

REPUBLIC OF KENYA
NYANDARUA COUNTY ASSEMBLY
2ND ASSEMBLY- 2ND SESSION
OFFICIAL REPORT

Wednesday 9th May, 2018

The Assembly met at the Assembly Chamber at 9.00 a.m.

[The Deputy Speaker (Hon. Zachary Njeru) in the Chair]

Prayer

QUORUM CALL AT THE COMMENCEMENT OF THE SITTING

(The clerk-at-the-table confirms that there is no quorum)

Speaker: Hon. Members, quorum having not been recognized, I invoke the provisions of the Standing Orders and direct that the bell be rang for an initial ten minutes or until such time within the ten minutes that quorum will have been achieved.

(The bell is rang for one minute and quorum is achieved as confirmed by the clerk-at-table)

First order.

PAPERS

1. STATUS OF LESHOU-KARAGOINI SELF HELP WATER PROJECT

I understand that Hon. Samuel Mathu is out on an official duty. Any Member to stand in for him?

(Hon. Mbogo Mburu rises on behalf of Hon. Samuel Mathu)

Hon. Mbogo Mburu: Thank you Mr Speaker. I rise on behalf of Hon. Samuel Mathu, who is out on an official duty, to table the report of the Committee on Water, Environment, Tourism and Natural Resources on the Status of Leshau-Karagoini Self Help Water Project.

Speaker: The report is duly tabled and the House Business Committee shall give directions on how the same will be processed.

Next order.

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(PAPER TO BE LAID)**2. DEPARTMENTAL BUDGETS IMPLEMENTATION FOR THE FY 2014/2015-2016/2017 AND STATUS OF COUNTY MACHINERY**

Yes, the chairperson of the Committee on Transport, Energy Public Works.

Hon. Mbogo Mburu: Mr Speaker, I beg to seek leave of the House that I table the paper next week because, though the report is ready, it has not been adopted by the committee. It was not possible to adopt the report at the required time since the House was conducting other formal businesses. Thank you Mr Speaker.

Speaker: I am a Member of the committee and I understand that the House had other businesses. The leave is granted, but tabling of the paper will be allocated time immediately after the coming recess; that is, the first week after recess. Is that okay.

Hon. Mbogo Mburu: Yes it is. Thank you Mr Speaker, Sir.

(Hon. Gathungu Kamau rises on a point of order)

Speaker: What is it the Leader of the Majority Party?

Hon. Gathungu Kamau: Mr Speaker, in the order paper, the report is said to be a report the Committee on Transport, Tourism and Public Works. Has the Department of Tourism been integrated in the Department of Transport, Energy and Public Works?

Speaker: Thank you for that observation, the Leader of the Majority Party. Obviously, that is a typographical error. There is no way the Department of Tourism can be integrated in the Department of Transport, Energy and Public Works. That error shall be corrected.

(Hon. James Gachomba rises on a point of order)

The Member for Njabini Kiburu, who is out of order?

Hon. James Gachomba: Could the Speaker be out of order?

(Laughter)

I am rising on the same issue.

Speaker: The Speaker cannot be out of order at any time.

Next order.

NOTICES OF MOTION**ESTABLISHMENT, RECOGNITION AND PRESERVATION OF THE HISTORICAL AND CULTURAL MONUMENTS.**

Yes the Member for North Kinangop, Hon. Wambugu King'ori.

Hon. Wambugu King'ori: Thank you Mr Speaker. I beg to give notice of the following motion;

Aware that the Constitution of Kenya 2010, under Article 11, recognizes culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation;

Further aware that there is need to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage;

Considering that there is imminent need for the people of Nyandarua County to identify and secure their cultural identity and heritage through historical and cultural monuments as a way of safeguarding and realizing the ideals and principles which are their common heritage;

Further considering that the establishment, recognition and preservation of the historical and cultural monuments will not only pursue a policy of common action designed to safeguard and encourage the development of culture but also to preserve the relevance of our forefathers and other significant persons and events in the creation of history and pave way for future generations;

Noting that on construction the monuments as valuable and historical icons will be a matter of the County's protection and care;

Now therefore, this House does resolve that:

- a) The County Executive Committee does establish a Committee to carry out, among others:
 - i. Policy formulation to give effect to Article 11 of the Constitution;
 - ii. Identification of existing monuments in the County;
 - iii. Identification and recommendation of suitable monuments to be erected in honour of the County's notable prominent personalities and events; and
 - iv. The sites for erection of such monuments.
- b) The County Executive Committee does set aside a budgetary allocation for the erection; care and maintenance; and protection of County monuments.

Thank You Mr. Speaker, Sir.

Speaker: Very well; that notice of motion is duly given and the House Business Committee shall give directions on how the same shall be processed.

Next order.

