Therefore, the medicine that you are supplying would not be helpful to them.

Madam Temporary Speaker, perhaps, the NACC does not know that there are people who have no access to food. There are people who, probably, will have one meal per day if they are lucky. There are people who will have porridge only as the main meal for the day. I can assure you that porridge cannot accommodate ARVs for a patient to survive. Therefore, we need to go further. This can only be done if we devolve some functions to the counties. County government must be urged to have a provision to give sufficient and nutrition based foods to people living with HIV/AIDS within their areas of jurisdiction so that we get an all-round healthy population throughout the country.

Madam Temporary Speaker, Sir, I strongly support this Motion. I hope that the NACC will take it very seriously and look for funds. Above all, I hope that the national

Government will provide funds to the body which will go down to counties so as to provide the necessary services.

Although health services were devolved, the budget of the Ministry of Health at the national level is much more than funds that have been sent to counties which have been given the functions. So, it is the high time that the national Government avoided sitting on funds at the national level. These funds should be devolved to accompany the functions that have been devolved; important of which is taking care of the health of the people of this country.

Madam Temporary Speaker, I beg to support.

**Sen. Muthama:** Thank you, Madam Temporary Speaker. I also rise to congratulate my brother, Sen. Leshore, for coming up with this very important Motion.

While seated, I listened to wonderful contributions by my colleagues. I thought about 1963 all the way to 1970s when senior Sen. G.G. Kariuki and other legislators like Martin Shikuku and others were very active in the National Assembly. So many Motions and Bills were passed over the years. I wonder how many of them have been acted upon and implemented to assist the poor and true citizens of this country. We debate in this House simply to end the day, say sweet things and show Kenyans that we are working. Time has come for us to make a painful decision. This House could even debate between 10 and 20 Bills and Motions that can be implemented.

When Sen. Karue brought the Bill on the CDF in the National Assembly, it was debated, passed and CDF was put into place. Sen. Karue can now be proud and say: "I brought that Bill." What is the fate of all the Motions that we passed from the Kenyatta International Convention Center (KICC) where we started, all the way to County Hall and then here? That is the first problem.

Secondly, I looked at this Motion which partly says:-

"The Senate urges the National Government to set up the National AIDS Control Council (NACC) County offices in all County Headquarters with the National Headquarters providing overall coordination and that the resources allocated for the fight against HIV/AIDS be disbursed and managed at the County level."

Madam Temporary Speaker, the suggestion is wonderful, but who are the implementers? When devolution started doctors were put under the governors and what played out was a shame to this country. Well educated governors, who are supposed to unite this country and Kenyans, were the first to say that they will only employ doctors from their respective counties. This happened before the eyes of Kenyans, yet the top leadership of the country did not intervene.

Even the President himself did not send a message of caution to the governors, telling them that they are expected to unite Kenyans. We saw doctors and nurses being rejected and even those who were accepted were not paid salaries. Recently I toured Kangundo Hospital and went into the wards. There was no water, medicine or nurses. There was a terrible smell coming from those wards.

Looking at what my brother is asking for in this Motion, I guess we will witness the same game being played out. The problem in this country is not lack of funds. Look

at the things that we have witnessed since the Jubilee Coalition came into power. Kenyans were promised three million title deeds and a budget prepared to process the same. But not even 20 per cent of those titles have been given to the citizens of this country.

We also saw choppers flying from Nairobi to Galana in Tana River. The leadership promised Kenyans that one million acres of land will be put under irrigation and food shortage will never be experienced again in this country. Three years down the line, despite those billions that were spent, not a single maize cob has been harvested from the Galana project. This country is constructing a railway line at a cost of hundreds of billions of shillings, when the Internally Displaced Persons (IDPs) have been sleeping in the streets and tents since they were displaced.

The leadership in this country can afford to take wine, enjoy and walk on the red carpet when poor Kenyans from all over this country are suffering. The funds given to the counties should serve the intended purposes. However, if the top leadership has failed to eliminate corruption, how will the governors manage resources? The top leadership of this country is out to block issues of corruption, for example, the Karen land saga, where we can trace those involved. In this country, there are those who have been allowed to mess up and squander public funds and those who are supposed to use them properly. That is wrong.

