

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 1st December, 2020

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

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

PRAYER

PETITIONS

ACCESS TO TITLE DEEDS FOR PROPERTIES BOUGHT AT JAMII BORA ESTATE, KISAJU, KAJIADO COUNTY

Sen. Seneta: Mr. Speaker, Sir, I rise to present the following Petition-

We, the undersigned citizens of the Republic of Kenya and residents of Jamii Bora Estate, Kisaju, Kajiado County draw the attention of the Senate to the following-

WE, leaders in Jamii Bora Estate, representing owners of properties as follows, over 900 homes, over 500 commercial units, several churches and a mosque, public primary school, public secondary school, public bore-hole and public playgrounds;

THAT, we bought houses in Jamii Bora Estate located in Kisaju, Kajiado County;

THAT, the developer has failed to give us titles to our houses since they started selling the houses from the year 2008 to date;

THAT, after they had sold the houses to us, we learnt that the developer took a bank loan that they are not servicing and that they charged the title (Kajiado/58/Kajiado/2995) to secure the loan with the bank without our knowledge;

THAT, after the project failed they are continuing with selling the remaining plots within the estate to un-suspecting buyers even as we ask for our titles, which are not forthcoming;

THAT, we paid for our properties through our sweat and for our children's inheritance;

THAT, the company has been mutating from Jamii Bora Trust, to Jamii Bora Makao, then to Urbanis Africa, then back to Kisaju View Park Limited;

THAT, some home owners have died while possessing nothing to prove ownership of their houses to be given to their next of kin;

THAT, we do not know where our titles are since the company has maintained studious silence on the issue to date;

THAT, the company seems happy to maintain this status quo;

THAT, there are many such developers like Banda Homes, Suraya Property Group amongst others, who have defrauded Kenyans and rendered them homeless and bankrupt;

THAT, we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response;

THAT, none of these issues raised in this Petition is pending in any court of law, constitutional or any other legal body;

THEREFORE, your humble petitioners pray that the Senate-

(i) Investigates Jamii Bora Trust now Kisaju View Park Limited and any other such developers to ensure Kenyans are not defrauded;

(ii) Arbitrate between us and Kisaju View Park Limited to ensure that individuals are issued with the requisite titles; and

(iii) Review the existing legal frameworks to regulate the real estate sector and to protect Kenyans from such investors/developers and enhance more strict penalties for developers/investors to ensure the delivery on their projects and to ensure that the requisite standards for buildings are adhered to the letter.

The date of this Petition is 17th November, 2020. It is signed by seven people and presented by myself.

The Speaker (Hon. Lusaka): Hon. Senators, we have a tight programme and we also have a Motion of Adjournment. So, try to limit contributions, especially on Petitions and Statements.

Pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Sen. (Eng.) Maina: Mr. Speaker, Sir, I rise to support the Statement by Sen. Seneta.

The Speaker (Hon. Lusaka): It is a Petition.

Sen. (Eng.) Maina: Mr. Speaker, Sir, I would like to support this Petition by Sen. Seneta.

There are many Kenyans being defrauded and swindled. Therefore, I would like the Committee of the Senate which will handle this to come up with thorough and serious recommendations.

The ghost in the country is corruption. The kinds of issues that Sen. Seneta has brought are all over. People are innocently defrauded. I call upon this House to come up with serious recommendation regarding the action that should be taken.

The Maasai people are well endowed with land. However, it is a pity to see some people defrauding them. This is not an isolated case. It is happening all over in the country. So, the Senate should be in the forefront fighting for the rights of Kenyans.

As I said, this is not just corruption, but it is blatant stealing and defrauding the country in all manner of ways. We need to do something about this. We might have good laws and proposals, but it will be a futile attempt. Therefore, this Petition should be taken seriously.

I support Sen. Seneta.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I sympathize with Sen. Seneta and the six petitioners. However, the situation is better for them.

A group of people approached me last over a similar issue. They bought property similar to what Sen. Mary Seneta and six of her colleagues did, in Machakos County.

They got a loan from HF Bank. However, because of a problem of loan repayment, the bank has gone ahead to sell the houses, which those people had purchased. One person has committed suicide. It is a sad situation. For example, people knock on your door and say that the property does not belong to you, which is true.

Mr. Speaker, Sir, the solution is for the Sectional Properties Act to forbid developers from selling property before they can give title deeds to buyers. It is fraud for somebody to obtain money from buyers purporting to sell them a house and then obtain another loan, or sell the property to another person. It is a criminal action.

Although Sen. Seneta has come to the Senate, I wonder whether these people have been arrested. However, I know how this country operates. These developers have long hands. They know the police and they will not be arrested. They are like a cartel. So, I advise that as she waits for whichever Committee that is assigned this matter, to get an injunction and also look for a good lawyer.

The people in Machakos were unable to get an injunction yet their property was sold because of a mistake of the developer. If you wait, your property will be sold, or the title deed will be nullified. It is a sad situation. However, as legislators, we should provide an avenue. The Sectional Properties Act is the way to go.

This is happening, not only to people who are developing land, but those who will buy property in Kileleshwa, Kilimani *et cetera*. Some of them have waited for more than 15 years and they do not have title deeds for their flats which is a continuing problem.

Sen. (Dr.) Langat: Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Petition by Sen. Seneta.

Issues to do with title deeds have become a great challenge to development. Apart from this Jamii Bora which has denied the petitioners their rightful title deeds, there are other places with more challenges.

In the areas surrounding Mau Forest, for instance, there are some people who have title deeds which were declared by some provisional administrators as mere papers. These people bought land from other people and were issued with title deeds which have been declared fake.

Another challenge that is facing some parts of this country, for example, Nakuru, Bomet and Mau Forest is that there was a caveat that was put 10 years ago and no one in Government has ever taken an interest to redefine it. It has rendered most of the title deeds in that particular area invalid and no one can use them yet people are still developing.

Mr. Speaker, Sir, the Committee that will deal with this should expand their boundaries and make sure that issues that we are bringing forth are addressed.

I support this Petition.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No. 233(2) (1), the Petition is committed to the Standing Committee on Roads and Transportation which is the relevant Standing Committee for its consideration.

In terms of Standing Order No. 232(2), the Committee is required in not more than 60 calendar days from the time of reading the prayer, to respond to the petitioners by way of a report addressed to them and laid on the Table of the Senate.

(The Petition was committed to the Standing Committee on Roads and Transport)

The next Petition is by Sen. Shiyonga.

REPORT ON PETITION: NON-SETTLEMENT AND
COMPENSATION OF KIBRA IDPS

Sen. Shiyonga: Mr. Speaker, Sir, first of all, I request to lay the following Paper on the---

The Speaker (Hon. Lusaka): You cannot do that.

(Laughter)

Hon. Senator, it is a report on a petition.

Sen. Shiyonga: Mr. Speaker Sir, if they do not know, they need to ask you the truth.

Mr. Speaker Sir, I beg to lay the following paper on the Table of the Senate today, Tuesday, 1st December, 2020:

The report of the Standing Committee On National Cohesion, Equal Opportunity, National Integration on the Petition to the Senate by Rev. David Muganda concerning non-settlement and compensation of Kibra internally displaced persons.

(Sen. Shiyonga laid the document on the Table)

(Interruption of Debate on Petition)

Sen. Sakaja: On a point of order Mr. Speaker Sir.

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

Sen. Sakaja: Mr. Speaker, Sir, I thought she was taking her seat while I wanted her to give us highlights.

I raised this today in the Senate Business Committee (SBC) that some Committees – I am sure this happened before she was the Chair - have developed a habit of dealing with a matter concerning specific counties without informing the Senator of that county.

Courtesy demands - and I have even tried it even in my Committee - I am dealing with a matter on Isiolo and I have made sure Sen. Dullo knows. If it is a matter to do with Vihiga County, Sen. Khaniri must be involved and invited.

This is a Petition whose report is being given about one of my constituencies in Nairobi City County. I have never heard of the Petition or when the petitioners came. I have a lot of information about it and I could have contributed. I just want to hear the highlights, but I urge fellow Chairpersons, clerk and his team to be informing the substantive Senators of that county when a matter affecting your county comes. I think it is common courtesy and it is what we were elected here to represent our counties.

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

The Speaker (Hon. Lusaka): Yes, Sen. Wetangula.

Sen. Wetangula: Thank you, Mr. Speaker, Sir. The issue raised by the Senator of Nairobi City County is so important. I am a constant victim of what Sen. Sakaja is raising. Could you direct our Clerk that he writes to all Committee clerks and instructs

them that whenever a matter comes to a Committee and touches on a certain geographical area which a Senator represents in this House; that Senator as a matter of procedure is invited to that meeting so that it becomes a matter of common practice and procedure.

The Speaker (Hon. Lusaka): I think this is the third or fourth time that matter is being raised where sometimes a Senator just realizes there is a Committee in their county and they have no clue on what is going on. That creates an unnecessary problem.

I direct, as has been requested, that the Clerk writes to all the concerned to make sure that at least when you are going to a county, the county Senator is informed of what you are doing there and becomes part and parcel of whatever is going on.

(Applause)

Sen. Mutula Kilonzo Jnr.: Mr. Speaker Sir, since you are the Chairperson of the Senate Committee on Liaison, the Secretariat might forget because they are not politicians, but the Chairpersons are all politicians. It should be instinctive that members are not invited as courtesy. It has happened even for me in the case of Makueni in the Senate Committee on Public Accounts and Investment (CPAIC). Sometimes they take an afternoon to invite me when the Governor of Makueni is coming.

It becomes almost as if they are extending a courtesy. Ideally, the Senator should participate fully in the deliberations not just come to sit and watch, but even the material that they circulate be shared with him. In your Liaison Committee maybe that is something you should reiterate.

The Speaker (Hon. Lusaka): Okay. Noted. Proceed, Sen. Shiyonga.

(Resumption of debate on Report)

Sen. Shiyonga: The Petition by Rev. David “Mukambi” over the non-settlement of awards to Kibra displaced persons---

The Speaker (Hon. Lusaka): Is it Mugambi or Muganda?

Sen. Shiyonga: Mr. Speaker Sir, Mr. Speaker Sir, it is Mukanada.

The Speaker (Hon. Lusaka): Okay, Proceed.

Sen. Shiyonga: Mr. Speaker Sir, it is just a typo. It is Mr. David Muganda not Mukanada.

The Speaker (Hon. Lusaka): That is why I was telling you that what I have is David Muganda.

Sen. Shiyonga: Mr. Speaker, Sir, you seem to know the person. That notwithstanding, allow me to continue.

The Petition by Rev. David Muganda was received by the Senate on 19th September, 2018 and subsequently submitted to the Standing Committee on National Cohesion, Equal opportunity and regional Integration.

The Committee met with the Petitioner on 19th August, 2020, via the Zoom online platform. The Cabinet Secretary for Interior and Coordination of National Government sent a written memorandum.

The Committee made the following observations:

(1) The Ministry of Interior and Coordination of National Government on its submissions stated that the Government recognized the existence of integrated Internally

Displaced Persons (IDPs) among them the Kibra IDPs and they were, therefore, profiled. Consequently, the names of those integrated IDPs beneficiaries were prepared with the assistance of IDPs Network through a wide consultation with their leadership which culminated into two forums held at Nuru Palace Hotel in Nakuru in March, 2017.

(2) The integrated IDPs were taken through various stages of eligibility vetting through this exercise. A total of 83, 891 IDPs were eligible for consideration on payment of Kshs50,000 to each household as per the available budget whereby the following IDPs from Kibra benefited. Those paid Kshs10,000 were 471 beneficiaries. Those paid Kshs50,000 were 692 beneficiaries. The Committee noted with concerns that the amounts given out as compensation were inadequate given that affected not only lost livelihood, but some also lost lives.

(3) The Prevention, Protection and Assistance to IDPs and affected Communities Act No.56 of 2012 established a Committee to be known as National Consultative Coordination Committee (NCCC) on IDPs under Section 12. The term of the NCCC on IDPs expired in 2017.

(4) The Committee established that the Ministry of Interior and National Coordination has not gazetted a new NCCC on IDPs. Therefore, there was no budget set aside for the said committee. This according to the Ministry was informed by the fact that all the profiled IDPs were resettled and other assisted through allocation of alternative land or by way cash by the year 2017.

(5) The Committee established that the Ministry of Interior and Coordination of National Government is still consulting the various agencies, which will inform the finalization of the drafting of the National Policy on Internally Displaced Persons.

Mr. Speaker, Sir, the Committee makes the following recommendations-

(1) The Ministry of Interior and Coordination of National Government gazettes a new NCCC on the IDPs. This Committee as established under Section 12 of the Prevention, Protection and Assistance to Internally Displaces Persons and affected Communities Act No.56 of 2012 is mandated to handle all the matters relating to IDPs in the country. The term of the NCCC on IDP expired in 2017.

(2) The NCCC on IDP be fully funded and operationalized to achieve its mandate as per the Act to deal with frequent cases of IDPs around the country as well as other previous cases that were not fully settled like the Kibera IDPs.

(3) The Auditor-General to carry out a special audit on the operations of NCCC whose term ended in 2017 in as far as the utilization of the funds to ascertain that all funds allocated to resettlement of IDPs were used for the intended purpose.

(4) The Ethics and Anti-Corruption Commission (EACC) and other relevant State agencies investigate and prosecute in the event that the Auditor-General ascertains that there was misappropriation of funds.

(5) The Ministry of Interior and Coordination of National Government spearheads and concludes the drafting of the National Policy on Internally Displaced Persons.

It is now my pleasant duty pursuant to Standing Order No.232 to table the Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration in relation to Petition by Rev. David Muganda, concerning non- settlement and compensation of Kibera IDPs.