MOTIONS

ADOPTION OF THE MOTION ON TRANSFER OF THE FUNCTION OF INFRASTRUCTURAL DEVELOPMENT IN PRIMARY SCHOOLS

Yes, the Member for Githioro, Hon. Sambigi Mukuria.

Hon. Sambigi Mukuria: Thank you Mr Speaker. I beg to move the following motion;

Aware that pursuant to Article 187 of the Constitution of Kenya, 2010 a function or power of government at one level may be transferred to a government at the other level by agreement between the government if :-

- (a) The function or power would be more effectively performed or exercised by the receiving government;
- (b) The transfer of the function or power is not prohibited by the legislation, which it is to be performed or exercised.

Concerned of the deplorable conditions or in some cases the lack of physical facilities in the primary schools in the county such as classrooms, toilets, dormitories, libraries, etc. Appreciating that improving the facilities or constructing such facilities, where appropriate, would be performed more effectively by the county government thus generally improving service delivery.

Noting that the Basic Education Act No. 14 of 2013 does not prohibit the transfer of such function from the national government to the county government;

Further noting the said Act in fact anticipates under section 26, the transfer by the national government to county government, the function of infrastructural development for primary and secondary schools.

Now therefore this House does resolve –

- a) That the Nyandarua County Government does, pursuant to Article 187 of the Constitution; Section 26 of the Basic Education Act and all other applicable laws, petition the national government for a transfer to itself, the function of infrastructural development in primary schools situated within its boundaries; and
- b) That the said petition/request be undertaken within thirty (30) days of this resolution.

Mr Speaker, as residents of Nyandarua, we all know that facilities, including toilets, in most of the primary schools in our county are in deplorable conditions. Most of us having attended these schools, we know the kind of environment the pupils are in. In this respect, I urge this House to adopt this motion so that the National Government could be petitioned to cede the said function and the same be assumed by the county governments. Mr Speaker, this motion is not intended to put a financial burden on county governments, which are already overburdened; but it seeks to transfer the national government capitation policy from the National Government to the County Government. This will harbour several advantages. For example, it will unburden parents from the burden of financing development in primary schools. It is unfortunate that in our county pupils get basic education, the latter which is free, in very unhygienic conditions. In some primary schools, girls share toilets with girls. This is demoralising. Further, considering that toilet facilities in many primary schools are limited, it makes toilet usage time consuming since two pupils cannot use one toilet at the same time. In some primary schools like Gathiriga in my ward, the last infrastructural development was done during the colonial era. Some of the classrooms in the school have collapsed. Some of the illnesses that keep many pupils out of schools are caused by the unhygienic conditions in the primary schools.

Pupils in primary schools are yearning for a feeding programme just like the ECDE schools feeding programme we rolled out. With the capitation policy adopted by the county governments, rolling out of a feeding programme for primary schools would be easy. Remember pupils in ECDE

schools and those in lower primary schools are in the same age group and feeding programmes would benefit them. Mostly, many parents prefer to take their children to private primary schools because facilities in many public primary schools are deplorable. With those remarks, I call Hon. Kariuki Muchiri to second. Thank you.

Speaker: Yes, Member for Murungaru, the Hon. Kariuki Muchiri.

Hon. Kariuki Muchiri: Thank you Mr Speaker. I rise to second the motion. This motion is very important. There are some functions that require to be conditionally transferred by the National Governments to the County Governments. There are some development needs in primary schools in our county that the county government should address in collaboration with the national government. As an example, Mwihoti is an area in my ward whose residents urgently require establishment of a secondary school. When I was the chairperson of the defunct Nyandarua County Council, I brought up a motion on establishment of the said school. That notwithstanding, with the onset of devolution, the county government bought a five-acres piece of land worth five million shillings in the same area and earmarked it for construction of a polytechnic. There is another parcel of land at Murungaru Trading Centre meant for construction of a polytechnic. The county government cannot construct a polytechnic at Mwihoti because it is in the interior; a polytechnic needs to be constructed at Murungaru for ease of access.

Actually, I had told the mover that I would support the motion with reservations. We cannot seek devolvement of all the functions related to management of primary schools. We can only seek transfer of specific functions. Remember we have many ECDE schools and polytechnics that require equipping. The county government cannot take up the role of developing primary schools while it has not completed development of ECDE schools and polytechnics.

Nonetheless, I am supporting the motion expecting that the chairperson of the committee on Education, Labour and Social Services can lobby for construction of a secondary school at Mwihoti instead of a polytechnic. That is the sole reason I am supporting the motion. You can see how important the motion is. Mr Speaker, possibly there is a primary school in a certain ward that is in a very bad condition and they would like the County Government to intervene even though it is not an emergency. You know, when it comes to emergencies, it really doesn't matter whether the function is devolved or it belongs to the National Government. If for example, some wind comes and blows off the roofs of either a primary school or a secondary school, the county government will intervene since it has a duty and responsibility through the emergency fund. Even a whole block of classrooms can sink during such rains we are experiencing now as it did during the First Assembly. Therefore, this is an important motion and if we approve this motion, we should be specific about which institutions or as the need arises.