Devolution was meant to serve Kenyans. Today, we want to devolve health services. The best way to do it is to have doctors and nurses employed by the central Government, so that the Government can deal with the workers in this country, including those working in the health sector. This is because there is no governor who has the capacity to deal with the doctors and nurses. Let the governors construct hospitals and do the infrastructural works, but let the staff be paid by the national Government, just like the teachers.

We know that there is no single county which can handle the issue of teachers. Forget about the county, there is no single region, not even a Ministry alone, which has the capacity to manage teachers in this country. So, it would be wise to have the teachers employed and paid by the central Government so that we can address those problems to the right place.

Let the counties construct classrooms and put up new schools. That should be the work of counties. If the Government has provided teachers and the counties fail to construct classrooms, children can even read under the tree and they will succeed. We require teachers to take care of our children.

Madam Temporary Speaker, there is no way we can have chiefs, assistant chiefs and the assistant county commissioners placed under the management of counties. This is because the governors will behave as if they have their own military set up and start terrorizing their residents. We want those three sectors to remain at national level.

Madam Temporary Speaker, I support this Motion. The Government should be serious in addressing issues that are stipulated in this Motion.

I beg to support.

**Sen. Chelule:** Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to this Motion. First, I would like to thank the Senator who brought it to the Floor of this House. If we devolved the NACC to the counties, I am sure our people at the grassroots level will benefit. As it is now, these services are provided by the Constituency AIDS Control Committee (CACC).

Our people are suffering because of lack of drugs and civic education. Others are afraid of taking HIV/AIDS tests. Therefore, they are not aware of their status. We need to conduct civic education on this scourge. Otherwise, people will die and think it is because of witchcraft or other diseases. However, if the NACC is devolved to the counties, it will be easier for the CACC to provide services to our people.

There are so many people doing research on this scourge. After their researches, we expect them to share their information with us so that we safe live. Through devolution of NACC, our people will benefit from such information because information is power. If members of the community will get the information at the right time, they will mitigate, intervene and accept their status.

Many people who die of HIV/AIDS complications do not die because of the virus, but they die out of stress related issues such as stigma. If the relevant personnel conduct exhaustive civic education at the community level, people will begin to accept, live positively about it and take care of themselves through the right nutrition and other appropriate measures.

I thank all those who have contributed positively to this Motion. However, Sen. Muthama, at some point, deviated from the Motion and discussed other things. But at the end, I am happy because he supported this Motion.

With those few remarks, I beg to support.

**Sen. M. Kajwang:** Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to this Motion. I would like to thank Sen. Leshore for bringing it.

The Senator decried that this Motion has spent about a year in the corridors of this House. However, in that one year, two things have happened. The Kenya National AIDS Authority Bill is being discussed in the National Assembly. This Bill seeks to change the NACC from its current status to a body corporate that will draw budgetary allocations from the National Assembly.

In that one year also, the national Government has come up with a Kenya AIDS Strategic Framework. In that framework, one of the things is that HIV coordination units will be set up at the county level. There seems to be something that has happened in that one year period which tells us that we need to hasten Motions when they come to this House, so that good and noble ideas like the ones that Sen. Leshore has are not rendered irrelevant by the passage of time.

Madam Temporary Speaker, I talk to this matter, not as an expert, but as a Senator of a county that leads in HIV/AIDS prevalence. It is not something that we are proud of as the people of Homa Bay County. When you look at the number of people living with HIV/AIDS in Homa Bay---

**Sen. (Dr.) Khalwale:** On a point of information, Madam Temporary Speaker.

**Madam Temporary Speaker** (Sen. Ongoro): Hon. Senator, do you wish to be informed by Sen. (Dr.) Khalwale?

**Sen. M. Kajwang:** Madam Temporary Speaker, I wish to be informed.

**The Temporary Speaker** (Sen. Ongoro): Proceed, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Madam Temporary Speaker, allow me to inform the Senator on the Floor. In fact, Homa Bay County is second to Nairobi County which is leading in HIV/AIDS prevalence.