Thank you, Mr. Speaker, Sir.

Signed by Sen. Naomi Masitsa Shiyonga, the Chairperson.

(Laughter)

(Sen. Shiyonga laid the document on the Table)

The Speaker (Hon. Lusaka): Sen. Wetangula, kindly proceed. Like I said, I am limiting the contributions because we have so much to cover.

Sen. Wetangula: Mr. Speaker, Sir, Rev. Muganda in petitioning to this House about the integrated IDPs, was not only speaking for those in Kibera, but millions of Kenyans. It is bad enough to have IDPs in our country, but it worse to know that the treatment by the State of IDPs is grossly discriminatory.

In the last Parliament, and those who were here like the distinguished Senator for Isiolo, can remember we were told of two very sad stories. Sen. Mutula Kilonzo Jnr. and Sen. Khaniri may also remember. Out of Kshs24 billion that was set aside for settling IDPs, only about Kshs9 billion reached IDPs. The rest was described as administration costs.

Secondly, the IDPs across the country were pigeonholed, so to speak, depending on where they came from. Certain areas' IDPs were paid Kshs400,000 per family and in other areas, for example, Bungoma where you and I come from, were paid Kshs10,000. These are all IDPs, born out of a same unfortunate situation through reckless behaviour by politicians and mishandling of the reckless situation by the State.

Mr. Speaker, Sir, in an area like where we come from, people cannot go to live on markets and in other areas. They have relatives who would accommodate them. When they run away from areas of danger, their elder brother, cousin, uncle or whoever will live with them as long as danger looms and prepare to go back.

These are IDPs. They have not been paid any money. In the case of Kibera, the amount of money being paid within Kibera is discriminatory. Some are getting less while some are getting more. However, even the little they are getting is far less than the Kshs400, 000 that was being paid to IDPs then under the management and navigation of hon. Anne Waiguru who was in charge.

Mr. Speaker, Sir, you know controversy has been trailing this lady everywhere. This is the same controversy that she left stalking the country to date. I want to urge---

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

The Speaker (Hon. Lusaka): What is your point or order, Sen. Halake?

Sen. Halake: Mr. Speaker, Sir, I do not see the relevance of bringing the Governor, hon. Anne Waiguru to this issue. Is Sen. Wetangula in order to say that because she is trailed by controversy--- How relevant is this?

Sen. Wetangula: Mr. Speaker, Sir, the distinguished lady whom I have great respect for, the Chairperson of Centre for Multiparty Democracy (CMD), was obviously not listening to me.

(Laughter)

This is because Hon. Governor Ann Waiguru was in charge of resettlement and payment of IDPs when out of Kshs24 billion, only Kshs9 billion reached IDPs. Is that not a controversy? The rest was squandered. We do not need to say much more than that.

I want to finish by urging this House that the Committee on National Cohesion, Equal Opportunity and Regional Integration and any other Committee that you may in

future pick, should carry out a full-scale inquiry into the management of the IDP situation. We would like to know how much money has been expended on IDPS, how many IDPs have been paid and who squandered the rest of the money.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Sen. Sakaja, kindly proceed.

Sen. Sakaja: Mr. Speaker, Sir, I wish to thank the Committee for dealing with this matter. I note that this issue came to the Committee in 2018. At that point, Sen., Shiyonga was not the Chairperson. It has taken long and it should take 60 days.

Besides what I said earlier, these are people known to all of us. They are known to me in Nairobi. Beyond just Kibera, we have many more in Mathari and in different parts of this City, including Kasarani.

Mr. Speaker, Sir, the reason this Committee is called National Cohesion, Equal Opportunity and Regional Integration is because as the name suggests, you cannot have cohesion without equalization of opportunities.

Sen. Shiyonga, one of the glaring issues in this Petition is the different treatment of the IDPs at that time. You will note the Petition and the Report saying that at some point Kshs10,000 was being given to 471 beneficiaries - I do not know why they are called beneficiaries - they are victims. They were not beneficiaries, this was not a lottery, it is not a gift. They were victims who were being compensated. An amount of Kshs10,000 was being given to 471 victims, not beneficiaries, then 692 victims were given Kshs50,000, this shows discrimination.

Mr. Speaker, Sir, I want to agree with Sen. Wetangula that a proper inquiry needs to be made. Even as we look at the BBI, some of these wounds of the past need to be looked at in a restorative approach and not in a retributive manner. We must give these people justice.

Mr. Speaker, Sir, when you walk around in some parts of this country, and someone can still see that what happened to them was not taken seriously yet other people were compensated, they still hold and harbour hate in their hearts. Quiet is not the presence of peace, or the absence of war is not the presence of peace. Many people, deep down in their hearts, are still hurting because of the different kinds of treatment that they received when it came to compensation.

I remember back then when I was chairing a party, one of the county commissioners told us that he gathered people from an IDP camp who said that they had been displaced, put them in a lorry around Eldoret and asked them to point out where they used to live because they wanted Kshs400,000 for compensation. He said that 90 per cent of them could not remember where they used to stay or where their farms were because they were traumatized.

Many of these people were not even displaced, but they were renting and *et cetera*. However, they were able to get compensation. In Nairobi City County, many people have never gotten a single ounce of compensation. This is because culturally, as Sen. Wetangula has said, in certain parts of this country, we cannot allow people to stay in camps or tents. They are accommodated by their families, friends, or neighbours. That is why you did not see tents in parts of Nairobi. You did not see tents in Western Province. You did not see tents in Nyanza Province. Those IDPs who were integrated have as much right as those who went to the camps and lived in tents.

Mr. Speaker, Sir, I hope the Committee does not stop this matter with this Report. Sen. Shiyonga, you know what I am talking about because you are from Kakamega County and you know some of these integrated IDPs. Let us put a closure to this matter. Even as we are looking ahead as a country, let us not forget some of these issues because they are still very painful.

The Speaker (Hon. Lusaka): Sen. (Prof.) Ekal and then I will move to the next Petition because, as I said, we have a lot of business.

Sen. (Prof.) Ekal: Thank you, Mr. Speaker, Sir. I am going to pick up from where other Senators left off. I want to reiterate the fact that there is a lot of discrimination in the way IDPs are treated in this country. They are all over the country and I am surprised that even the ones in Kakamega are given the same treatment as the ones in Turkana. IDPs are all over Turkana. These are people that were displaced from other parts of Kenya.

In Turkana, they built some of the ugliest structures and told them to stay there such that whenever the builder left, the walls would collapse and those are the same structures where they expected people to live with their families and children.

On top of that, a human being is supposed to have amenities that will keep their lives comfortable, one of which is water. These IDP camps do not have an ounce of water. How are people expected in the middle of the desert to live without water? You would also expect that these camps would have toilets. This is because when you consume food, you want to remove waste. However, there is no place to go thereby forcing people to relieve themselves in bushes where there are snakes. I do not know who built these IDP camps and why they would not think of human basic needs.

I hope that somewhere somebody is listening. I urge them to put up amenities there and give people an equivalent amount of money that others are given. If somebody elsewhere is receiving Kshs400,000, why should somebody else be given Kshs10,000? That is absolute discrimination and this treatment of Kenyans by other Kenyans must stop.

Thank you, Mr. Speaker, Sir.

REPORTS ON PETITIONS COMMITTED TO THE COMMITTEE ON
LANDS, ENVIRONMENT AND NATURAL RESOURCES

Sen. Khaniri: Mr. Speaker, Sir, I rise to lay on the Table of the Senate Reports of the Senate Standing Committee on Land Environment and Natural resources.

Mr. Speaker, Sir, these are Reports of 13 Petitions. Before doing that, I will apologize because I know the provisions of our Standing Orders, particularly Standing Order 232(2), state that these Reports must be laid within 60 days. However, we have overshot that period because we had a number of Petitions, some of them as old as even six months.

Mr. Speaker, Sir, allow me to lay these documents on the Table of the House and I ask the indulgence of the House to pardon the Committee for that delay.

These are:-

- (1) Report of the Committee on the Petition regarding the resettlement of East Mau forests evictees.

- (2) Report of the Committee on the Petition regarding forceful eviction from Ndundori Forest and compensation of land for the excised area from the forest for resettlement.
- (3) Report of the Committee on the Petition regarding the alleged grabbing of public utility and private land at Leleshwa, Gilgil Township.
- (4) Report of the Committee on the Petition regarding the resettlement of the minority Ngerek Community following their proposed eviction from South Nandi Forest in Nandi County.
- (5) Report of the Committee on the Petition regarding the alleged grabbing of the part of the land allocated for settlement of the petitioners at Kiang'ombe squatter settlement scheme in Thika Sub-County of Kiambu County.
- (6) Report of the Committee on the Petition regarding the compensation and resettlement of evictees from Marmanet forest in Laikipia County.
- (7) Report of the Committee on the Petition regarding the Wajir waste disposal site and the disgraceful abuse of the right to enjoy environmental rights under Article 42 of the Constitution.
- (8) Report of the Committee on the Petition regarding the alleged unlawful acquisition and disposition of the POKA Group Ranch land.
- (9) Report of the Committee on the Petition regarding the compensation to landowners affected by construction of the Kibwezi-Kitui-Kabati-Migwani B7 Road.
- (10) Report of the Committee on the Petition regarding the loading and unloading of iron ore in Ganjoni, Mombasa County. This was brought by Sen. Faki.
- (11) Report of the Committee on the Petition regarding the National Housing Policy.
- (12) Report of the Committee on the Petition regarding siltation of Lake Magadi.

(Sen. Khaniri laid the documents on the Table)

As you will observe from the Reports tabled, the Petitions cover a broad range of issues of land, environment, housing and natural resources.

Mr. Speaker, Sir, with your indulgence, I will give brief recommendations of the Committee in the Reports.

Mr. Speaker, Sir, on Petitions that entail forest evictions and resettlement concerns are as follows: Petition regarding the Resettlement of East Mau Forest evictees, Petition regarding the compensation and resettlement of evictees from Marmanet Forest in Laikipia County and the Petition regarding forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement.

The Committee recommended that in these Petitions the National Land Commission needs to coordinate a multi-agency team comprising of the Ministry of Lands and Physical Planning, Ministry of Interior and Coordination of National Government, Ministry of Environment and Forestry and the various county governments in expediting the investigations into the claims by the respective petitioners.

Since these matters fall under the category of historical injustices, the Committee recommends that a status report on the matters are submitted to the Committee within three months of tabling this Report in the Senate.

On the Petition regarding the resettlement of the minority Ngerek Community following their proposed eviction from South Nandi Forest, in Nandi County, the Committee recommended that the Cabinet Secretary for Environment and Forestry revokes any previous orders directing the Ngerek Community to leave their land in the Ngerek Hills area---

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

The Speaker (Hon, Lusaka): What is your point of intervention, Sen. Kinyua?

Sen. Kinyua: Mr. Speaker, Sir, I have listened to Sen. Khaniri giving us the report or their recommendation. He did mention when he started that they have taken six months for them to do those reports. They were many reports. He has just said that they are recommending the multiagency teams to give their reports within three months. Is it viable or they are just giving us reports?

Sen. Khaniri: Mr. Speaker, Sir, as to why it has taken us long to produce the report, it is obvious we had so many Petitions directed to this Committee. Most of the Petitions involved going to various areas to ascertain facts and inviting Petitioners. It was not viable to do within the 60 days and that is why I apologized.

We have made recommendations as a Committee and it is up to this House to ensure these recommendations are implemented. We have done our part as a Committee. On the eviction from South Nandi Forest in Nandi County of the Ngerek Community, we recommended that the Cabinet Secretary for Environment and Forestry revokes any previous orders directing the Ngerek Community to leave their land in the Ngerek Hills area and asserts the current position in writing; that the Ngerek Community rightfully occupy the land they are currently settled on.

Mr. Speaker, Sir, on Petitions regarding settlement of persons, the Committee is tabling three reports of this nature. Report of the Committee on the Petition regarding the alleged grabbing of public utility and private land at Leleshwa, Gilgil Township, report of the Committee on the Petition regarding the alleged unlawful acquisition and disposition of the Poka Group Ranch Land.

Lastly, report of the Committee on the Petition regarding the alleged grabbing of the part of land allocated for settlement of the petitioners at Kiang'ombe Squatters Settlement Scheme in Thika Sub-County, Kiambu County.

The Committee recommended that lists of beneficiaries from previous and current allocations in the Petitions should be vetted and harmonized to ensure transparency and accountability in the process before the Ministry of Lands and Physical Planning issues any title deeds.

Further, the Ministry of Lands and Physical Planning should fast track the vetting and verification exercise of the land under the Part Development Plan (PDP) for Kiang'ombe Village and for the other Petition. The County Government of Nakuru expedites the implementation of the Gilgil Development Plan No.91 of 2008 and ensures that the proposed Part Development Plan is approved after adequate public participation by all stakeholders to pave the way for its implementation.

Further, on the Petition regarding the alleged unlawful acquisition and disposition of the Poka Group Ranch Land, the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) investigates with speed how Emali Holding Grounds, set aside for livestock production purposes was alienated, subdivided, transferred and leased out without consultation of local communities with a view to

prosecuting those who may have fraudulently transferred the land among other far reaching recommendations.

Mr. Speaker, Sir, on Petitions regarding environmental rights, waste management and natural resources, the Committee is tabling the following Petitions reports:-

- (1) Report of the Committee on the Petition regarding the Wajir Waste Disposal Site and the disgraceful abuse of the right to enjoy environmental rights under Article 42 of the Constitution.
- (2) Report of the Committee on the Petition regarding the loading and unloading of iron ore in Ganjoni, Mombasa County.
- (3) Report of the Committee on the Petition regarding the Environmental degradation and irregular dumping at landfill in Kajulu, Kisumu East; finally,
- (4) Report of the Committee on the Petition regarding the Siltation of Lake Magadi.