With those remarks, I second this motion.

(Question proposed)

Speaker: Yes Member for Ndaragwa Central, Hon. David Mwangi Maitai.

Hon. Mwangi Maitai: Thank you Mr Speaker. I will not waste my time or rather the members' time. Let us not waste a lot of time on this motion. I strongly oppose it and I think we have done very little on the infrastructure of the ECDs and polytechnics and I think...

(Hon. Kariuki Muchiri rises on a point of order)

Speaker: What is it Member for Murungaru?

Hon. Kariuki Muchiri: Mr Speaker, is the Member for Ndaragwa Central ward in order to say that he will not waste time supporting this motion and further say that it is a waste of time to deliberate on this motion. Why are motions brought in this House? They are brought in this House for debate. He is here to oppose or support but he cannot, while being captured in the Hansard, say that, the Hon. Members, having come from various destinations to come and transact business here, are wasting time. Is it in order Mr Speaker?

Speaker: Member for Ndaragwa Central, those sentiments are un-parliamentary and I wish to tell you that you restrict yourself to this debate.

Hon. Mwangi Maitai: Thank you Mr Speaker, I think we are still in the learning curve. I have withdrawn but I would like to put it this way; without spending much time on this motion, I think very little has been done on the infrastructure of the ECDs and polytechnics for us to go to the next level of requesting that we handle the infrastructure of primary and secondary schools. I think we had even requested the chair of the Committee on Education to go round and bring us the number of ECDs that have been completed and furnished...

(Hon. Sambigi Mukuriah rises on a point of order)

Speaker: What is it the Member for Githioro?

Hon. Sambigi Mukuriah: Mr Speaker, I not only find it insulting but I also not in good faith for the Hon. Member to keep dwelling on the same issue. We are not discussing the ECDs here. My motion is clear as to how we can have the National Government cede its responsibility of developing the infrastructure in primary schools and I gave the reasons thereof. Nowhere did I mention the ECDs being the topic of the day. When we talk about debating, we should be having a certain 'formula' that we swallow in the morning to tell us that we are not wasting any time here. Thank you.

Speaker: Member for Githioro, I think the Member for Ndaragwa Central was trying to come out clear in his contribution but he certainly should not drift away from the debate. In as much as we say that debates must be adventurous and broad, let us stick to the topic under deliberation. Please proceed.

Hon. Mwangi Maitai: I think we can use too many words to mean the same thing. According to the motion, it is as though the County Government will be given more powers to engage in developing and maintaining the infrastructure in primary and secondary schools yet we have done very little about the ECDs. Why should we ask for extra work when we have not finished the work that lie squarely on our hands? So, let us, first of all, have the data of the ECDs and polytechnics that have been completed and furnished so that we can go ahead and ask for other responsibilities. Little has been done and we would like to have the data before we move on to the next level. I understand that we, as a county government, have scarce resources to work with and therefore, let us not attract other expenditures when we have not finished what we are supposed to do.

Thank you Mr Speaker and I think it is important for us to distinguish between the functions of both the County Government and the National Government. Let us not try to relieve the national

government some of its responsibilities. Again, thank you Mr Speaker and I strongly oppose the motion.

Speaker: Yes, the Leader of Majority Party, Hon. Peter Gathungu Kamau.

Hon. Gathungu Kamau: Thank you Mr Speaker for granting me this opportunity to contribute to this motion. I would like to state that I strongly support it. Mr Speaker, the motion is very timely and I would like to congratulate the Chairperson of the Committee on Education, Hon. Sambigi Mukuria, who is also the Member for Githioro.

We are in devolution and it means that the fruits of development ought to be enjoyed at the grassroots. The MCAs are the 'grassroots' leaders and they know what the primary schools have been going through. If there is something we cannot afford to play politics with, it is education.

As I support this motion, I have a very emotive issue. My ward neighbours Laikipia County. We have Mayu and Muthiga primary schools, which are located within Nyandarua County. However, they are in Laikipia County administratively. This means that the schools do not benefit from Laikipia in terms of development because Laikipia Members of Parliament say that they cannot improve infrastructure in Nyandarua regardless of whether the schools are in Laikipia administratively and to change these things with the National Government is a tall order. I believe that if these functions were delegated to the county governments, this issue would have been resolved in a very expeditious way. At the moment, we have the free ECD milk which ought to be given to our kids. The kids in Mayu and Muthiga belong to Nyandarua and actually, they act as polling stations in Nyandarua during elections. Then, why is it that children in these schools do not get milk? I asked the CECM in charge of Education why these children cannot be given milk and she reiterated that they are in Laikipia administratively although they are located in Nyandarua.