**The Temporary Speaker** (Sen. Ongoro): Hon. Senator, please, take note of that. The information you gave us at the beginning should be corrected.

**Sen. M. Kajwang:** Madam Temporary Speaker, whereas Sen. (Dr.) Khalwale is correct that Nairobi County has got more people infected with HIV/AIDS, but in terms of percentage, Homa Bay is leading. Nonetheless, I accept the information.

We have 159,000 people living with HIV/AIDS in Homa Bay compared to 177,000 people in Nairobi. I came to this House having garnered 127,000 votes. That means that the people living with HIV/AIDS in Homa Bay County are more than the number of people who brought me to this House. If people living with HIV/AIDS would be a constituency or a voting bloc, it would be a significant voting bloc in Homa Bay County and other counties that fall within the hyper endemic status.

Madam Temporary Speaker, HIV/AIDS affects more women than men in my county. I believe that is the trend nationally. What is interesting about HIV/AIDS in this country is that in a place like Homa Bay, 31 per cent are not tested. So, they do not know their status. When we talk about these percentages, they could even be higher if more people opt to go for testing to ascertain their status.

The bottom line is that HIV/AIDS poses a huge burden on Homa Bay County and the country as a whole. For example, today being a Thursday, many of us will be rushing to our constituencies to tend to be funerals. When you look at the issue of funerals, probably, a quarter of the funerals we attend are as a result of HIV/AIDS scourge. If we are not attending funerals, we are attending fund raisers to assist children whose parents are incapable of sending them to school. When you are not attending fundraisers for schools, you are attending one for medical purposes.

What this has done to our economies, particularly in Homa Bay County, is that people mobilize capital, but for social ventures rather than for economic ventures. This means that we shall perpetually be locked into that circle of poverty. When you mobilize capital, for example, if you raise Kshs1 million and spend it all in one day in a funeral, rather than mobilizing the same amount so that you can invest in something that can take you to the future. It is all eaten in one day because of the HIV/Aids pandemic. So, it is not a light matter.

Madam Temporary Speaker, there is an intention by the Government to provide cash assistance to vulnerable children, orphans and the elderly. Certain cultures do not understand the concept of orphans. The culture I come from, when the parents die, those children are not strictly defined as orphans because they are adopted and immediately

taken up by relatives within the community. We should now start enlightening and making our people aware that these orphaned children, by virtue of HIV/AIDS, can be given some financial assistance through the cash transfer programme for orphans. I know that the Cabinet Secretary came and briefed this Senate on the cash disbursements going to vulnerable people. We need to lock out the middle men or the care-givers who receive this money, but do not pass the benefits to the orphans and widows who deserve it.

The NACC has come up with the Kenya HIV/AIDS profile, which makes very interesting reading. The other document referred to is the Kenya AIDS Strategic Framework. It also gives us very detailed information about this scourge. The specific prayer about this Motion is that the Government should set up the NACC county offices in all county headquarters.

I know that the Senators who have spoken ahead of me have talked about devolution of the NACC. I am not sure that the wording of this Motion intends to achieve that full devolution or it only aims at ensuring that we set up structures and offices which will still be controlled from the centre.

Madam Temporary Speaker, if the intention of this Motion is to set up offices then bureaucracy is expensive. We need to be a little bit clever and sensitive on how we do it. The NACC coordinates stakeholders in their multi-sectoral response to HIV/AIDS. The HIV/AIDS has given birth to a fledgling industry of Non-Governmental Organisations (NGOs). Nowadays, we see people forming NGOs. They take photos of children of whose parents have died and send them overseas for funding. When they get the money, they use it to campaign for political office.

We need to make sure that we tighten the controls, supervision and integration of players in this field. We need to deal with this emerging industries that prey on the misfortune of people living with HIV/AIDS. We also need to ensure that we limit and reduce duplication of efforts and resources in the fight against HIV/AIDS. It is for that reason that I support that the NACC should have structures at the county level.