The Committee recommended that on matters waste management, it has heard similar concerns from a number of counties and the Committee is intending to coordinate a high-level workshop, together with NEMA, bringing together all stakeholders in the waste management sector and all the 47 counties to come up with solutions that uniformly handle waste management in the counties.

On the Petition regarding the loading and unloading of iron ore in Ganjoni, Mombasa County, the Committee noted that South Africa Ports Terminals Limited Company at COMACO, near the Port of Mombasa remains closed and should the company reopen, they should do an Environmental Impact Assessment before opening and the same must be submitted to NEMA and the Committee.

On the Petition regarding the siltation of Lake Magadi, the Committee recommends that the Cabinet Secretary for the National Treasury and Planning forthwith allocates the Ministry of Environment and Forestry, funds for the prevention of siltation to Lake Magadi and submit to the Committee a status update on the allocation of the funds within six months of tabling this report.

Mr. Speaker, Sir, on the report of the Committee on the Petition, regarding the compensation to land owners affected by construction of the Kibwezi-Kitui-Kabati-Migwani (B7) Road, the Committee recommends that the Kenya National Highways Authority (KeNHA) and the National Land Commission, forthwith compensates all the project affected persons in full and submit to the Committee a status update on the compensation within three months of tabling of this Report, and in any case, not later than 28th February, 2021.

Finally on the Report of the Committee on the Petition regarding the National Housing Policy, the Committee noted valid concerns by the Petitioner and recommends that the Cabinet Secretary, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, finalizes the development of the Housing Bill and submits to the Committee the Bill, or a status update on the development of the Bill within three months of the tabling of this Report, and in any case, not later than 28th February, 2021.

Mr. Speaker, Sir, on the aforementioned Petitions, our Committee considered the Petitions in depth, met with the Petitioners, various stakeholders and also conducted various site visits. The reports make various recommendations for implementation and we pledge as a Committee to ensure full implementation of the resolutions.

Mr. Speaker, Sir, it is now my pleasant duty, pursuant to Standing Order No.232 to table the following 13 reports of the Standing Committee on Land, Environment and Natural Resources in relation to Petitions.

(Sen. Khaniri laid the documents on the Table)

The Speaker (Hon. Lusaka): Thank you. I will only allow Sen. Kinyua and Sen. Halake, so that we make progress as I said.

Sen. Kinyua: Thank you, Mr. Speaker, Sir. I thank the Committee for having completed their duty on those Petitions, particularly the one for Marmanet Forest evictees. They did come to Laikipia. It is true that they listened to many of the evictees from Marmanet Forest.

The evictees want a piece of land because some of them are living in slums. Some are living in Maina Village and others in Manguo in deplorable conditions. They do not have schools or any amenities. Seeing that the documents are now in this House, I urge that we at least push the Ministry of Lands and Physical Planning, so that people in Laikipia---

There are more than 10,000 Marmanet Forest evictees. They can get justice because they were evicted from the forest, so to speak. Right now, some of them do not go to school because there are no schools. They live in very bad conditions. All they are looking for is for the Government to provide land for them.

The recommendation of the Committee is that the Government should move swiftly, so that these people can be settled. Since they are not lesser Kenyans, they should live like any other Kenyans. It was not their mistake to be born in those places, but the Government took the initiative of evicting them. That is their prayer. As their Senator, I put it to this House that we move with speed, so that we can help those poor Kenyans.

Thank you, Mr. Speaker, Sir.

Sen. Halake: Thank you, Mr. Speaker, Sir, for giving me the opportunity. I served in that Committee and I would like to congratulate them. I know that the workload was heavy. As you can see, there are very many sources of IDPs, including the historical injustices that have been meted upon our people. The 13 reports all point to historical injustices that are being seen now.

I wonder at what point we are going to look at work that has been done before by the Truth, Justice and Reconciliation Commission (TJRC) and the likes. There are other reports that have been done in the past, instead of us going back and using resources to start investigating afresh. Was there any relevance in making sure that what was found out before by the Committee could also be used? Perhaps the Committee can go back to some of the recommendations of these reports and ensure that the TJRC recommendations are implemented at some point. This is so that we are not going to have a cycle of investigations and counter investigations with the same recommendations that are never going to be implemented.

Mr. Speaker, Sir, in my own county, eviction notices have been given to the residents of Burat and the entire belt that is being occupied by the Kenya Defence Forces (KDF). That is now before the Committee, but I foresee the same cycle where there will be recommendations to be done, we go on, and then it becomes a vicious cycle. I hope

that at some point, the Committee will start to look at what already exists, so that resources are not wasted.

With regards to waste management, especially for Wajir and other counties where basic sanitation does not exist, the policy for this country with regards to sustainability and environmental impact--- People have now moved from environmental impact to social impact that relates to the environment. Are we going to look at environmental impact and then put a very narrow definition of what environmental impact stands for, when the biggest culprit is the impact is on the economic and social wellbeing of the people? I hope that the Committee will appraise itself on the need for not just an environmental impact assessment, but social impact assessment as regards to our environment and sustainability.

As we can see, the Kenya Power Company is now stopping people from installing solar power. Nothing is sustainable and, therefore, I think that it is about time the Committee looked at things like that, so that the social impact is also looked at. The TJRC Report should also be looked at, so that we are not recreating everything.

Mr. Speaker, Sir, Isiolo County is also under notice. Residents have been given notice by the KDF and Ministry of Interior and Coordination of National Government to vacate their land. Again, I know that this is still being finalized by the Committee, but I hope that we are not going to see a situation where we are going to do further investigations and the likes.

If you look at the trend in these reports, community land is what is causing all these problems. Where people have titles deeds and private and public land is concerned, there are no problems. All these are pointing to marginalized communities, be it the Marmanet Forest evictees, the Dundori evictees or the East Mau evictees, all this is community land that is being grabbed, and for whom justice is not being given.

All the Government needs to do at both the county and national level is to gazette. Again, there are so many injustices by the group ranches. Even people who were given the trusteeship of the group ranches are grabbing the land from the communities. Again, this is something that needs to be looked at. The answers do exist. I hope that we will look at them as opposed to just creating a cycle of investigations and further investigations. I rest my case.

I support and congratulate the team, but please let us not just recreate the wheel. Let us look at historical reports that could give us the answers to this. Let us get into the habit of implementation as opposed to starting everything all over again.

I support.

The Speaker (Hon. Lusaka): Sen. Sakaja, kindly lay your---

(Sen. Faki spoke off record)

Sen. Faki, what is your intervention? Speak briefly, so that we proceed.

Sen. Faki: Asante, Bw. Spika, kwa kunipa fursa hii. Kwanza ningependa kupongeza Kamati ya Ardhi, Mazingira na Maliasili kwa kushughulikia Ombi la watu wa Ganjoni kuhusiana na upakiaji wa *iron ore* katika maeneo yao. Ningependa kuthibitisha kwamba Kamati husika wakati walipokuja Mombasa kujadili swala hili. Ninawashukuru kwa kuwasikiza watu wetu.

Jambo la pili ni kwamba Ripoti ya Kamati iko sawa, lakini inatilia shaka utendakazi wa taasisi kadhaa za Serikali. Kwa mfano, ofisi ya National Environmental Management Authority (NEMA) iliruhusu vipi jambo kama hili kutendeka wakati eneo ambayo ilikua inafanyika ni eneo la makaazi? Wananchi wanatakikana kupumzika usiku, lakini usiku mzima ni kelele za upakiaji wa *iron ore*.

Bw. Spika, mambo mengi ambayo sisi tunafanya yangepaswa kufanywa na taasisi huru za Serikali. Lakini kwa sababu ya utepetevu na uzembe wao, wamewacha haki nyingi za Wakenya kuendelea kudhulumiwa.

Kwa hivyo, ninapendekeza kwamba Kamati ya Utekelezaji, yaani *Implementation Committee*, irejeshwa katika Muhula unaofwata ili tuone kwamba maazimio ambayo Bunge linapitisha yanatekelezwa kikamilifu.

(Applause)

Asante, Bw. Spika.

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

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

Sen. Wetangula: Mr. Speaker, Sir, although the Senator for Mombasa has raised it in passing, I want to bring to your attention something that we have said here over and over again. Sen. Khaniri has tabled 13 reports. We have one from Sen. Shiyonga. Sen. Khaniri tells me that his Committee has another 10 Petitions that are pending. I urge that, as the leader of this House, you should bring back the Implementation Committee that can follow up all these issues.

(Applause)

With the heavy workload that they have, the Committees have no time to follow up departments, Ministries and other organs of the Government to see whether these issues are implemented or not. This House should never act in vain. Everything we decide must be implemented and followed to the letter. We urge that the Implementation Committee be brought back.

I urge the Senate Majority Leader to bring back the Committee on Implementation even if he decides on chairing it himself as long as it is implementing the decisions of the House to the letter.

The Speaker (Hon. Lusaka): I would like to report that the matter is before the Powers and Privileges Committee. It is work in progress so once it is ready, it will be brought before the House for a decision to be made.

Kindly proceed, Sen. Sakaja.

REPORT ON PETITION: IRREGULAR REDEPLOYMENT OF MR. LAWRENCE MUTEMBEI
BY THE COUNTY GOVERNMENT OF THARAKA NITHI

Sen. Sakaja: Mr. Speaker, Sir, I beg to lay on the Table of this House two reports on Petitions. The first Petition by Mr. Lawrence Nicholas Mutembei on his alleged irregular redeployment by the County Government of Tharaka Nithi was submitted through the Clerk of the Senate pursuant to Article 119(1) of the Constitution. The petition was read on 8th September, 2020 in the Senate, and thereafter committed to the Standing Committee on Labour and Social Welfare.

Mr. Speaker, Sir, at its 41st Sitting held on Thursday, 29th September 2020, the Committee considered the petition and thereafter held a session with the petitioner. When this Petition was brought before the House, Members felt that it should be speedily dealt with because it looked like somebody who did not want to be in certain department. However, there was more than meets the eye. The Committee deliberated on the issue and made the following recommendations: -

- (a) THAT, the petitioner was indeed serving the Tharaka-Nithi County as the Director of Procurement (Supply Chain Management) since 2018 following a request by the County. Further, following his prosecution in 2018 and subsequent termination of charges by the court in July 2019, the County Public Service Board of Tharaka Nithi effected a redeployment from the Department of Finance and Economic Planning (Procurement) to the Department of Education, Youth Vocational Training, Culture, Sports and Tourism, albeit in the same capacity.
- (b) In as much as we found that there were serious issues that the petitioner had and was possibly non-compliant with certain regulations, Section 85 and Section 86 of the Public Service Commission Act provides for modalities of hearing appeals in respect of any decision relating to engagement of any person in a County Government, including decisions in respect of recruitment, selection, appointment and qualifications attached to any office; disciplinary control among other aspects including provisions for enforcement by the Employment and Labour Relations Court;
- (c) THAT, Under Section 65 (2) of the County Governments Act provides that – in determining whether an appointment, promotion or re-designation has been undertaken in a fair and transparent manner, the overriding factors shall be merit, fair competition and representation of the diversity of the County; and
- (d) THAT, the petitioner’s case is yet to be determined by the Tharaka Nithi County Service Board having communicated on the 9th March 2020 with no replies; the Public Service Commission and the Commissions for Administrative Justice is yet to finalize on the as the County Service Board is yet to respond to the letters send by the two commissions.

Mr. Speaker, Sir, the Committee on considering the submissions and making reference to existing laws recommends as follows-

- (a) The Public Service Commission submits a comprehensive report on the status of the appeal of the petitioner’s case within 14 days of tabling of the report; and
- (b) The County Public Service Board of Tharaka Nithi to submit a comprehensive report on the status of the petitioner’s case within 14 days of tabling of the report.

Mr. Speaker Sir, after that is done, we can deal with this matter conclusively. It is now my pleasant duty, pursuant to Standing Order 232 to table the report of the Standing Committees of Labour and Social Welfare in relation to the Petition concerning the alleged irregular re-deployment of Mr. Lawrence Nicholas Mutembei by the County Government of Tharaka Nithi.

Thank you.

REPORT ON PETITION: NON-PAYMENT OF SALARIES BY
THE NANDI COUNTY GOVERNMENT

Mr. Speaker Sir, the second petition that Sen. Cherargei has been making a follow-up on is concerning the plight of former Nandi county support staff was read in the Senate on Tuesday, 4th August, 2020. The Speaker further directed that the petition be dealt with by the Standing Committee on Labour and Social Welfare.

Mr. Speaker, Sir, the Committee met with the petitioners on Thursday, 17th September 2020 and on Thursday, 24th September 2020, we met with the County Government of Nandi led by the Governor and the County Public Service Board. The Petitioners were also present in this meeting.

Mr. Speaker, Sir, the Committee made the following observations: -

- (1) THAT, the petitioners, Ms. Judith Chepchumba, Mr. Mark Kirwa and Ms. Nelly Chepngetich were indeed recruited and appointed on 1st November 2019 for positions of Support staff II Job Group “B” And Cleaner II Job Group “B” and allege that they have not been compensated for the work done for eight months. However, after the petitioners brought the matter to the Senate, they went to court to seek redress.
- (2) THAT, the same petitioners sought recourse in the court having filed their claim in court on the 3rd of August 2020; resulting in a notice of summons to the County Government of Nandi on 5th August 2020 and a further statement of claim filed in Kapsabet at the Employment and Labour Relations Court. No. 51 of 2020;
- (3) THAT, the case is active in court with a defense having been filed stating the position of the county with the county government of Nandi awaiting direction of the court;
- (4) THAT, the same petition bearing similar subject matter was presented before the Senate on 8th August, 2020, by the same petitioners;
- (5) Taking into consideration the observations, the Committee notes that under Standing Order 98 on the *Sub Judice* rule, various rulings by the Speaker on the same and the precedent set on the 2nd August 2018 by the Speaker of the Senate on the Solai Dam that even if elements of active proceedings, prejudice have been met, the Speaker still has the discretion to decide whether a matter should proceed or not to the following reasons: -
 - a) If it is a matter of great public interest; and
 - b) If it is a matter about human rights.
- (6) The Committee notes that the present matter is a matter of great public interest and human rights.