Mr Speaker, if these functions were to be given to the county government, we could have resolved the problem and I believe that it is not only in my ward where we have such issues. The wards neighbouring other counties face the same issues.

When it comes to financing Mr Speaker, primary schools are financed by the national government and therefore, very minimal functions will be financed by county government and we shall take charge. Again, we shy off from motivating these schools. If the functions were to be primarily delegated to the county government, we could motivate these schools. We know Nyandarua was previously performing very well but in the recent past, education performance has plummeted. The County Government cannot take charge of primary schools because it is believed to be a national government's responsibility. If a sensitive function like health can be devolved, why not the primary schools?

Therefore, Mr Speaker, I strongly support this motion and believe that when it is done in Nyandarua, all the other 46 counties will take cue and pass such a motion so that the function can be devolved. Thank you Mr Speaker.

Speaker: Yes Member for Kanjuiri, Hon. Suleiman Kihika Kimani.

Hon. Suleiman Kimani: Thank you Mr Speaker. I rise to support the motion as moved by Hon. Sambigi, Chairperson of the Committee on Education. First, I want to encourage the county government to support the primary schools, which are in a pathetic state. The roads that lead to these schools are also in a pathetic condition. The teachers are finding it difficult to reach the schools. Therefore, it is not only about building infrastructure that is, classrooms and latrines, but

also maintaining and constructing roads that lead to these institutions. I know each and every member in this House knows that we are supposed to do those roads so that we can help both the teachers and pupils.

I support the motion, and, if we can have our deliberations through the Hansard taken to the National Parliament, it will be good so that they see how much we are willing to support them in their duties. There are situations where you find that a primary school sits in only half an acre. They don't even have space to build an extra classroom. In my ward, I have two primary schools which even if given resources to build another classroom, they cannot because there is no space. We have a problem and I really understand what the Chairperson of the Committee on Education is saying – some wards have a lot of problems. An example of some of the schools in my ward are Kagunda Plot 11 and Harambee. If you look at the supplementary budget, we had allocated money for pit latrines to be built in those primary schools but we lacked space for them. In one primary school, we really needed a latrine because there is one that primary school pupils and ECD children share. Unfortunately, we have no space to construct another one. I was forced to change that project to another primary school. I therefore understand what *Mheshimiwa* is saying and I am sure by the end of this debate, *Mheshimiwa* from Ndaragwa Central will have changed his mind and support the motion.

Thank you Mr Speaker.

Speaker: Yes County Member from Kiriita, Hon. Milkah Wanjiru Ndirangu.

Hon. Wanjiru Ndirangu: Thank you Mr Speaker. I want to contribute to this motion, which is on the floor of the House. I wish to thank the Chairperson of the Committee on Education for bringing it. I really do not know how to tackle it because I have some reservations in supporting the same.

When we talk of transfer of some functions of the national government, we understand that it was supposed to be a gradual process. That is why some functions were devolved to the county governments while others were left at the national level. I think it was meant to evaluate how the county governments would perform and that is why we have Article 187 of the Constitution that articulates that the functions would eventually be devolved. It is okay to have some more functions devolved to the county government but the question is; do we, as a County Government, have the capacity to perform them? To be specific, the County Government of Nyandarua is allocated approximately Kshs.5 billion annually to perform its functions. We have heard severally, in this Assembly that the money is not enough. However, we are talking about the infrastructure of primary schools, then...

(Hon. Isaac Kung'u rises on a point of information)

Speaker: Do you require the information County Member for Kiriita?

Hon. Wanjiru Ndirangu: Not now. Maybe after my submissions.

Speaker: Then proceed.

Hon. Wanjiru Ndirangu: Mr Speaker, I would encourage him to give the information after my submissions.

As I was saying, the motion says that even the money will be transferred to County Government. I know Members are complaining about the deplorable state of our schools but I don't believe that the County Government of Nyandarua has that capacity to handle those issues. I will tell you why I am saying this by talking about our ECDs today. Let us not lie to ourselves; we have not been able to manage our ECDs and polytechnics properly. Can we first manage our ECDs and polytechnics properly and then move forward? I know that they will say that the National Government usually gives the money for running primary schools...

(Hon. Sambigi Mukuria rises on point of order)

Speaker: What is it Chairperson, Committee on Education?

Hon. Sambigi Mukuria: Mr Speaker, is it in order for the Hon. Member to say that she is supporting this motion and then she goes full throttle to oppose it? I also don't think that it is in order for the Hon. Member to mislead this House saying that we neither have the resources nor the capacity. We are saying that the function be devolved alongside the money that is allocated in form of capitation as it is currently happening. Thank you.

Speaker: Member for Githioro, the County Member from Kiriita is not out of order because she has not concluded her contribution but as much as we are trying not to talk about ECDs and polytechnics, we should remember that the issue of education is crosscutting. Continue County Member from Kiriita and let us not drift away from the topic.