However, I would like to make a proposal that could be considered as an amendment to this Motion. When you look at the mapping of the country, you could say that the country can be categorized into three sections. We have counties with high prevalence, counties with medium prevalence and counties with low prevalence. I think the lowest prevalence will be counties in north eastern Kenya where it is less than 1 per cent whereas for Homa Bay, Kisumu, Migori, Siaya, Kisii and Turkana, the prevalence rates are high.

As I said earlier, bureaucracy is expensive. If you start setting up offices in counties, you cannot set up a big one in Kisumu and a small one in Mandera because all these counties are equal. We need to think of a progressive approach. As the NACC sets up offices at the county level, it should be done progressively starting with counties that are defined as hyper-endemic. Counties defined as hyper-endemic could be counties where HIV/AIDS prevalence is about 15 per cent. If the national average is 6 per cent, then we insist that the NACC should prioritise counties where the prevalence rate is above the national rate. We should not end up with a situation where we have 47 NACC

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*



regional managers drawing salaries in certain counties where the problem is not as grave as in other counties.

Madam Temporary Speaker, while I support this Motion, I would also like to bring to the attention of the House that there is a Bill being debated in the other House. This brings me to the point that we have discussed previously in this House. There is need for us to come up with a proper framework to ensure that when one House of Parliament is debating a matter, the other House should be aware of it. What the left hand does, the right hand should know and vice versa. We could sit here up to 6.30 p.m. debating this Motion, only to be told that there is a new Bill that has become an Act and the President assented to it at 6.30 a.m. That renders what we have done here irrelevant.

I support this Motion, but request that we consider progressive implementation starting with hyper-endemic counties or counties where prevalence is above the national prevalence.

Thank you, Madam Temporary Speaker.

**Sen. Ong'era:** Madam Temporary Speaker, thank you for giving me this opportunity so that I may also make my contribution to this important Motion. From the outset, I would also like to join my colleagues in congratulating the distinguished Senator for Samburu, Sen. Leshore, my father and senior whom I have a lot of respect for right from the days when we were working together in the Government.

Madam Temporary Speaker, this is a very timely and important Motion as many Senators have said. I feel very sad that it has taken over a year before it could come to this House for debate. In fact, by now we should be bringing legislation with regard to this Motion. As you are aware, the NACC was set up in 1999. Its mission statement is:-

“To provide policy and a strategic framework for mobilizing and coordinating resources for the prevention of HIV/AIDS transmission, prevention, provision of care and support to the infected and affected people in Kenya.”

In this plan, we must congratulate the NACC in what it has achieved because it has mobilized resources and managed to reduce the rate of infection to at least 50 per cent. It has also dealt with issues of HIV/AIDS related mortality which has been reduced to 25 per cent and HIV/AIDS related morbidity which has also been reduced.

However, this notwithstanding, I think the body's work and mandate has reached a point where it needs to be devolved to the counties because we have already devolved health facilities. If I was the Mover of this Motion, I would actually go further and request that instead of creating county offices for NACC, we should actually create county HIV/AIDS control councils in the 47 counties in this country. Why do I say this? We are aware that NACC's role is to be a mobilizer of resources, but it does not implement any policies.

We know that most of the resources are issued through NGOs, Community Based Organisations (CBOs), Faith Based Organisations (FBOs), the private sector and public sector organizations. Therefore, which better organization, other than the county government, can be given the donor funds to deal with the issue of HIV/AIDS, once and

for all. The people who are suffering, the sick and those affected by HIV/AIDS related diseases are actually in the counties and not at the national headquarters.

Therefore, I feel that the money that is being mobilized should be taken to the counties so that the county governments are in a position to deal with the communities directly. In so doing, the cost of medicine which is very expensive because of the middle men will be affordable for the people.

Madam Temporary Speaker, there are many allegations of corruption in the NACC. When the money is brought by the donors, no proper accounting is done. If this money is devolved directly to the counties, by devolving the functions of NACC, it will be used properly. This is because counties will have a mechanism in which proper audits will be done after the money has been spent.

As you are aware, 1.1 million children in this country are orphaned because of the HIV/AIDS epidemic. There can never be a better place for them to get proper help in terms of community mobilization and setting up of family care structures, other than under county governments. This is because the county governments are well seized of all the people in the counties. They know where they can spend enough resources to help the orphans. I would rather the money be with the county governments and not with the NGOs who will spend huge amounts of money on civic education.