Mr. Speaker Sir, from the above observations, especially Paragraphs 5 and 6, the Committee notes that the Petitioners brought their matter in the Senate and also filed the same matter in Court. The Committee therefore advises the Parties to seek adjournment matter to seek temporary stay of court proceedings to resolve the matter amicably before the Committee in line with Article 159 (2) (c) of the Constitution on Alternative forms of Dispute Resolutions. The Governor has expressed interest in the said route together with the petitioners. If they stay the proceedings temporarily we will deal with this issue even during the Christmas break. We are ready to deal with this matter.

It is now my pleasant duty, pursuant to Standing Order 232 to table the report of the Standing Committees of Labour and Social Welfare in relation to the Petition concerning the alleged Non-Payment of Salaries for Support Staff by the County Government of Nandi.

I urge petitioners in future not to forum shop. If a matter has been brought to the Senate, they should let the Senate deal with it. They should not bring a matter to the Senate and then go to court the next day. If they have confidence in the Senate, they should allow us to deal with the matter expeditiously, meticulously with alacrity and pomp as the Senate is known to do.

Mr. Speaker Sir, I thank you.

The Speaker (Hon. Lusaka): Sen. Cherargei, what is your point of order? I thought Sen. Sakaja has concluded very well.

Sen. Cherargei: Mr. Speaker, Sir, since Sen. Sakaja has shown interest in working during the festive season or during Christmas, it has to be noted that the employees have not been paid since November 2019. I request that even during the recess period, essential services such as the ones offered by the Committee on Labour and Social Welfare should be active and allow us to proceed with this matter to conclusion.

The Committee handled a similar issue in Wajir County and everybody was happy with the outcome. I would like the Committee to replicate the same in Nandi County so that we can also be happy. The best Christmas gift that the Committee and the Senate can give to the employees of Nandi County is ensuring that they are paid their dues owed to them by the Nandi county Government.

I thank you, Mr. Speaker, Sir.

IMPLEMENTATION OF THE PREVENTION, PROTECTION AND ASSISTANCE
TO IDPs AND AFFECTED COMMUNITIES ACT, 2012

The Speaker (Hon. Lusaka): Hon. Senators, I hereby report that a Petition has been submitted through the Clerk by Mr. Patrick Githinji and five other members of the National IDPs Network Kenya concerning attempted repeal of the Prevention, Protection and Assistance to IDPs and Affected Communities Act, 2012.

As you aware, Article 119 (1) of the Constitution states that: -

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

The salient issues raised in the said petition are that: -

In November 2010, Kenya established a Parliamentary Select Committee on the resettlement of the IDPs whose mandates included preparing a draft Bill on forced displacement of persons. The committee prepared the Bill and presented it to Parliament where it was passed and assented to by the then President on 31st December 2012. The Act provided on how issued relating to IDPs would be addressed.

THAT, the said Act established the National Consultative Co-ordination Committee on IDPs, a multi-sectoral committee whose mandate was to deal with all matters pertaining to IDPs.

THAT, the Government through Legal Gazette Notice No.84048405 of November, 2014, constituted the Committee and its Secretariat and thereafter the Committee began its work in April, 2015.

THAT, the Committee's operations were frustrated before it could finish its term of office and was finally dismantled and the Secretariat withdrawn which led to its operations stopping indefinitely.

THAT, the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012 is as good as repealed since all operations of the National Consultative Coordination Committee halted three years ago and their offices were closed indefinitely.

THAT, the IDPs continue to suffer due to lack of operationalization of their aforementioned Act which was enacted to protect and assist IDPS within Kenya's borders.

THAT, the IDPs budget has been factored into the national budget over time since the financial year 2008 to 2016 where lands were bought for IDPS but majority of their lands have never been allocated to IDPs and the IDPS have also never been compensated due to lack of compliance with the existing laws on IDPS.

THAT, the Petitioners have made the best efforts to have this matter addressed by the Ministry of Interior and Coordination of National Government, the Attorney General and the Ministry of Devolution and ASALS with not success

THAT, the petitioners, therefore, pray that the Senate intervenes in this matter with a view to ensuring that the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012 is operationalized and implemented in order for issues pertaining to IDPs be resolved in accordance with the provisions of this Act.

Hon. Senators, pursuant to Standing Order No. 231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I rise first to bring to your attention that this Senate has a question I raised more than six months ago on that Committee. A Statement is pending before the Committee on National Security Defense and Foreign Relations on the formation of that Committee which would have led to the settlement of IDPs.

Would I be in order to propose that you seek clarification from the Committee on National Security Defense and Foreign Relations on why they have not addressed this issue particularly? Is it because they are afraid of CS Dr. Matiangi, answering that question because the docket is placed directly under him?

Sen. Cheragei: I thank the petitioners for having faith in the Senate to address this. This comes at the backdrop where we were looking at the drama and machismo of the Director of Criminal Investigations (DCI) George Kinoti trying to address and record statements from victims of the post-election violence of the 2007-2008 General Election.

It was sad that he was targeting to take statements from only one region; the North Rift, and yet the post-election violence happened across the country. We saw the President saying he was not aware of the same.

We have to appreciate there are many IDPs either created by post-election violence or state agencies. We remember there are so many squatters that have been

evicted even from Mau and other forests. In Nandi, there are so many evictees in a place called Seroginik in Nandi Sub-County and others in Mosop Sub-County.

Some people want to repeal the protection and the laws that protect these IDPs. It is so sad because want justice for them. There were allegations that face the Ministry of Interior and Coordination of National Government since this issue of compensation to IDPs in terms of giving them money, land and building their homes is concerned.

It is so sad that the concerned Committee has failed to summon the CS for Interior and Coordination of National Government, Dr. Matiang'i to answer some of these questions. If there is the intention of repealing that law than it is very unfortunate for the country.

As we talk about historical injustices which is why some of us have been cautious about the BBI because it has nothing to do with addressing historical injustices. We were with Sen. Mutula Kilonzo Jnr. and he was horrified when we were in Kericho listening to land historical injustices.

The real problem in this country is that we have State-created squatters, evictees and IDPs because of land-related historical injustices.

I hope that going forward the concerned Committee will be able to task the Ministry of Interior and Coordination of National Government, the Government so that these people are protected. We do not want the IDPs to be used for political expediency the way the DCI George Kinoti was trying to dramatize at the DCI headquarters. We want this matter to be addressed within the legal realm and proper structures. It should have a human face and be given proper compensation in money.

I hope this matter will be put to rest not only for IDPs that were caused by the post-election violence, but also the individuals that have been evicted by Government agencies from their lands that were owned by their ancestors. In Nandi and Kericho counties, many people are living as squalors as a result of the multi-nationals yet their forefathers were buried in some of those lands that the multi-nationals occupy today.

I hope the concerned Ministry will address this issue, once and for all.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.232(1), the Petition stands committed to the relevant Standing Committee for its consideration. In this case, I direct that the Petition be committed to the Committee on National Security, Defense and Foreign Relations.

In terms of Standing Order 232(2), the Committee is required in not more than 60 calendar days from the time of reading the prayer to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

I thank you.

Next Order.

PAPER LAID

REPORTS ON FINANCIAL STATEMENTS OF VARIOUS COUNTIES, AGENCIES AND FUNDS

The Speaker (Hon. Lusaka): Proceed, the Deputy Senate Majority Leader.

Sen. Dullo: Mr. Speaker Sir, I beg to lay the following Papers on the Table of the Senate today, Tuesday 1st December, 2020-

- (1) Report of the Auditor General on the financial statement of the County Assembly of Baringo for the year ended 30th June, 2019.
- (2) Report of the Auditor General on the financial statement of the County Executive of Baringo for the year ended 30th June, 2019.
- (3) Report of the Auditor General on the financial statement of Bungoma County Executive for the year ended 30th June, 2019.
- (4) Report of the Auditor General on the financial statement of Trans Nzoia County Executive for the year ended 30th June, 2019.
- (5) Report of the Auditor General on the financial statement of the County Assembly of Trans Nzoia for the year ended 30th June, 2019.
- (6) Report of the Auditor General on the financial statement of Lamu County Executive for the year ended 30th June, 2019.
- (7) Report of the Auditor General on the financial statement of Lamu County Assembly for the year ended 30th June, 2019.
- (8) Report of the Auditor General on the financial statement of County Assembly of Bungoma for the year ended 30th June, 2019.
- (9) Report of Parliament on all new loans contracted by the Government.

(Sen. Dullo laid the Document on the Table)

The Speaker (Hon. Lusaka): Next Order.

NOTICE OF MOTION

PROVISION OF MONTHLY STIPEND AND OTHER SUPPORT SERVICES TO CANCER PATIENTS IN IDENTIFIED COUNTY HOSPITALS

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, I beg to give notice of the following Motion-

AWARE THAT, in Kenya, cancer is estimated to be the third leading cause of death after infectious and cardio-vascular diseases, with the annual incidence of cancer closing in on 37,000 new cases with an annual mortality of 28,000;

FURTHER AWARE THAT, the economic impact of cancer is significant, and is increasing with staggering consequences occasioned by increased medical costs, lost income, and the financial, physical and emotional burden placed on families and caregivers during treatment time;

ACKNOWLEDGING THAT, while Kenya is among the state parties that signed and ratified the Abuja Declaration that affirmed that state parties shall set aside at least 15 per cent of their annual budgets to improve the health sector, and that Article 43(1)(a) of the Constitution of Kenya states that everyone has a right to the highest attainable standards of health;

NOTING THAT, the Mission of the Ministry of Health National Cancer Control Strategy 2016-2020 is to implement a coordinated and responsive cancer control framework that leads to the reduction in

incidence, morbidity and mortality through effective partnerships for collaborations for prevention, diagnostics, treatment, palliation and financing of cancer control activities to improve wellbeing of Kenyans;

CONCERNED THAT gaps in the existing legislative framework such as discriminatory practices in the form of coverage limits and bureaucracies by the National Health Insurance Fund (NHIF) and private insurance firms that result in delayed diagnosis, incomplete cancer treatments and inadequate follow-ups that contribute to poor outcomes for cancer patients;

NOW THEREFORE, the Senate calls upon the Ministry of Health in partnership with the Council of Governors to:

- 1) incorporate county cancer support services in their annual development plan;
- 2) partner with stakeholders to create support including counseling services; and,
- 3) provide cancer patients with free prescriptions, wigs for those who have lost their hair, improvised breasts where applicable, and a subsidy for prostheses.

STATEMENTS

The Speaker (Hon. Lusaka): Sen. (Dr.) Ali, kindly proceed. I will not allow riders.

INCREASED INCIDENTS OF ABDUCTION AND DISAPPEARANCE OF MEMBERS OF THE PUBLIC IN WAJIR COUNTY

Sen. (Dr.) Ali: Thank you, Mr. Speaker, Sir, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding increased incidents of abduction.

This is the third or fourth time I am rising on the same issue of disappearance of members of the public in Wajir County.

In the Statement, the Committee should-

(1) State measures whether the Ministry of Interior and Coordination of National Government has put in place an effort to investigate the whereabouts of Mr. Ali Mohamed Yussuf Sheikh (ID. No.20170961) who hails from Sire Location in Korondinle Division of Wajir County, who was abducted on 14th November, 2020 in Barwaqo, Wajir Town by alleged Government security agents; and

(2) Outline measures the Government is putting in place to deal with security personnel involved in abductions and extra judicial killing of innocent citizens with the aim of ensuring justice is served to the victims.

Mr. Speaker, Sir, this is becoming a routine in Wajir. People are abducted from their houses with vehicles full of security agents. They are not asked questions. They are just thrown into the vehicles and then disappear.

From 14th of November, 2020, to date nobody knows the whereabouts of this Sheikh. This is an old man who is over 65 years old. He came from over 200 kilometres

from Wajir Town, at a location bordering Ethiopia. When he came to Wajir Town to visit some relatives, he was abducted.

I would want the Committee to look into this issue. The last time I came with the same issue, we waited for two to three weeks before the Committee answered that questions after someone was harassed, interrogated, locked in and released without any charges.

This is a very sad issue. I urge the Committee to look into this matter.

The Speaker (Hon. Lusaka): Sen. Halake, kindly, proceed.

Sen. Halake: Thank you, Mr. Speaker, Sir, are you allowing me to contribute to Sen. (Dr.) Ali's Statement or I have to go on with mine?

The Speaker (Hon. Lusaka): Proceed with your Statement.

REFUSAL BY INSURANCE COMPANIES TO COVER
PATIENTS AFFECTED BY COVID-19

Sen. Halake: Mr. Speaker, Sir, I rise pursuant to Standing Order No.47 (1) to make a Statement on a matter of national concern, namely the alleged refusal by insurance companies to widen the scope of hospital coverage for patients infected by COVID-19 beyond designated Government facilities.

Article 43 (1) (a) of the Constitution provides that every person has the right to the highest attainable standard of health which includes the right to healthcare services.

The COVID-19 pandemic is a defining global health crisis of our time, has continued to ravage the country. The pandemic is now in its second wave, which has proved to be more lethal than the first wave.