(Hon. James Gachomba rises on a point of information)

Speaker: Do you require that information, County Member from Kiriita?

Hon. Wanjiru Ndirangu: Okay, no problem.

Speaker: Proceed the Member for Njabini/Kiburu.

Hon. James Gachomba: Mr Speaker, the Member for Kiriita has said that she is supporting the motion but with reservations. That is why, she is in order. We are moving in the same direction.

Speaker: I can't seem to understand your point. Nobody said that the member is out of order. As I have indicated, she has not concluded her remarks. Please come up again on what you meant.

Hon. James Gachomba: I was responding to Hon. Sambigi, the mover of the motion who had risen to say that she was out of order. The member said that she supports the motion with reservations...

Speaker: The Member for Njabini/Kiburu, I think you are the one who is out of order. You seem to be responding to members' contributions. It is time for contributions. Proceed the County Member from Kiriita.

Hon. Wanjiru Ndirangu: What I am saying is that we must manage what we have been given by the national government first and gradually move forward. The reason for saying this is because all the functions that were devolved were devolved along with the money to fund them. According Basic Education Act 2013 section 23;

(2) Pursuant to Article 187 of the Constitution, the national government may, upon request and with agreement between both governments, transfer its functions relating to infrastructure development of primary schools and secondary schools to a county government.

(3) Where the national government transfers its functions to a county government under subsection (2), it may also allocate conditional grants to that county government to cater for the additional responsibilities arising from the transfer.

I hope we have understood this. The grants that would be given to us once that transfer is completed will be conditional grants. We are saying that we want to take control of these structures but what we are given is conditional grants. If the national government will still control the infrastructure, then we shall not be changing anything. It can only work if this function becomes fully devolved with its funds and we are left at liberty to manage them. Those are the reservations I have with this motion. If this were cleared, Mr Speaker, I would support the motion but as it is now I do not think I support it. Those issues will affect us and I know that the Kshs. 5 Billion we get as a county cannot be enough to cater for primary education.

Speaker: Yes member for Njabini/Kiburu Hon. James Kiiru Gachomba.

Hon. James Gachomba: Thank you Mr Speaker. I rise to support the motion but with reservations. Mr Speaker the mover of the motion has good intentions because he intended to improve the wellbeing of the primary schools in terms of infrastructure.

We are aware of the functions that have been devolved. The national government, which is left with the highest amount of money, that is about 75% of the funds, is aware that the primary schools need development. As a county government, we cannot afford to take another function. Our ECDE centres are not even improved in terms of education standards and infrastructure. Before this motion is passed, there is need to do a survey so that we can see that all counties can be supported fully to do this. county governments have not been able to implement projects on the functions that they have. Agriculture and health sectors are a problem to the county governments because of poor management. Devolution has not yet gotten firm roots. A feasibility study needs to be done so that we can inform the national government on the ways to improve the standards of education in the primary and secondary schools. I would not support it until a feasibility study is done. Thank you.

Speaker: Yes, member for Geta Hon. Githinji Mwaniki.

Hon. Githinji Mwaniki: Thank you Mr Speaker, I rise to support the motion. We are here to represent our people. We can air our views depending on the needs of those that elected us. According to the Constitution article 189 (2),

Government at each level, and different governments at the county level, shall co-operate in the performance of functions and exercise of powers and, for that purpose, may set up joint committees and joint authorities.

The mover of the motion has done the right thing to air the view of his people. Some of the national members of parliament that we were elected together with cannot be reached easily. They

do not come to their offices. If we have such a motion, the resolutions made can reach them. The mover has taken the right direction. I support the motion.

Speaker: Yes member for Gathanji Hon. Ngumo Ngamau.

Hon. Ngumo Ngamau: Thank you Mr Speaker for giving me this chance to support this motion. I would like the members to understand this and not to be cynical of the things that are not really happening or opposing a motion for the sake of it.

Our job here is to...

(Hon. Wanjiru Ndirangu rises on a point of order)

Speaker: What is it County Member from Kiriita, Hon. Wanjiru Ndirangu?

Hon. Wanjiru Ndirangu: Mr Speaker is it in order for the member to say that we are supporting or opposing this motion cynically. We know we are Hon. Members and such utterances should be made outside this House.

Speaker: I agree with the County Member for Kiriita. Probably the word 'cynical' might not be too parliamentary. Member for Gathanji withdraw that word and proceed.

Hon. Ngumo Ngamau: Mr Speaker before I withdraw I would like to ask for a dictionary...

(Hon. James Gachomba rises on a point of order)

I withdraw...

(Laughter)

Our job is oversight. What is wrong with oversight in the primary school education? The move of the motion said that the government gives capitation even to the polytechnics. This means that the government has special funds that it gives to the polytechnics. Almost every member here has been invited for a fund raiser in those schools, what we popularly call *Harambees*, parents' days or prize-giving days. This morning I received, a phone call from one the head teachers from a school in my ward. He was asking if I would be able to supply a few Lorries of hard core and cement because the classrooms have portholes. I agree with some of the members that we cannot have primary and secondary schools devolved fully all at once. We can do this gradually. The counties will soon come of age and we shall not just have the ECDEs. It is good for us to grow with time.