As I conclude, I would like to congratulate the Mover of this Motion and request him to consider bringing legislation to this House in form of a Bill, to devolve these services directly to the counties, including my suggestion that we create a County AIDS Control Council as opposed to the NACC.

With those few remarks, I beg to support the Motion.

**Sen. Karaba:** Madam Temporary Speaker, thank you for allowing me to contribute in support of this Motion, regarding HIV/AIDS in the country. However, we talk, but we do not implement. I hope that my friend, the Senator from Samburu County, will follow it up to make sure that the discussion which is done in this august House is carried on to be legislation in form of a Bill. We need to implement the proposals in this Motion. If we do so, the affected, infected and the economy of this country will move forward.

This is one of the ugliest situations we have in the Ministry of Health. We have had several diseases claiming very many people. Several people have died resulting from various infections of diseases. However, this one is a silent killer which is not known how it gets into someone because there are so many causes. Earlier on, we were told that the main cause was sexual intercourse, but it has been proven that it is not the only cause. There are very many causes which may affect anybody who is healthy. It is a pity that we might be having healthy carriers who do not know their status. As a result of that, it might spread to the country or even become a global menace.

Madam Temporary Speaker, as the Chairman of the Committee on Education, my Committee and I have been to various schools in this country. I was one time moved when we visited some schools in South Nyanza and we were told out of the population, more than the three quarters were orphaned and the main reason was HIV/AIDS. We are

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

talking about 2015 being the action year for education for all and we are cheating ourselves in the Republic. It is important to take this matter seriously, in the sense that, since we started getting to know about HIV/AIDS, it has been spreading. Sometimes we are told that it has gone down or up, but we have no actual figures to prove that it has totally been controlled.

Madam Temporary Speaker, we are discussing this Motion with the hope that something will happen after we depart from this House. Let us see contribution towards the spirit of the Motion. Let us see the effort of devolving the NACC taken to the counties. That is the only way we can convince ourselves that something will happen.

I was also of the opinion that when it comes to budgetary allocation, we should allocate money to this department. We form an independent department of HIV/AIDS where the money will be set aside, so that we know who will be in charge of the counties, location or sub-location level, so that those who are infected are treated and find out what we can do with the families of the affected.

It is so bad such that in some areas, when somebody is known to have this disease; he/she lives in isolation. People run away from the infected victims and they do not greet them. The infected victims feels like they can die before the actual date of death because of the stigma surrounding this disease. Therefore, we would like our people out there in the counties to feel that there are people who are thinking about them. We are the ones to do it because if we do not do it, constitutionally, who else will do it? That is the reason why it has been brought here.

Madam Temporary Speaker, it is important to note that the moment you identify the victims of this disease, we should be humane enough to give them proper treatment and accord them home visits. We must make sure that they have a good diet and we have specialized doctors or hospitals treating them. We should have Level 5 or 6 hospitals with a separate ward where specialized treatment and doctors will be given the drugs directly without having to come all the way to Nairobi to get the money to treat the patients.

I am speaking with some sense of authority because when we were in the Ninth Parliament, we were told to form groups which would be given money from the National Treasury. However, those groups could not do what was supposed to be done using the money they received from the National Treasury. At the end, they misappropriated and the victims passed on because of lack of drugs. That became the problem of the dependants. There was nobody to pay fees for the children. They ended up looking for politicians to provide them with bursaries because they had to cater for more dependants.

Madam Temporary Speaker, it is important that we have the NACC devolved to the counties. We should ensure that a department of Ministry of Health is created in all counties. Let this department be facilitated to purchase enough drugs. These drugs should be provided to all counties to assist the people who are suffering from this disease. At the same time, the disease can also be treated so that we do not have frail victims walking around and people suspecting that they are victims of HIV/AIDS. That can only be done by closely monitoring the development of the symptoms. We can have specialized

doctors who will concentrate on treatment of this disease. They can do a lot of research on it and help our people.