Regrettably, insurance companies have been reported to be frustrating patients by failing to honour claims from private hospitals. Indeed, these companies, including the National Hospital Insurance Fund (NHIF) are said to have withdrawn their covers on treatment of COVID-19 patients.

Mr. Speaker, Sir, as a rider, I would like to congratulate the Chief Executive Officer (CEO) who has tried in cases where Members of Parliament have intervened. He has tried to do his best, but we need to know what the policy is at that level.

Most insurance companies have insisted on COVID-19 patients only availing themselves to services at designated Government facilities leading to the said hospitals becoming overwhelmed and being forced to turn away patients.

Further, instances have been reported of patients being forced to meet the full cost of their treatment from their meagre personal resources. This has really caused them a lot. The treatment is becoming out of reach for most of them.

This has resulted in patients not being able to access proper medical attention and might be a contributing factor to the increased deaths that we are witnessing around the country.

Mr. Speaker, Sir, recently, it was reported in the news that insurance premiums in Kenya have increased by 3.2 per cent in the second quarter of the year 2020 to Kshs121 billion up from Kshs117.28 billion, reported in the same period last year.

This means that the insurance industry is raking in profits while greedily neglecting a pandemic. When we were in the Committee on COVID-19, we had appealed that the population be given support.

Mr. Speaker, Sir, companies have continued to pay millions to the sector to have their workers covered. Insurance companies are refusing to cover COVID-19 patients. Why are they accepting the premiums from companies when they are turning away patients? Of what essence is insurance cover if it cannot come through for the clients at their hour of need, especially during this pandemic?

While it may be a tall order to require them to cover all costs, the insurance companies may consider putting a threshold to reduce the patients' burden. They are not doing that.

It is for the above reasons that I wish to draw the attention of the Senate to this matter and urge the Ministry of Health, the Insurance Regulatory Authority (IRA) and the Association of Kenya Insurers (AKI), to put in place measures to ensure the insurance companies are prevailed upon to widen the scope of coverage to allow their clients get access to proper medical treatment should they be diagnosed with COVID-19 disease.

I have asked this under Standing Order No. 47 (1), because this is becoming an issue. This is because as Members of Parliament, we now have to run from office to office and harambee to harambee to take care of COVID-19 patients.

I hope the Senate will take cognizant of this and take action.

I thank you.

TRAFFICKING OF CHILDREN BY HOSPITAL OFFICIALS

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, I rise pursuant to Standing Order No.47(1) to make a Statement of general topical concern, namely, the illegal practice of trafficking of children allegedly by unscrupulous hospital officials.

Mr. Speaker, Sir, it is painful and regrettable that there is an ongoing trend of child trafficking in parts of our country. A recent case of baby trafficking has been going viral not only in social media, but also in the mainstream media as reported on Page 8 of the *Daily Nation* of 20th November 2020 and on Royal Media Services, *Citizen* television news on the same date.

A news feature by the BBC News on 16th November 2020 unearthed a child trafficking syndicate that took place at Mama Lucy Kibaki Hospital whereby hospital officials were alleged to have sold babies for between Kshs100,000 to Kshs300,000.

The information was allegedly authenticated via a video depicting a hospital worker selling a child who had been abandoned at the hospital. The worker is said to have given out three babies in exchange for money.

According to an Inspector of Police based at Embakasi police station, babies are mostly trafficked within Umoja and Embakasi areas. It was reported that two of the three trafficked babies were found at Imani children's home.

There was also a case of a young street girl that went viral on social media and *BBC News*. The street girl expressed frustration and helplessness after her baby was stolen and probably given away. Allow me to quote the girl who said, "*Hata kama niko kwa streets sijashindwa kulea*", meaning, even if I am on the streets, I am not unable to raise my baby.

Mr. Speaker, Sir, there are instances where the media has depicted situations where mothers have claimed that they had been told that their babies had died shortly upon delivery. In some cases, they were shown a dead baby or none.

In Kenya, at one time, a bishop claimed to have had powers of performing miracles of affording barren women children. His church was full to the brim because of his manipulative actions. It was later discovered that he was involved in a child trafficking syndicate.

He was accused of stealing five babies between 1999 and 2004. His matter was investigated both in Kenya and in the UK. Upon the bishop's return to Kenya, he was freed on a Kshs10 million bond. Despite his heinous acts, he still got a lot of media coverage and won the admiration of his fellow bishops.

Children are trafficked for various reasons, some of which are exploitation, forced labour, recruitment into gangs, warfare, slavery and other economic purposes.

Children are the most vulnerable members of our society. They are vulnerable to malnutrition, physical and psychological malpractices and they rely on adults to enforce their human rights. It is unfortunate and ironic that the same adults who ought to help in realising children's rights as human beings are the same ones who are unjust and are at the frontline of flouting these rights.

Mr. Speaker, Sir, there are various international legal instruments concerning the rights of children dating as far back as 1921, for instance, the International Convention for the Suppression of Traffic in Women and Children.

Further, Kenya is a signatory to the United Nations Convention of the Rights of Children, which has the most comprehensive statement of children's rights and the first to give these rights the force of international law.

The salient tenets of the convention of the rights of children are enshrined in Article 53(1(a) to (f) and (2)) of the Constitution of Kenya. Child trafficking infringes on these rights. It denies the child opportunity to obtain his or her rights in keeping with the wishes of their legal or biological parents.

Another international instrument worth mentioning regarding children is the Universal Declaration of Human Rights Article 25(2), which states: "Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock shall enjoy the same social protection."

In this context, it is callous, uncouth, barbaric, and unpolished to deny a woman her right to motherhood and the child his or her right to be with a willing biological parent.

I take this opportunity to express my utmost compassion and empathy to all men and women who have gone through the painful ordeal of being denied their rights to parenthood that may have been caused by child trafficking.

I call upon the relevant Ministry to make a thorough investigation and interrogation into the acts of child trafficking that have happened at Mama Lucy Kibaki Hospital and elsewhere. I equally call upon the Ministry concerned with the adoption of children to investigate the legal status of children at Imani Children's Home as well as other children's homes involved in similar activities.

If found culpable, perpetrators of this heinous act should be brought to account in order to flatten the curve of child trafficking.

Finally, I want to call upon people interested in adopting children to follow the legal procedure in doing so rather than using the shorter route that is not only illegal but also undesirable.

Thank you, Mr. Speaker, Sir.

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

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

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. (Dr.) Musuruve, thank you for that very elaborate Statement.

The next Statement is from Sen. (Dr.) Mbito.

Sen. (Dr.) Mbito is absent, so we will move to the---

Sen. Were: Madam Deputy Speaker, I had indicated that Sen. (Dr.) Mbito left instructions that I read the Statement on his behalf.

The Deputy Speaker (Sen. (Prof.) Kamar): Go ahead and read the Statement.

GLOBAL EFFORTS TO ERADICATE CERVICAL CANCER

Sen. Were: Thank you, Madam Deputy Speaker. I make this Statement on behalf of Sen. (Dr.) Mbito who is not able to be here. The Statement is on the redoubling of global efforts to eradicate cervical cancer.

I rise pursuant to Standing Order No.47 (1) to make a Statement on an issue of general topical concern, namely, redoubling of global efforts to beat cervical cancer.

Cervical cancer is a preventable and a curable disease, as long as it is detected early and managed effectively. It is the fourth most common form of cancer among women worldwide and the most common cancer among women living with HIV, who are six times as likely to develop cervical cancer.

During the 73rd Annual World Health Assembly (WHA), which was held remotely in August 2020, 194 countries adopted a new global strategy to accelerate the elimination of cervical cancer across the globe.

The strategy of elimination rests on three main pillars, namely, prevention through vaccination, screening, and treatment of precancerous lesions, and treatment and palliative care for invasive cervical cancer.

Further, a set of targets or milestones was recommended that each country should meet by the year 2030 to get on the path to eliminate cervical cancer within the century, including ensuring that 90 per cent of girls are fully vaccinated with the Human Papilloma Virus (HPV) vaccine by the age of 15; that 70 per cent of women are screened using high-performance test by the age of 35 and to be screened again by the age of 45; and that 90 per cent of women identified with cervical disease, receive treatment.

Madam Deputy Speaker, 90 per cent of women with pre cancer are treated and in 90 per cent of women diagnosed with invasive cancer, it is managed.

Cervical cancer is currently the most common cancer among women in Kenya aged 15 to 44 years and the leading cause of cancer related deaths among women in the country.

Model comparisons from 2020 to 2040 estimate that scaling up of screening and treatment services in the country could avert 28,000 cases of cervical cancer and 7,700 deaths.

For Kenya to realize rapid elimination of cervical cancer, all stakeholders in the country must play their part. The Government through the Ministry of Health should ensure that pre-cancer screening and treatment is available, accessible and affordable.

The establishment of 10 county chemotherapy centers and construction of radiotherapy centers in Mombasa, Nakuru and Garissa regional cancer centers is laudable. However, capacity-building efforts to ensure provision of safe chemotherapy services by the Ministry of Health will improve cancer services as well as get through to more women.

As it stands, the services have only managed to reach 16.4 per cent of the targeted women population. The benefits of these services will only be fully realized if and when they are embedded in the Universal Health Care plan and the cost covered by health insurance schemes.

While this may look like an onerous task, the time for action is now. Kenya should strive to be among the first countries to implement the World Health Assembly Strategy and eliminate cervical cancer within its borders.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you Senator. The next set of Statements are pursuant to Standing Order No.48 (1). The ruling of the Speaker stands; I will allow ventilation when we reach Statement No.12, which addresses the Committee of Health because of a request put forward earlier.

As for the rest, there will be no joying riding. The first one is a Statement from Sen. (Dr.) Mbitio who is absent. The second one is by Sen. Were.

Sen. Were: Thank you, Madam Deputy. I have been informed with your indulgence that there is another Statement by Sen. (Dr.) Mbitio under Statement 47 (1) which was to be read by Sen. (Dr.) Ali, who has stepped out. If you could allow, I could read the Statement before the other one under Standing Order No.48.

The Deputy Speaker (Sen. (Prof.) Kamar): Why do you not read yours first, and then when Sen. (Dr.) Ali comes, he will continue. I will give him a chance.

PROTECTION OF LOCAL INVESTORS IN MULTI-NATIONAL COMPANIES IN KENYA

Sen. Were: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No. 48 (1) to seek a Statement from the Standing Committee on Tourism, Trade and Industrialization on the protection of local investors in multi-national companies in Kenya with a case example of Sportpesa Global Holdings, Limited.

In the Statement, the Committee Should-

(i) Provide accurate and updated details on the ownership of Sportpesa, including a list of the local investors as required by law.

(ii) Provide a comprehensive list of sports betting companies registered by the Betting Control and Licensing Board and those that are currently operating.

(iii) Outline what Government measures are in place to protect and cushion local investors in multinational companies from adverse global shocks.

(iv) Report the effects of rampant betting among the youth in Kenya and what the Government is doing to address its negative effects.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you Senator. The next Statement is by the Senator of Lamu County, Sen. Loitiptip. Are you there?

Sen. Faki: Madam Deputy Speaker, I want to read the Statement on behalf of the Senator for Lamu.

The Deputy Speaker (Sen. (Prof.) Kamar): Okay. What is your point of order Sen. Sakaja?

Sen. Sakaja: Madam Deputy Speaker. When a Member is not there, another Member does not read their Statement casually. There has to be a written communication from the Member who had the Statement, stating that they requested someone else to read it for them.

My point of order substantively was on the Statement requested by Sen. Were, which was discussed at the Senate House Business Committee, about being wrongly directed.

In the Order Paper, it is directed to the Committee on Labor and Social Welfare. It was wrongfully directed to the Committee on Trade, Tourism and Industrialization. If you consult with your clerks, they will alert you on where it should go for the record.

The Deputy Speaker (Sen. (Prof.) Kamar): The Statement has been directed to the Committee on Labor and Social Welfare.

Sen. Sakaja: Madam Deputy Speaker, what she read out was different, which is what I was drawing your attention to. I know Sen. Omanga from my delegation had taken your attention. What she requested is different from what you are directing. The clarity is important.

The Deputy Speaker (Sen. (Prof.) Kamar): Okay, noted. I will come back to that. I want the Senator to be comfortable that we have those communications, and that is why we are allowing the Statements to be read. The one we did not have communication is number one from Sen. (Dr.) Mbito. That is why we want the right person who was given the opportunity to read.

Sen. Faki, proceed.

Sen. Faki: Thank you, Madam Deputy Speaker, Sir. I want to clarify that in this era of electronic gadgets, communication with the Senator may also be on *WhatsApp* or by message. Sen. Sakaja, look at the Constitution.

HARASSMENT OF CYBER AND MOVIE SHOP OWNERS IN LAMU COUNTY

Madam Deputy Speaker, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on National Security, Defense and Foreign Relations, concerning the frequent harassment of cyber and movie shop owners in Lamu County.

In the Statement the Committee should-

(i) Clarify whether there is an ongoing operation by the Kenya Copyright Board in Lamu County to enforce the Copyright Act.

(ii) Explain why some persons purporting to be Kenya Copyright Board enforcers are arresting innocent civilians in Lamu County in the name of fighting copyright infringement and in the process fighting for bribes in order to release those alleged to be infringing the Copyright Act.

(iii) State the measures put in place by the Government to ensure that young entrepreneurs such as cyber and movie shop owners carry out their enterprise in a peaceful environment without fear of intimidation from rogue officers.

Thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you Senator. The next one is by Sen. Kwamboka.

STATUS OF ROAD SAFETY

Sen. Kwamboka: Thank you, Madam Deputy Speaker. I rise pursuant to Standing order No.48 (1) to seek a Statement from the Standing Committee on Roads and Transportation, regarding the safety on our roads.