Speaker: Yes county member from Wanjohi, Hon. Jane Waweru.

Hon. Jane Waweru: Thank you Mr Speaker sir. I rise to support this motion brought by Hon. Sambigi. Our ECDEs need to be renovated. Some are falling and others have leaking roofs. Some of them were constructed in the 1960s. Our parents took their children there and today those are the classrooms that our children are using. ECDE centres need quick attention.

The other issue is education in those centres. I request that that education be free. There is no way you can ask for fees at the end of the term but you can afford to give them milk. There is need to balance feeding an education. I support.

Speaker: Yes member for Wanjohi Hon. Isaac Kung'u.

Hon. Isaac Kung'u: Thank you Mr Speaker, I rise to support this motion conscious of the fact that this is a tall order. We know that the Constitution is very clear on the functions of the county government and the national government.

I commend the member that has moved this motion because he can see far. However, there are always struggles. For a function to be transferred a county has to prove its capacity and the other level of government must be willing to transfer. Though the mover of the motion has good intentions, it is good that he remembers that this is a function being managed by the members of national parliament using the CDF and other grants that come from the national government.

All of us are aware of the battle that ensued after it was said that CDF (Constituency Development Fund) is illegal. There are so many amendments that have been done to the CDF Act such that we do not have a name for it or its structures anymore. It is not an easy task to have the members of the national assembly letting go of this function. CDF should fund the primary and secondary school and even security. It is a good idea to advocate for this because we are at the lowest level of representation. We understand what these primary schools are like because I pass by them and meet the teachers and parents whenever I am in the ward. We are more accessible to the people than the MPs. That is why the public finds it easier to come to our offices and tell us how their schools are like. Then those schools would be rightfully under the county government. It is good that this motion has come to this assembly but this is a thing that we are going to fight for for a very long time. It requires a lot of support at the national level and the good will of the National Assembly and the Senate. We should keep on insisting because we are closer to the people. The county should be allowed to implement these projects and we oversight them.

I challenge the county government that the few functions that we have as a county; we should undertake them effectively so that we can have an upper hand when lobbying to get more functions at the county level.

Thank you Mr Speaker

Speaker: Yes member for North Kinangop, Hon. Edinald Wambugu King'ori.

(Hon. Suleiman Kimani enters the chamber dressed inappropriately)

Hon. Wambugu King'ori: Mr Speaker there is a stranger in the House

(Hon. Suleiman Kimani exits the chamber)

Speaker: Member for North Kinangop you can now proceed, the atmosphere is now safe.

Hon. Wambugu King'ori: I rise to support this motion but with reservations. The terms of reference of this motion, is the Constitution, article 187 and Schedule Four. There are functions of the county governments and those of the National Government. The primary school infrastructure is a function of the National Government. It is anchored there and removal of the same will need a referendum. There is no short cuts. This is one of the agenda that has been discussed in many quarters. As the member for Wanjohi said, the mover of this motion has seen far. When we say that we want the infrastructure of the primary and secondary schools to be done by the counties, there are factors that need to be considered. The first one is financial ability of the

county. Second, is its legality. If it is done, we shall see people going to court asking whether that is the function of the county government. In the second resolution in the motion is that the said petition be undertaken within 30 days. Actually, this cannot happen because there are many huddles ahead. The executive must write a paper on this and this cannot be done within 30 days.

There is need to amend the constitution and then a referendum because all the development agenda should be at the counties. It is at the county levels where there is development and this is because the leadership of the county interacts with the people directly. I wish the mover of the motion would make amendments for the purposes of developing this nation. After the motion passes, the resolutions may proceed to the national level so that they can see the sense of it. I am one of those being disturbed by the parents with children in secondary schools and some tertiary institutions. I support but with reservations.

Speaker: Before I invite the Hon. Member from Charagita, I would like to comment on the issue you have raised about the petition. I think this is a petition to the Executive and not to the legal offices. If it is to the Executive, thirty days will be enough to do so, but if it is for the Courts, then I agree with you thirty days might not be practicable. Yes member for Charagita Hon. Wairimu Njane.

Hon. Wairimu Njane: Mr Speaker, I rise to support this motion, though as many have said, it seems far-fetched. I want to congratulate the mover of this motion Hon. Sambigi because of the well thought intention. Though this function has not been devolved yet, many can attest that we are still working towards to the same. In my ward, which is a very practical example, most ECD schools have water logged grounds and most of the pupils are mostly out of class because of the weather. I was yesterday called in Nyairoko primary school, and class one, two and three pupils had to stay outside since their classrooms are full of water. I want to say it may be difficult but we are on the correct direction. Let us all work toward this, it may take time but it is worth it. I strongly support it.