We should make sure those who are not affected or infected by this disease know their status so that we mitigate against spread of this disease. Therefore, we need to allocate the Ministry of Health a lot of resources to fight the spread of this disease. HIV/AIDS kills more people than the terrorists. Therefore, the Ministry of Health should be allocated more money than the Ministry of Defence.

There is no known cure for this disease. It is spread through various ways. One of them is through blood transfusion if it is not properly screened. That is why it is very hard to detect it. We need to have specialized doctors to be charged with detection of this disease. Therefore, we should detect all symptoms of HIV/AIDS, treat all victims and make sure that the dependants, particularly the orphans, are educated. In educating the orphans, we should come up with a list of all the orphans and the causes of the death of their parents. If they are orphaned through HIV/AIDS, we should support them in all levels of education from primary to university.

Madam Temporary Speaker, sometime when we hear of cases of suicides, they could be attributed to this disease. I am also told that when some drivers discover that they are infected with this disease, they can cause accidents because they know that they will eventually die. Therefore, we can prevent the accidents on the roads and suicide cases through control measures at the county level. The only way we can do this is by monitoring the disease closely at the county level. Let us devolve this to the county level just as the spirit of Motion spells out.

I beg to support, Madam Temporary Speaker.

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. Sitting here this afternoon and listening to my colleagues, has been worthwhile, as it shows a good grasp of such a technical issue. I take this opportunity to thank Sen. Leshore for this timely Motion. However, in view of what the Senator for Homa Bay County told us in terms of the industry on this topic that is currently on going in the National Assembly, it would be good for us to now urge for that Bill to come to the Senate for concurrence and the ideas that are coming in from these contributions can inform our improving on the Bill. That way, we shall be promoting the work of a bicameral system of Parliament in this country.

Madam Temporary Speaker, the gist of this Motion is taking money for combating HIV/AIDS closer to the people under the devolved structure of the counties. May I inform the Members of this House that the Global Fund, amongst other things deals with HIV/AIDS, Tuberculosis (TB) and Malaria. In the period just before devolution, the three years; 2010, 2011 and 2012, the Global Fund spent Kshs204.476 billion for this effort. That this kind of resource is available, but the impact is not as readily observable as we find today is a huge statement on our inability to manage resources for sorting out such a preventable illness.

It should disturb the Government in particular that for every 12 children born in Kenya, one dies in the first five years of life. The child dies because of treatable and preventable illnesses namely; Pneumonia, Malaria and Diarrhea; illnesses that are very

common amongst children who have got HIV/AIDS. I, therefore, call upon the Government to listen to this Motion and realize that the strategy that they have on the Global Fund is poor.

Madam Temporary Speaker, I happen to have colleagues who currently work at National AIDS and STI Control Programme (NASCOP), and in control of the Global Fund. They tell me that they are unable to spend the money because, after devolution, health was taken to the counties. Therefore, health has become a “by-the-way” in the national Government, to the extent that to even do a simple seminar in the counties, they have to wait for somebody from Nairobi. We would like the funds to be devolved so that the intended purpose for which the money was released by the international community can be realized.

It is a shame that for every 100,000 Kenyans, there are only three doctors. However, when you count the doctors who are available in public hospitals, you will not believe it. There are only 2,200 doctors.

The reason why they run away is because of the meagre salary that they are paid. In Kenya, there are 2,224 MCAs against 2,200 doctors. Since we are politicians, we are comfortable paying those MCAs a cumulative salary of almost Kshs500,000, but we cannot pay well the 2,200 doctors. We have our priorities upside down. People will not die in Homa Bay or Kakamega of HIV/AIDS for lack of MCAs. They will die for lack of doctors and nurses. These are the hard questions that the forthcoming Government of the change movement of Kenya will answer. The Jubilee Government has been completely unable to address this.

The ongoing problem of doctors fighting with governors requires a very simple solution. The Government has a majority in the National Assembly and a majority of intelligent people here who do not vote along party lines. All you have to do is bring here an amendment, create a health workers’ commission similar to the Teachers Service Commission (TSC) and it will take care of the issues of the welfare of health workers. That way, health will continue to be devolved for the governors to build their dispensaries, buy ambulances and so on.