In the Statement the Committee should-

(i) State how safe roads across the country are for motorcyclists, pedestrians and other road users in view of the United Nations resolutions on improving global road safety.

(ii) Outline the plans the Ministry and other relevant authorities have put in place to ensure that motorcyclists strictly follow traffic rules.

(iii) Enumerate the actions being taken by the Ministry to ensure there is peaceful coexistence among drivers, motorcyclists and pedestrians on our roads.

(iv) Elucidate the effectiveness of relevant authorities in ensuring that traffic offenders are strictly dealt with to mitigate normalization of traffic offences.

Thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you Senator.

The next Statement is again from Sen. Kwamboka. Please, read your second Statement.

STATUS OF FUNDS ALLOCATED TO COUNTY GOVERNMENTS
TO AID IN THE FIGHT AGAINST COVID-19 PANDEMIC

Sen. Kwamboka: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Health regarding the status of funds received by the Government as donations from the international community to help in the fight against the Coronavirus Disease (COVID-19) pandemic.

In the Statement, the Committee should-

(1) Explain whether the National Emergency Response Committee on COVID-19 has been operating effectively and efficiently.

(2) Explain how the funds donated to the Government to fight COVID-19 have been utilized from March 2020 to date.

(3) Expound on the steps the Ministry intends to make to ensure that enough masks are available in learning institutions, and to other frontline workers as and when required.

(4) Elucidate the actions being taken by the Ministry to ensure that guidelines on COVID-19 prevention protocols with regards to handwashing and social distancing are observed by all employees and pupils/students in our learning institutions.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): The next Statement is by Sen. (Dr.) Mwaura. He is not here.

IMPLEMENTATION OF THE GUIDELINES ON RETIREMENT
AGE FOR PUBLIC SERVANTS WITH DISABILITIES

(Statement deferred)

The next one is still by Sen. (Dr.) Mwaura. He is not here.

STATE INTERVENTIONS TO CUSHION PERSONS
WITH DEVELOPMENTAL DISABILITIES

(Statement deferred)

The next one is by the Sen. Khaniri.

QUALITY OF THE NEW GENERATION CURRENCY NOTES

Sen. Khaniri: Thank you, Madam Deputy Speaker, for the opportunity. I rise pursuant to the provisions of Standing Order No.48 (1) to seek a Statement from Standing Committee on Finance and Budget regarding the quality of the new generation currency notes currently in circulation.

In the Statement, the Committee should-

(1) Report on the quality of the new generation currency notes as compared to the old generation currency notes.

(2) Explain the cause for the poor durability of the new generation currency notes, especially the Kshs50 bill note.

(3) Give a comparative assessment of the printing costs of the new generation currency notes in relation to the old generation currency notes.

(4) State security measures put in place to curb proliferation of fake new currency notes following reports of the same being in circulation.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Statement (x) is back for further consultations. So, the next one is again by Sen. Kwamboka.

ARREST OF UNDERAGE CHILDREN ENGAGING IN ALCOHOL
AND NARCOTICS ABUSE IN NAIROBI COUNTY

Sen. Kwamboka: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations concerning under age children arrested while taking alcohol and narcotics at parties in different estates within Nairobi City County.

In the Statement, the Committee should-

(1) Explain the physical and emotional status of the arrested children when in police custody.

(2) Explain whether the owners of the houses where the children were found partying and partaking in consumption of alcohol and narcotics are in custody, and whether charges will be pressed against them.

(3) Enumerate the actions being taken by the Ministry to ensure that such kind of parties involving children do not take place without the knowledge or presence of their parents.

(4) Elucidate on the actions being taken by the relevant authorities to ensure that any adult caught either participating or promoting unauthorized parties bringing together under aged children face the full force of the law expeditiously.

Thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): The next Statement is by Sen. Were.

STATUS OF PAN AFRICAN PAPER MILLS (E. A.) LTD

Sen. Were: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Tourism, Trade and Industrialization on the status of Pan African Paper Mills Ltd., now renamed Rai Paper Mills.

In the Statement, the Committee should-

(1) State what role the Ministry of Industrialization, Trade and Enterprise played in the privatization process and the sale to Rai Group.

(2) Provide information as to whether the former employees of the factory received the three-month *ex gratia* salary from the Government as directed by the President

(3) Explain why the factory is yet to be fully operational.

(4) Recommend to the Government further economic initiatives that can be undertaken in Webuye Town to support the resident in the event that the factory cannot be fully revived.

Thank you.

Sen. Wetangula: On a point of order, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): What is your point of order, Sen. Wetangula?

Sen. Wetangula: Madam Deputy Speaker, I know that you have already directed that there will be no comments on Statements, but this particular Statement is from my county.

The Deputy Speaker (Sen. (Prof.) Kamar): Senator, you are out of order. I have said that I am going to allow room for comments on the Committee on Health because they are meeting on Monday.

Sen. Wetangula: Madam Deputy Speaker, I have not finished my request.

The Deputy Speaker (Sen. (Prof.) Kamar): Please, let us allow the ruling that the Speaker gave to stand. You are a very senior Senator, and we do not want you to break the law.

Sen. Wetangula: Madam Deputy Speaker, give me two minutes. It is out of my seniority that I am begging you.

The Deputy Speaker (Sen. (Prof.) Kamar): Now you are begging in front of Members.

Sen. Wetangula: In front of the cameras. The whole country wants to know the generosity or otherwise of the Senator for Uasin Gishu.

The Deputy Speaker (Sen. (Prof.) Kamar): I will give you two minutes because the Members seem to be nodding at you. So, it is not me, but the Members.

Sen. Wetangula: Madam Deputy Speaker, I thank Sen. Were. I wish she had shared with me this Statement, because it is something very close to my heart. Pan African Paper Mills in Webuye, with assets worth over Kshs20 billion was sold at a pittance to Rai Paper Mills at Kshs900 million.

These properties include prestigious houses in Muthaiga in Nairobi, the entire real estate of Webuye Town, thousands of acres of forest land in the Rift Valley region and parts of the Western region in Lugari.

I would want the Committee looking at this matter to tell this House who valued the assets of Pan African Paper Mills before the sale. Who negotiated the sale, signed the sale agreement, and was any money paid under the table to any individuals in the process of this sale?

Lastly, give a clear account of all employees of Pan African Paper Mills, who now live in absolute squalor in Webuye Town. Some are living by the roadside and their children cannot go to school or pay their medical bills, because the new owners of Pan African Paper Factory, now called Rai Paper, disclaimed any responsibility whatsoever in relation to the employees of the Pan African Paper Mills.

Madam Deputy Speaker, I wish Sen. Were directed this question to the efficient Committee chaired by my distinguished nephew, the Senator of Nairobi County, because it deals with personal emoluments, benefits and problems suffered by employees of the Pan African Paper Mills (E. A.) Ltd., because of an act and omission of an uncaring Government.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. Wetangula. You are the Senator of the area that is why I gave you more time. It was resolved in the Senate Business Committee that whoever is on the Chair should give area Senators a chance to speak whenever an issue is brought before Plenary.

The next Statement is from the Senator of Turkana County, Sen. (Prof.) Ekal.

ATTACKS AGAINST HERDERS FROM THE TURKANA COMMUNITY IN ISIOLO AND MERU COUNTIES

Sen. (Prof.) Ekal: Madam Deputy Speaker, this is a joint Statement by Sen. Dullo and I.

I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding attacks perpetuated against herders from the Turkana community in the counties of Isiolo and Meru.

In the Statement, the Committee should -

(1) State who the perpetrators of armed attacks against herders from Turkana are in the counties of Isiolo and Meru and whether they have been brought to book;

(2) Find out and report on why herders from Turkana County are being forcibly pushed out of grazing lands that they occupy in Isiolo and Meru Counties. The said people have occupied those lands as far back as the 1900s before our country came to be. Their fore fathers have been buried on those lands and so naturally, they belong to those lands;

(3) State why over 4,000 heads of cattle belonging to Turkana herders in Isiolo and Meru Counties were confiscated by authorities and further closed the release of the confiscated animals to their owners. A cow is the heart of a Turkana person. When cows are taken away from them, they are left totally helpless. Turkanas do not grow crops or do anything else because they live on their cattle. By taking away over 4,000 head of cattle from the Turkana community, they are starving the Turkana community. That action can be equated to the putting to death of the Turkana herders in a very slow and painful manner. Cows do not know where they are. They only go after grass and water so there is no reason as to why they should be held when the owners are suffering;

(4) State measures put by the Government to guarantee the security of herders from Turkana County legally grazing their animals in neighboring counties;

(5) Explain why the on-going disarmament exercise is only targeting herders from the Turkana community thus leaving them vulnerable to attacks by herders from other communities who are still armed and further call for the recession of the disarmament exercise.

Madam Deputy Speaker, five communities live in the said area and they are all armed in their own ways. Taking away arms from a particular group and leaving the others with their arms is discrimination. The Turkanas have been left helpless and vulnerable.

They should be armed enough to protect themselves from attacks. About 14 Turkanas are said to have lost their lives this morning because they were attacked by their neighbours from the neighbouring counties and their animals driven away.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. (Prof.) Ekal, do not go into details. You will be called to appear before the Committee when the matter is brought up. We just need to hear what you expect the Committee to deal with

Sen. (Prof.) Ekal: Madam Deputy Speaker, I expect the disarmament exercise to cease because it is illegal, brutal and does not make any sense.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): The next Statement is by Sen. Kwamboka.

SECURITY ALONG THE KENYAN BORDERS

Sen. Kwamboka: Madam Deputy Speaker, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations on the issue of security along Kenyan borders.

In the Statement, the Committee should -

(1) Explain the preparedness, alertness and distribution of border patrol units along the Kenyan borders.

(2) Explain the status of the nine Kenyan citizens who were arrested and taken to hostage by Ethiopian Federal Police while on Kenyan soil.

(3) Enumerate the actions being taken by the Ministry to ensure that any Kenyan citizen arrested on Kenyan soil is returned home safe and sound.

(4) Elucidate the actions being taken by the relevant authorities to ensure that any intruder in the future will be met by full force of the law.

Madam Deputy Speaker, I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Let us go back to the first Statement by the Senator for Trans Nzoia County, which is going to be presented by Sen. Were.

FAILURE BY M/S TRIDENT INSURANCE COMPANY
LIMITED TO SETTLE CLAIMS

Sen. Were: I rise to make this Statement on behalf of the Senator for Trans Nzoia County, Sen. (Dr.) Mbitio who is not around today. The Statement is on the failure to settle claims by Trident Insurance Company Limited.

I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Tourism, Trade and Industrialization over the failure by M/S Trident Insurance Company Limited to settle claims.

In the Statement, the Committee should -

(1) Elucidate the reasons why Trident Insurance Company Limited issues postdated cheques that go as far as April 2021 for settlement of approved claims.

(2) The Committee should explain why the company is collecting premiums from clients yet they are not settling claims.

(3) The Committee should clarify whether the company is financially solvent to operate as an insurer and state the measures in place to ensure that clients get the payment of their claims accordingly.

(4) The Committee should state the measures that the Insurance Regulatory Authority (IRA) will put in place to address the problems facing such insurers and protect Kenyans from loss.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): The Senate Majority Whip is insisting that you have touched on his professional line. We can give him two minutes to say something.

Sen. Kang'ata: Madam Deputy Speaker, I have sought permission to speak on that issue which I know that Senior Counsel, Sen. Omogeni, will speak on because most lawyers do what we call 'Running down matters'

As you are aware, there are many insurance companies that underwrite third party motor vehicle insurance companies, which are now collapsing. As a result, various clients who had taken out policies with them cannot obtain redress.

However, the parties that represent those parties in court are also suffering. This is an issue that I would have opposed---

The Deputy Speaker (Sen. (Prof.) Kamar): I can see a point of order but Sen. Kang'ata is on a point of information.

Sen. Kang'ata: Madam Deputy Speaker, I would have proposed that the Statement be taken to the Committee on Justice and Legal Affairs because it raises fundamental issues of law.

I would have really liked to hear the views of other lawyers who sit on that Committee. That is a problem that not only affects M/S Trident. I know several other companies which are facing distress and that is going to have an impact on the legal profession.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. I think she is well informed and you can always invite the Member to join you. Do you have more information?

Sen. Sakaja: On a point of order, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): There is a point of order from Sen. Sakaja.

Sen. Sakaja: Madam Deputy Speaker, I thank the Majority Whip for that intervention. Would I be in order if I request that the Committee charged with this to inform the House when they are dealing with it?

This is a matter affecting very many different sectors, not just the legal profession. I have many of my transport operators in Nairobi, *matatus* and buses who have reached out to me on this issue of insurance. Some of them include Forward SACCO, MOA and Double M.

I have been talking to them and they are hurting. I request this Committee to invite me when they are dealing with it. I think I have the largest number of *matatus* among the counties. That sector has reached out. Instead of bringing another Statement, I can ride on that deliberation.

The Deputy Speaker (Sen. (Prof.) Kamar): The Committees have been very generous in inviting people. Since you were reading on behalf of Sen. (Dr.) Mbito, please, take note of Members who are able to help you by giving you more information.

Sen. Omogeni, did you have more information?

Sen. Omogeni: Madam Deputy Speaker, I just want to make a follow-up on the issue that has been raised by Sen. Kang'ata that this is a matter touching on dispensing justice to Kenyans. The insurance company is electing to settle claims arising from court orders through installments and in some cases, issuing cheques post-dated to April next year.

My view is that this is a matter that is squarely within the ambit of the Committee on Justice, Legal Affairs and Human Rights because there is no way one can dispense justice to Kenyans if they have not been able to honour court judgments especially to people who have already paid premiums to the insurance company.

The law requires that once a claim has been found to be genuine, the insurance company should promptly pay the claim.