Speaker: Member for Kaimbaga Hon. Gathure.

Hon. Gabriel Gathure: Thank you Mr Speaker for giving me this opportunity to rise and oppose this motion. I am a member of the Education Committee and this motion pertains educational facilities in our County. It is worth noting that we are enquiring or petitioning on the function of the National Government as per now. The basic Education act of 2013/2014 does not limit transfer of such undertakings from the National Government to County Governments. The people in the Health sector, doctors and nurses have for long requested that their remuneration be transferred from the County Government to the National Government something the National Government has persistently declined.

Transfer of services from the National Government to the County Government is basically not the problem, but do we have the adequate funds? Right now, I can confirm to you that most of the Primary schools in Kaimbaga ward are requesting me for a classroom. Mumbi Primary School, just here in Kaimbaga are requesting for an ECD classroom as well as a health facility. We are requesting for more duties, more tasks, and responsibilities yet we do not have enough resources. If the National Government transfers these responsibilities, are they going to increase the equitable share?

It is also worth noting that the Members of Parliament have funds to undertake this function, every MP receives about Kshs.150 million every financial year. What are the roles they do? They are involved in primary schools, secondary schools, and Security and it is not enough. What about the MCA in the County Government, what are we receiving? What are our Functions?

You know my constituents told me they have a problem with their library, lower classes in Primary schools. What I tell them is that I understand and I can feel them but this is not a function of the County Government or the MCA. They should go and visit the CDF offices and they will be assisted.

Once we pass such a resolution here, when my electorate are requesting for ECD classes, a library and a primary school toilet, an upper primary class or even a dormitory where do you think we are going to get the money from? Just visit Ol'kalou Youth Polytechnic, they do not have an administration office, a boys' dormitory, and the Education committee can confirm for me that the living condition of our polytechnics are pathetic. What has the County Government done? It is not just about passing a resolution here and thinking that the Executive has the powers. On passing a resolution, this law will not only apply in Nyandarua County, it must apply nationally.

Another question we might ask, since devolution came, as the County of Nyandarua, have you tackled all the problems with regards to the ECDs, that we are now asking for more functions? One cannot ask for more responsibilities while the few given to them have not been done exhaustively. It is not like we as MCAs do not have capacity to do this duties, but the biggest problem is that we do not have funds.

Last time we were requesting that Nyandarua should be considered as a marginalised County and be given the equalisation fund. This has not happened. So with what we are earning we cannot ask for more responsibilities Mr Speaker. If all this MCAs have enough classrooms in their wards and feel they have done enough, then in the next budget they should allow eight classrooms to be built in Kaimbaga ward more than in their own constituents so that I can reach their standards. With these remarks, let me conclude by saying that when we are passing resolutions, let us have practicable resolutions. I know I have only one vote, in the event this passes, I know in the near future you will come to confirm to me that what was passed here has remained a mere resolution of the Assembly, nothing having been implemented. I oppose Mr Speaker.

(Hon. Mwangi Maitai rises on a point of order)

Speaker: Clerk, confirm whether there is quorum.

(The clerk-at-the-table confirms that there is no quorum)

Hon. Members, quorum having not been recognised, I invoke provisions of the Standing Orders and direct that the bell be rung for eight minutes or until such time within the eight minutes that quorum will have been achieved.

*(The bell is rung for five minutes and quorum is achieved
as confirmed by clerk-at-the-table)*

Speaker: Hon. Members, quorum having been recognised, we now get back to the business of the day. I want to first quote Standing Order no 36 for purposes of order in this House .And I read;

If at any time after the Chair is taken, or when the Assembly is in Committee, a Member objects that there is not a quorum present, the Speaker or the Chairperson shall order a count of the Assembly or the Committee as the case may be.

If on the count under paragraph (1) a quorum does not appear to be present, the Speaker or the Chairperson shall cause the division bell to be rung as on a division, and if no quorum is present at the expiration of eight minutes—

- (a) if the Speaker is in the Chair, the Speaker shall adjourn the Assembly until the next sitting without question put; and
- (b) if the Assembly is in Committee, the Chairperson shall leave the Chair and report the fact to the Speaker, who shall adjourn the Assembly until the next sitting without question put.

This is where I want the members to understand, Whenever the Speaker or the Chairperson, as the case may be, is engaged in counting the Assembly or the Committee respectively, the doors shall remain unlocked. No Member shall be allowed to leave the Chamber, except a party whip who may be permitted to leave the Chamber to seek the Members required to raise a quorum. This is a necessary point to be communicated as I have observed several members getting out when the quorum bell was being rung. Yes member for Kipipiri Hon. Paul Ngeche Wambaire.