Madam Temporary Speaker, because this issue is so sensitive, it is important that during a debate like this, the public knows where the truth lies. Some people think having a bigger quotient of patients living with HIV/AIDS is a stigma, but it is not. It is a status. When it started, counties that never used to have the problem are now nowhere when you look at the top ten.

In the top ten, Nairobi County is first with 199,000; Homa Bay County, 150,000; Kisumu County, 113,000; Siaya County, 100,000 and Mombasa County, 77,000. Mombasa County was at the top at the beginning because that is when homosexuality was still a problem. It is a city which we knew the population of people who practised man to man and woman to woman sex was highest. However, this has changed.

At number six is Kisii County where HIV/AIDS was not a problem. There are now 73,000 people living with HIV/AIDS. Migori County, 68,000 and Nakuru County, 67,000. What of Nakuru County?

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

When you read on the social media the Member for Gatundu Constituency, Moses Kuria, talking about those uncircumcised people with HIV/AIDS, he should know that the population of Nakuru County have fewer uncircumcised Kenyans than he thinks and yet it has such a high percentage. I happen to know because I have practiced medicine across the Republic of Kenya. At No.9 is Kakamega County with 55,000 people living with HIV and finally Turkana County.

Madam Temporary Speaker, allow me to say why there is need for us to have these centres in counties. The bottom line of combating HIV/AIDS is civic education and ensuring that people have access to ARVs. If these centres are there, then the following things will be discussed during civic education. At the moment, the issue of marriage is now a fact; that the highest prevalence of HIV/AIDS is amongst married couples. These are things that should be discussed in counties in vernacular.

In the former Western and Nyanza provinces where I and Sen. Ongoro come from, respectively, there is a culture called wife inheritance. Let me say here and now that wife inheritance is a good thing. Without it, all the orphaned children would perish. However, because of wife inheritance, as soon as your brother passes on, you take over his family. We want to use these centres to teach these people that you can continue with wife inheritance, but on condition that you inherit your brother's wife and give her economic support and not sexual support. These things must be discussed in vernacular. However, when you tell a Luo that wife inheritance is a stupid thing, he will not listen because you are telling him that he should forget about the orphans of his late brother.

Madam Temporary Speaker, we should have these centres, especially in Nairobi County where young married people who have HIV/AIDS are practicing wife swapping. This is where successful middle class young couples go for outings. After beer, they say, let us exchange; you test mine and I test yours. These things are actually taking place. If you did not know, they now have clubs for wife swapping. In fact, they call them in their language these days, "swing couples".

I have discovered these things because I have decided to connect with the youth seriously through *Twitter*, *Facebook* and other social media fora. We can use this opportunity to demystify this because these young people think that through "swing coupleship", there is enhancement of sexuality; that you will find something from the other couple of how the other one does so that he performs better.

We want to use these centres to discuss frankly about the myth of circumcision. The media has lauded that HIV/AIDS is a problem of uncircumcised men. The uncircumcised people, my neighbours, have started circumcising. However, the circumcised ones have stupidly thought that HIV/AIDS is not their problem. They have dropped the guard on condoms and other prevention measures. We have to discuss these things and tell them what exactly it is that circumcision does. I may come back to it, but because of shortage of time, let me proceed.

Mr. Temporary Speaker, Sir, I am so surprised that a professor of medicine, the Senator for Bomet can use this opportunity to pre-empt what the President of the United States of America will tell us. President Obama is surely not coming to Kenya to discuss

homosexuality. In fact, we look forward to President Obama addressing us here. The media is crazy to give an impression the whole of this week that President Obama is coming to lecture us about homosexuality. He surely cannot be coming purposefully for that.

What we should be talking about is what we shall tell President Obama on how he can enhance the Global Fund. Homosexuality was not started by Obama. Obama is a leader who believes in extended respect of human rights. Personally, I do not subscribe to homosexuality and I am against same sex marriage. However, who am I to dictate to another person what they do in their own bedroom under the sheets? It is none of my business. We have got to be realistic because this is the world.