Madam Deputy Speaker, with your permission, I propose that this is a matter that should either be dealt with by the two committees or it should be referred to the Senate Committee on Justice, Legal Affairs and Human Rights.

The Deputy Speaker (Sen. (Prof.) Kamar): I rule that we allow for further consultation on this. I think there are two Statements now that seem to border on two Committees. There is the earlier one that was supposed to go to the Senate Committee on Labour and Social Protection and this one. We will allow further consultation between the clerks and the leadership so that we can resolve that.

Sen. Wetangula, were you informing the House on the same issue? One, minute, please.

Sen. Wetangula: Madam Deputy Speaker, as a follow-up to the same Statement, we have the Insurance Regulatory Authority (IRA). When an issue such as this happens and just as the Senator of Nairobi City County has said, I have also been visited by

several operators of public transport who are foreclosed and arrested for non-payment of accident claims when they are insured.

Madam Deputy Speaker, I request you that in the interim, as the Committee prepares for further hearings on the matter, to urgently summon the management of Trident and IRA to appear even as urgently as Friday this week to tell the country what urgent remedial measures are being taken to protect innocent Kenyans who have painstakingly paid premiums to an insurance company that is not honoring its obligation.

It started like this, if you remember, with an insurance company called Access Kenya. We are now in the same boat.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Your information is well received.

Hon. Senators, I know the Statement from Sen. Iman is supposed to be coming in but I have seen a number of approvals that came after.

Proceed, Sen. Dullo

CLASHES AT HURI-GARFARSA INVOLVING COMMUNITIES
FROM ISIOLO AND GARISSA COUNTIES

Sen. Dullo: Madam Deputy Speaker, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on National Security, Defense and Foreign Relations, regarding alleged on-going armed clashes at Huri Garfarsa, involving communities from Isiolo and Garissa counties and the on-going security in Ngaremara in Isiolo County.

In the Statement, the Committee should-

(1) Investigate the cause of the recent spate of armed clashes and Huri in Isiolo county and use of excessive force in the on-going operation in Ngaremara which was launched following the death of one security officer and injury to ten others.

(2) Ascertain the number of those killed or injured in the on-going clashes in Huri.

(3) State efforts to bring operations of the clashes in Huri to book.

(4) Outline the measures the national Government is taking to end the violations of human rights in Ngaremara as well as the conflict between communities along the border between Isiolo and Garissa counties which has continued for several years.

(5) Finally make recommendations to the national Government on measures to prevent to occurrence of similar incidences.

I request your ruling on this. I have brought several Statements regarding the border dispute between Isiolo and Garissa counties. I request and would greatly appreciate if the Committee could visit the area.

The Deputy Speaker (Sen. (Prof.) Kamar): The next Statement is by Sen. Omanga. There are three Statements that are not in the Order Paper. That is the second one and the third one would be from Sen. Cherargei.

AVAILABILITY OF INTENSIVE CARE UNIT
FACILITIES COUNTRYWIDE

Sen. Omanga: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Health on the

availability of Intensive Care Unit (ICU) facilities countrywide to handle patients with severe COVID-19 symptoms and other critical illnesses.

In the Statement, the Committee should-

(1) Report on the national and county Governments' plan to set up adequate and equipped ICU facilities with oxygen and ventilators support of COVID-19 patients.

(2) Outline all measures the national and county Governments have undertaken to support health workers including recruitment of more health workers and provision of Personal Protective Equipment (PPEs).

(3) State the policy intervention by national and county Governments to increase accessibility and affordability of ICU facilities at the national, county and sub-county levels.

The Deputy Speaker (Sen. (Prof.) Kamar): The next one in that category is from Sen. Cherargei.

Sen. Cherargei: Thank you, Madam Deputy Speaker.

NON-REMITTANCE OF NHIF STATUTORY DEDUCTIONS FROM
THE STAFF OF NANDI COUNTY GOVERNMENT

Sen. Cherargei: Madam Deputy Speaker, pursuant to Standing Order No. 48 (1), I rise to seek a Statement from the Standing Committee on Health on non-remittance of statutory deductions from the staff of the County Government of Nandi County to the National Hospital Insurance Fund (NHIF) by the County Government of Nandi County.

In the statement, the Committee should-

(1) Report on the status of the NHIF deductions from the staff of the County Government of Nandi County and subsequent remittance to NHIF;

(2) State why the County Government of Nandi County failed to remit the NHIF deductions despite deducting the same from the staff, and what action has been taken against the staff responsible for this failure;

(3) Provide information on the NHIF coverage for COVID-19 patients in line with the presidential directive to NHIF to cover COVID-19 patients; and

(4) Explain what measures, if any, the Ministry of Health has undertaken to mitigate against such incidences where county governments do not remit statutory deductions so as to avert a health crisis, especially during this period of the COVID-19 Pandemic.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. The next Statement is from Sen. Falhada Iman.

ALLEGED RISE IN CASES OF MEDICAL
NEGLIGENCE AND MALPRACTICE

Sen. Iman: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No.48 (1) to request for a Statement from the Standing Committee on Health regarding the rising cases of medical negligence and malpractice.

In the Statement, the Committee should-

(1) Explain circumstances that led medics at Kapkatet Sub-county Hospital to declare Mr. Peter Kigen, a resident of Bureti Constituency dead and thereafter transferring his body to the hospital's mortuary for preservation only for the patient to be found still alive during embalming.

(2) State actions, if any, taken against medical staff at the Kapkatet Sub-county Hospital who failed to properly ascertain the patient's vital signs before erroneously declaring him dead.

(3) Spell out measures put in place by the Ministry of Health and medical professional bodies to stem out medical negligence and malpractice and ensure culprits are brought to book.

(4) State the functionality of mechanism, if any, set in place for reporting of cases of medical negligence to the Ministry of Health and medical profession bodies by hospitals and the public in order to ensure such cases are not under reported.

(4) Advise whether there is need to review penalties associated with the medical negligence and malpractice in the view of making them tougher and deterrence against increase of such cases.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. Iman Falhada. Sen. Sakaja, kindly, proceed. As I said, I will allow a few interventions.

Sen. Sakaja: On this one?

The Deputy Speaker (Sen. (Prof.) Kamar): Yes.

Sen. Sakaja: Thank you, Madam Deputy Speaker. Pursuant to Standing Order No.48 (1), I rise to seek a Statement---

The Deputy Speaker (Sen. (Prof.) Kamar): Sorry. It was interventions on Sen. Falhada's Statement before we go for your Statement. I thought you were asking for that. This is because we wanted to discuss the strike of medics in the country. I thought you were the first one who wanted to---

Sen. Sakaja: On that, I can make that intervention---

(Laughter)

I had raised that earlier in the Senate Business Committee.

Madam Deputy Speaker, I realize that we no longer have a Committee on COVID-19 and the cases have spiked. The Committee on Health has full mandate on health issues.

Earlier on, their performance was not good, but they have pulled up their socks. We have confidence. We can see some remnants of the past. Like today, you spoke about Cancer instead of World AIDS Day. World AIDS Day is on 1st December. As a Committee, you should have given us a Statement on HIV/AIDS.

Madam Deputy Speaker, as we move ahead, during this time, especially since we are going on recess, we would like to urge that the Committee on Health remains very vigilant and that they continue with their work through Christmas just like the Committee Labour and Social Welfare will.

Secondly, we are staring at a crisis. The Kenya Medical Practitioners and Dentists Union (KMPDU) has said they are going on a nationwide strike on Monday. The Committee on Health of the Senate, I saw that they issued recommendations with respect

to Health Service Commission, but they have not put it in paper. They should be front and centre to avert this crisis.

Madam Deputy Speaker, health is devolved. Sometimes the National Assembly Committee on Health tries to usurp the role of the Senate Committee on Health.

If we do not do anything today, we are going to lose lives starting next week. I urge the Committee to truly burn the midnight oil all this week to sit down with the KMPDU who are our friends.

Instead of shedding tears in front of the Television (TV), the Committee on Health should intervene before Monday. We do not want and we cannot afford a strike of our medics. This involves the nurses and clinical officers.

In Nairobi, for example, I know what the crisis would mean. As it is, all facilities in Nairobi are strained. Today, if you have a sick person, there is no space to admit him or her. There is no space in Intensive Care Unit (ICU). Imagine how this will be exacerbated with a strike.

I know we will not be here from today, but the Chairperson or the Members of the Committee on Health, Sen. Olekina, Sen. Kwamboka, Sen. Omanga are here, please, on behalf of my 4.3 million people of Nairobi, we are looking up to you to make sure that the people of Nairobi do not miss health services. I am sure the people of all other counties badly need you to intervene.

Thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Hon. Senators, I want to plead with you to speak for two minutes each. The reason being that we still have two Statements; one from Nairobi County and one on the World AIDS Day. It will be read by Sen. Seneta.

Sen. Shiyonga, kindly, proceed.

Sen. Shiyonga: Thank you, Madam Deputy Speaker, for giving me this opportunity to ride on Sen. Omanga's Statement on the ICU facilities---

(Loud consultations)

Hon. Senators are not keen on what I am talking about. They need to listen to me. I am supporting the Statement by Sen. Omanga. Later on, I will support the Statement by Sen. Falhada.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Shiyonga, I do not want your two minutes to be wasted. If you want to use one minute on Sen. Omanga's Statement and another minute on Sen. Falhada's Statement, I will allow it because they are related.

Sen. Shiyonga: Thank you, Madam Deputy Speaker, I would like to start with Sen. Omanga's Statement. The ICU facilities in our hospitals are critical. The counties should handle the money they were given with care and provide the necessary ICU facilities, especially during COVID-19.

On Sen. Falhada's Statement, our medical practitioners or personnel have become very ignorant when it comes to deciding between a person who is dead and alive. You can imagine waking and getting yourself in a morgue, that you are dead and next time you are breathing.

It is very unfortunate that the man from Kapkatet was taken to the morgue while he was still alive. Whoever declared that patient dead while he was still alive, action must be taken against him.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator.

Sen. (Rev.) Waqo, two minutes please.

Sen. (Rev.) Waqo: Madam Deputy Speaker, I want to thank you for this opportunity. I also congratulate Sen. Falhada Iman for coming up with this very important Statement.

It is very unfortunate that this can happen at a time like this when we, as a country, are losing people to COVID-19. Even before the patients lose their lives, they are taken to the morgue. If our Government will take action, this will comfort the family of the person who was affected by this very unfortunate situation.

This exposes a very negative side of the Ministry of Health and how the staff treat our people at the hospitals.

Madam Deputy Speaker, in many hospitals in many counties, people have suffered, especially now when COVID-19 is taking away many of our people. Nurses can even decide to just neglect people as well as doctors.

As we cry as a country, we know that our frontline workers are already suffering in many ways. However, it will be good if they treat other human beings like human beings and give them the attention that they deserve.

Maybe they are so stressed and it is my prayer that even the Ministry can give them what is due to them, their allowances because they are overworking. They are so stressed because of COVID-19 and maybe what has happened is out of the stress that they are going through.

It is good for us to look at both---

The Deputy Speaker (Sen. (Prof.) Kamar): Your two minutes are over.

Sen. Olekina: Thank you, Madam Speaker, Sir. I just want to assure the public that the Standing Committee on Health is quite active. We are going to reach out to the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) for the imminent strike and try to reason out.

This morning we were in Kenya Medical Supplies Authority (KEMSA) and we witnessed the amount of Personal Protective Equipment (PPEs) which are still being held there. We gave a directive that the people who supplied those commodities to KEMSA should be paid. The Cabinet Secretary for Health had given a directive to KEMSA. We asked the Cabinet Secretary to put it in writing so that these items can be now distributed to the hospitals.

What is the point of leaving billions of shillings worth of PPEs at KEMSA yet people are dying? This is why you will find people in critical condition and instead of being taken care of they are taken to the morgue.

Madam Deputy Speaker, we are quite active on this matter and I want to assure Sen. Sakaja that we will not rest until we see that we have been able to meet with the officials of KMPDU so that we can negotiate. Things are not normal right now, therefore, we cannot expect to be able to get money to resolve their problems.

I just want to assure Kenyans that we are doing everything possible and as early as this Friday, we will call a meeting with these officials so that we can have some concession.

Thank you.

Sen. Faki: Asante Bi. Naibu Spika, kwa kunipa fursa hii kuchangia Taarifa iliyoletwa na Sen. Iman.

Ni jambo la kusikitisha kwamba kwa sasa wakati tuna vifaa vyote vya kutambua uhai na kifo, mhusika alipelekwa kwa chumba cha kuhifadhia maiti kabla ya siku zake kufika.

Tangu janga la COVID-19 kuanza, kuna wengi ambao wamepata visa kama hivi. Hii imesababishwa na ugonjwa wa COVID-19 ambao umeathiri hata madaktari. Madaktari wengi ambao wanatibu watu katika hospitali na zahanati ni vijana ambao wako na umri kati ya miaka 30 na 45. Kwa hivyo, hawana tajriba ya kutosha kuweza kutibu na kuangalia wagonjwa kama hao.

Nikizungumzia Mombasa, nimewahi kuzuru hospitali kuu ya Coast General Hospital mara tatu kwa muda wa wiki mbili ili kusaidiana na watu waliofiwa, kuweza kuchukua miili zao. Ni jambo la kusikitisha kwamba unapopelekwa katika wadi ya COVID-19, huo unakuwa mwisho wa mawasiliano yako na jamii yako na huenda ukapoteza maisha bila ya kuwa karibu na jamii yako kuweza kukuombea dua ama kukuombea Mungu ili safari yako, unapokwenda, iwe ya salama.