Hon Paul Ngeche: Thank you Mr Speaker. I rise to strongly oppose this motion. This motion will only paint our assembly in a bad picture, like we have already finished all that should be done by the Counties and we are now looking for extra roles or function. This resolution will still not augur well even with *Wanjiku* in our County. This motion might go through now because it is a matter of numbers, but as the representative for Kipipiri, I strongly oppose. It will be as if we are stealing the functions of the Member of Parliament and the Members of Senate, I strongly oppose and now call the mover to respond.

Speaker: Yes the mover and the member of Githioro, Hon. Sambigi Mukuriah

Hon. Sambigi Mukuriah: Thank you once again Mr Speaker, I want to first of all appreciate the dynamism that has just taken place in regard to this motion. I want to start by saying that I do not see any fight between the two levels of Government because as it is, we are guided by the law.

Mr Speaker, when moving this motion I pointed to the fact that the Basic Education Act No. 14 of 2013, does not prohibit the transfer of such functions from the National Government to the County Governments, and this is a fact of Law. You also realise, that the drafters of the constitution envisaged a situation whereby some functions might need to be devolved without necessarily going to a referendum. So when we talk about a referendum for such a function, it means we are not being honest with ourselves since it is the same constitution that provides the transfer of powers from the national government to the county governments.

We also know as a matter of fact that the National Government itself has not fulfilled its obligation a hundred percent. I would like to point out on the contribution made specifically by Hon. Gathure, Member for Kaimbaga ward when he says that he has been invited severally to primary schools to go and provide facilities. If I were in Hon. Gathure's shoes, I would be supporting this debate so that next time, this particular responsibility will be in the county hands. Otherwise, as it is, if he is being called, he cannot make *Wanjiku* out there differentiate between the County and the National functions. I also think that there is an unfounded fear here that we don't have resources. We know that for every devolved function, it is devolved together with the

resources to implement it. So we pray that if this particular motion goes through and it is devolved, it is going to be devolved together with the resources for it.

This is not an academic exercise and I said that when I brought this debate here. It is because of the pain I feel when I see primary school kids in Nyandarua schooling in danger. I gave an example of Gathiriga primary where walls have collapsed. Those kids as we talk are holding their classes outside. Therefore, we can imagine what is happening yet the electorate cannot tell the difference between the functions of the National and the County governments.

Education as it is, is a devolved function and we know it is also said that gradually, these functions are going to be donated to the County Governments as we mature, but we know that the National Government is the one that is in charge of University education. You want to tell us that they are so effective in it that no function can be taken from them? Are they effective in the running of primary education that it cannot be taken from them? What we are saying here is not allocating grades but we are looking for the best ways in which these functions can be performed.

About capacity, we know that there are so many National Government officials who are at the county level all the way to the ward level. If the primary education was to be devolved, I believe that the same officers would be devolved with the functions and the resources to pay the same. They will be answerable to us in a way that we would be able to maybe manage our problems easily.

About the 30 days, I heard Hon. King'ori say that 30 days are very few. I specifically placed 30 days there because this is a motion that, if adopted here, is going to the executive and we are asking them to within 30 days escalate it to the next level. I don't see what would be so difficult in escalating this motion either to the national level, the senate or to wherever in 30 days because it is self-explanatory. I also want to say that there is no correlation between the ECD as it exists at the county level. I do not know what parameters the Hon. Members have been using to judge and say that ECDs in Nyandarua have been a failure because I would stand here comfortably and say that we can point out so many classrooms that have been put up by the county government for ECDs. We can also talk about the school feeding programme, which has been a success in Nyandarua. It is not an event. The ECD programme is a process. It is not something that happens in a day. So, we expect changes to happen every day and we expect other developments to happen every day. With those few remarks, I beg to move this motion and urge the members to support it. Thank you Mr Speaker.

(Question put and negatived)

Speaker: If there is any dissatisfaction, then we can vote so that the will of the people can take its cause. Clerk, a minute.

(Consultations)

Hon. Members, I think the nays have it because there was no division. If there was any dissatisfaction from any member or even the mover, he could just have stood up to register the dissatisfaction and the motion has been dropped, but Hon. Members I wish to communicate that this is the way to go. I would like to commend the mover and as I have listened to the debate, the only issue restricting members from supporting this motion conclusively is the issue of resources. I wish to say that resources will never be enough in this world. I would urge the mover to go back to the drawing board, do some survey, mobilization because this requires a lot of it and not only

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the issue of infrastructural development. There are other issues that should be devolved as well to provide what we call quick fixes. Even to some extent to provide the chaired committees between the county and the national government so as to address the matters of county importance. So Hon. Members, with those few remarks, I think this motion needs to be brought back in another version and maybe to have considered the issue of resources.

Next order.

ADJOURNMENT

Hon. Members, the business of today's morning session having been exhausted, this house now stands adjourned to today Wednesday, 9th day of May, at 2.30 p.m.

(The House rose at 10.40 a.m.)