Mr. Temporary Speaker, Sir, as a doctor, I want to tell the media today that homosexuality is a psychosocial illness just like alcoholism. Therefore, those practising it require and deserve to be sympathized with. They need to be given medical support so that they can change and not the kind of things that I am reading in the newspapers.

I want to demystify the benefits of circumcision. The reason being that sex is a fight between two consenting adults in which there is serious friction; *Whaa! Whaa! Whaa! Whaa!* But because it is enjoyable---

**The Temporary Speaker** (Sen. Ongoro): Order, Senator! We do not have any of those words that you are using in the English language. Could you use parliamentary language that can be understood? What do you mean by *whaa, whaa*?

**Sen. (Dr.) Khalwale:** Madam Temporary Speaker, I was incited by my consultant in English, Sen. Ong'era. She is the one who whispered the word "*whaa, whaa*". I withdraw those words.

It is important that people know this. A penis which is circumcised develops resistance on the outer skin. The one which is not is soft and, therefore, during the minor bruises that might take place during sexual intercourse, there are minor scratches and cuts. If the sexual partner is infected, then the risk of the sexual juice leaking into those little minor scratches and cuts is higher and, therefore, the risk of HIV infection. People should know that when you are circumcised, you are just as much at risk of getting infected as somebody who is not circumcised.

Finally as I conclude, I am sad to report to this House of devolution that this afternoon there have been running battles in Kakamega Town - which I want to condemn - between *mama mbogas* whose goods have been thrown on the road and people being tear-gassed all in the name of the Governor thinking that the *mama mbogas* are the cause of Kakamega Town not being beautiful. I want to tell the Governor of Kakamega that our *mama mbogas* are very beautiful people. Leave them on our streets.

I support.

**The Temporary Speaker** (Sen. Ongoro): Sen. G.G. Kariuki, did you withdraw your request? I could see you had earlier requested to speak and then I saw a withdrawal. Was that intentional?

**Sen. G.G. Kariuki:** Madam Temporary Speaker, Sir, I did not want to speak for only five minutes. It would have been a waste of time.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

**The Temporary Speaker** (Sen. Ongoro): Okay. I call upon the Mover to reply.

**Sen. Leshore:** Madam Temporary Speaker, I would like to thank all the contributors to this Motion. They have said very many good things which we, as a country and as a House, must follow to the letter to ensure that they are part of law.

Madam Temporary Speaker, I would like to thank Sen. Ong'era for proposing that there be county AIDS control councils. We need more funds both for counties and the national Government, so that they reach even the orphans left behind as a result of their parents dying of HIV/AIDS.

Madam Temporary Speaker, I also thank hon. Senators for saying we give preference to Bills or Motions when they are brought in this House. Whatever the "Lower House" comes up with, we should see how we can bring the opinions of the two Houses together so that our nation benefits.

With those few remarks, thank you very much, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, this matter does not affect counties. Therefore, I will proceed to put the question.

*(Question put and agreed to)*

Next Order!

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

**Sen. (Eng.) Muriuki:** Thank you, Madam Temporary Speaker for giving me the opportunity to move the Motion on the Order Paper. Before I move the Motion, I wish to report that I approached the Speaker for a small amendment on it. In accordance with the Standing Order No.49, I would like to move the Motion in the amended form.

**The Temporary Speaker** (Sen. Ongoro): That is in order, Senator. We have approved your request. Therefore, you will move the Motion in the amended form.

**Sen. (Eng.) Muriuki:** Madam Temporary Speaker, I beg to move:-

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 47 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;
- (3) Sen. Abu Chiaba;
- (4) Sen. Abdirahman Hassan;
- (5) Sen. Stephen Sang;
- (6) Sen. Fatuma Dullo; and,
- (7) Sen. Judith Sijeny.

Madam Temporary Speaker, as I move this Motion I will start off with a few reminders.

**The Temporary Speaker** (Sen. Ongoro): Sen. (Eng.) Muriuki, you will have 18 minutes to make your contribution as you move the Motion.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, it is now time to adjourn the Senate. Therefore, the Senate stands adjourned until Tuesday, 14<sup>th</sup> July, 2015, at 2.30 p.m.

The Senate rose at 6.30 p.m.