Bi. Naibu Spika, tunaona kwamba madaktari, bali na kuwa wanafanya kazi katika hali ngumu, hawalipwi mshahara wao na marupurupu yao kwa wakati unaofaa na hii inawatoa morale ya kuweza kufanya kazi hususan wakati huu ambapo tuna janga la COVID-19.

Wale madaktari ambao wanatibu wagonjwa wa COVID-19 wanahitaji ushauri nasaha ili waelezwe kwamba haya matatizo yako na binadamu---

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. Faki.

Sen. Omogeni: Thank you, Madam Deputy Speaker. I join my colleagues in condemning any acts of negligence by our medical practitioners, especially the very painful act of taking a person who is still alive to the mortuary.

However, we must also be sensitive that as a country we have not done enough to motivate our medical practitioners. We cannot have any justifiable reason why to date, there are hospitals that do not have PPEs for doctors, nurses or clinical officers.

Today we had a sad case where we lost a physiotherapist called Ronald Nyarandi in Keroka Hospital. He caught COVID-19 in the course of trying to care for patients who are suffering with COVID-19. As a country, we need to have priorities. If we have these PPEs at KEMSA, the way Sen. Olekina has told us, why can we not take them and pay KEMSA and give them to our medical practitioners, because we are scaring them? They do not want to be near people suffering from COVID-19 because they fear that they may contract the disease.

The Government should move urgently ensure that all these PPEs lying idle at KEMSA are supplied to all our health facilities across the country.

I do not think there is any person we should value now in this war more than our doctors, nurses or clinical officers. I want to appeal to the national Government and to the county governments to take seriously the issues that have been raised by our medical practitioners.

Thank you.

Sen. Madzayo: Asante Bi. Naibu Spika. Kitu cha kwanza, ni jambo la kusikitisha yale ambayo yalifanyika huko Kapkatet ambapo mtu ambaye hakuwa amefariki alipelekwa pahali pa kuekwa maiti.

Huu mgomo ambao unakuja Jumatatu wa madaktari ni kwa sababu madaktari wanafanya kazi katika hali ngumu, ilhali mishahara yao ni ndogo. Kuepukana na mgomo kama huu ni muhimu kwa sababu huu wakati wa COVID-19 ni wakati mgumu kwa wananchi. Ikiwa madaktari hawataweza kupatikana ama watajitenga kando, wale watu ambao watakua wanalindwa katika zile mashine watakua wapi?

Ni jambo la kutafakari sana kuona kwamba madaktari wetu wasiende kwa mgomo na waweze kuitwa haraka kuanzia sasa, kabla ya hiyo siku ili waweze kuafikiana kuweza kuepusha vifo vya Wakenya wengi wakati huu wa janga la COVID-19.

Nataka kujua Kamati ya Seneti ya Afya itachukua hatua gani kuona kwamba hao madaktari ambao walifanya hicho kitendo wameweza kuadhibiwa ya kutosha ili iwe mfano mzuri kwa hospitali zingine zisifanye kitendo kama hiki.

Asante.

Sen. Wetangula: Thank you, Madam Deputy Speaker. I support Sen. Iman's Statement. It is really distressful to hear or get to know that a person who is alive is freighted to a mortuary with an inscription that he is dead.

However, perhaps because the hospital does not have equipment to tell whether someone is alive or dead, this is part of the problem of the medical profession in this country.

Have the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) as a body that registers, regulates and disciplines medical personnel done anything about the person who did this? The Committee on Health should tell us when they bring the report.

More importantly, health is devolved. Our governors are very loud when complaining about money but silent when issues such as these arise. Hospitals all over the country are in a pathetic state. They go out there telling the public how many Intensive Care Unit (ICU) beds they have but when you go there, there is none.

The Committee of Health is urged to do more than they are doing. We want to see the Committee on Health touring some of the outpost hospitals to see exactly what is going on. They should see whether the personnel are working and motivated or not. On the intended strike, I urge the national Government that as they grapple with policy, they should do much more than policy.

They should come together urgently with the Committee on Health in the House, the Council of Governors arm that deals with health issues and KMPDU and strike some compromise. Doctors work so hard under difficult conditions; they are the least appreciated public workers and we need to appreciate and motivate them.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you Senator. We have got your point. I am going to rule on how we deal with this because Members are coming up with more issues than Sen. Imana's Statement.

We had the last Statement and I did not realize that the Senator for Murang'a does not have a card.

(An Hon. Senator spoke off record)

I have your Statement. Be patient Senator. We have not finished the Statement by Sen. Iman. Sen. Shiyonga is right, let us be patient with one another and listen.

Sen. Kang'ata: Thank you, Madam Deputy Speaker. My attention has been drawn by the discussion concerning the expected strike on Monday by various medical officers including doctors and nurses.

I wish to inform this House and the Republic that the Government is doing everything to forestall the strike. Most importantly, I urge our doctors and nurses to take into account that the work they do involves matters of life and death. Even if they need better protection and better pay, they must also take into account the current fiscal situation that is in the Republic.

It is true that under the Constitution there is---

The Deputy Speaker (Sen. (Prof.) Kamar): Point of order from the Senator of Bungoma.

Sen. Wetangula: Madam Deputy Speaker, is the Senator for Murang'a speaking on behalf of the Government, the Committee or on his own behalf as the Senator of Murang'a? It is not in order for a Senator to stand up and purport to make a Statement on behalf of Government without telling us the source of his authority.

If the Government is negotiating and about to avert the strike, why have they not made it public?

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you Senator. The Senator of Murang'a you have only 30 seconds.

Sen. Kang'ata: Madam Deputy Speaker, it is my personal opinion. I strongly believe that the strike on Monday ought not to happen, not because they are not raising pertinent issues but the very fact that there is every likelihood that lives will be lost and we are in the middle of a pandemic.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you Senator. The last Statement on 48 (1) is from the Senator of Nairobi. We are back to the ruling that there is no riding on a Statement.

THE ARBITRARY AND PURPORTED ARREST OF NAIROBI GOVERNOR

Sen. Sakaja: Thank you Madam Deputy Speaker. This one deserved more riding but we trust your judgement.

Pursuant to Standing Order No.48 (1) I would like to seek a Statement from the Chairperson Standing Committee on Justice, Legal Affairs and Human Rights on the arbitrary and purported arrest of Nairobi Governor, Hon. Mike Mbuvi Sonko and the unwarranted disruption of his meeting with Members of the County Assembly of Nairobi City County on 30th November, 2020.

Madam Deputy Speaker, knowing that there had been an impending impeachment and without going into the merits or demerits of that, which will come to us later, the Constitution, which is the foundation of our democracy clearly stipulates that every Kenyan, no matter what side of politics you look at, has the right to freedom of association and expression.

The Governor was within his right to meet Members of the County Assembly and, therefore, it was utterly wrong and irresponsible for the police to disrupt this meeting.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Sakaja, do not deviate from your Statement. Are you reading it?

Sen. Sakaja: Madam, Deputy Speaker, I am reading it word for word. This is what was approved by the Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): I have one page that was approved.

Sen. Sakaja: Madam Deputy Speaker, would you like me to read your copy? This is what I have been given to read.

The Deputy Speaker (Sen. (Prof.) Kamar): Go ahead.

Sen. Sakaja: Madam Deputy Speaker, as the Senate, our key mandate is to ensure that gains made on devolution are not clawed back and that the county governments' interests are protected. In this regard, I am requesting the chair to respond to the following matters-

(i) Clarify the circumstances under which the police disrupted the meeting between the governor and the MCAs and clarify the charges preferred on the governor that warranted his arrest and disruption of his meeting.

(ii) Give an explanation as to why there is constant heavy presence of police officers within the precincts of Nairobi County Assembly buildings, including the setting up of a police post in the County Assembly.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Sakaja, your Statement is different from what you gave for approval. Please read the one that has been approved.

Sen. Sakaja: Madam Deputy Speaker, this is manifestly different.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Pareno, what is your point of order?

Sen. Pareno: Madam Deputy Speaker, we need to reconfirm. I have severally made Statements in this House and sometimes you give out some raw draft, which is approved, then they later on approve the longer version of what you want. It will not be detrimental to this House if the Senator reads what was approved.

The Deputy Speaker (Sen. (Prof.) Kamar): I want him to peruse so that he confirms that it is his Statement as requested. It is a matter of language. However, this is straightforward. It is for our own records. I have seen a point of order from Sen. Olekina.

Sen. Olekina: Madam Deputy Speaker, this is the point where I get confused when it comes to the issue of separation of powers.

The Deputy Speaker (Sen. (Prof.) Kamar): Your point of order has to do with the Statement. Are you contributing to the Statement?

Sen. Olekina: Madam Deputy Speaker, I am only raising a concern.

The Deputy Speaker (Sen. (Prof.) Kamar): What is your point of order?

Sen. Olekina: Madam Deputy Speaker, it is on the content of the Statement by the Senator. He is the author of the Statement.

The Deputy Speaker (Sen. (Prof.) Kamar): He has not given you the content yet.

Sen. Olekina: We are confused because when the Senator is reading---

The Deputy Speaker (Sen. (Prof.) Kamar): Allow him to confirm because he has the two Statements.

Sen. Olekina: Madam Deputy Speaker, can I raise my concern?

The Deputy Speaker (Sen. (Prof.) Kamar): After he has read and confirmed whether it is the correct Statement or not. I wanted him to look at the two because what

he is reading is not what I am reading, yet, he gave us the two. Give him the right to clarify. What is your point of order Sen. Wetangula?

Sen. Wetangula: Madam Deputy Speaker, is it in order to embarrass the distinguished Senator for Nairobi who is the author of the Statement?

The Deputy Speaker (Sen. (Prof.) Kamar): Nobody has embarrassed him.

Sen. Wetangula: It is a point of order, Madam Deputy Speaker. The author of the Statement may not be feeling embarrassed but we are feeling embarrassed on his behalf.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Wetangula, you are the custodian of our Standing Orders. You ensure that we do things the correct way. All we wanted the Senator for Nairobi to do is look at the two Statements because what he submitted is slightly different from what he is reading. I wanted him to read the right one.

Sen. Wetangula: Madam Deputy Speaker, as he reads the right one, going to the future, it is important that when a Member has filed a Statement, the clerks must help the Speaker and the House by ensuring that the author of the Statement has the same Statement that is in possession by the Speaker.

The Deputy Speaker (Sen. Prof.) Kamar): Thank you, Senator, but you are doing the reverse today. You normally go the other way. It is the Member who should ensure that what he has forwarded and has been signed is what they are reading. There was nothing wrong; I just wanted him to be sure that he is reading what he submitted.

Sen. Sakaja: Madam Deputy Speaker, as Sen. Wetangula said, I am the “asker.” The one difference that I note--- I want this to be responded to by the Committee on Justice, Legal Affairs and Human Rights for two reasons.

When you look at the Standing Orders, we are dealing with a matter of constitutional issues, the organization and administration of the law, justice, and human rights. The Committee on National Security, Defence and Foreign Affairs deals with security, foreign relations and disaster reductions. That is what I am looking at. That is the difference.

Madam Deputy Speaker, we have a bad history with the Committee on National Security, Defence, and Foreign Relations when we dealt with a similar issue of Senators being arrested. It is the same thing. We are asking about political inference of police. I am very clear that I would like Sen. Omogeni’s Committee to respond to that.

In terms of the questions, I will just read what has been given to me. What normally happens when we submit a Statement is that the secretariat comes back to us and gives us the approved version. I did not get a different version, and that is why I was reading what I had. However, I stand guided.

The question was:-

- (1) Explain why the police are interfering with the Governor’s constitutionally given right to the freedom of association and freedom to assemble by disrupting the Governor’s meeting with Members of the County Assembly (MCAs) of Nairobi City County on 30th November, 2020.
- (2) State the accusations of charges against the Governor that have warranted his arrest.
- (3) Give an explanation as to why there is constant heavy presence of police officers within the precincts of Nairobi County Assembly buildings, knowing fully well that we have separation of powers, and the legislature is never under police control. That is why we have the office of the Serjeant-at-Arms.

(4) Understand the double standards being applied with respect to the Coronavirus Disease (COVID-19).

Some of the allegations that we are hearing are that they disrupted it because of social distancing, yet even the day before, we saw meetings of thousands of people when they were collecting signatures for the Building Bridges Initiative (BBI). Was there is no COVID-19 then?

Today, I have *matatu* Savings and Credit Cooperative Societies (SACCOs) from Embakasi, including Forward SACCO, Prime SACCO, Karibangi SACCO, Kemos, and Eastern By-Pass SACCO, where hundreds of operators are being crammed up in 'mariamu' trucks without masks or adhering to COVID-19 protocols. They can however go and disrupt a Governor's meeting because of impending impeachment.

Madam Deputy Speaker, we want justice to be served. That is why I asked Sen. Omogeni to kindly take this matter urgently and give us a response on the issue of justice and constitutionality, not on the issues of his impeachment. Politically, I may not agree with him, but his rights as a Governor should not be blocked. Tomorrow it will be you or me.

The Deputy Speaker (Sen. Prof.) Kamar: Thank you, Senator. I was actually looking for that direction, because you were addressing a different Committee from what you requested. I was worried that I will send it to the wrong Committee when I rule. I am glad that you have made that clarification.

I have had consultations with the clerks, and they have said that you later came forward to request that it goes to the Committee on Justice, Legal Affairs and Human Rights. I will, therefore, allow it to go to the Committee on Justice, Legal Affairs and Human Rights.

Hon. Senators, all those Statements that have been read under Standing Order 48 (1), therefore, stand committed to the relevant Committees, including the Statement from Sen. Sakaja, going to the Committee on Justice, Legal Affairs and Human Rights.

As for the Statement from Sen. Iman, the Committee on Health, please, take note of the concerns of the Committee, because they are more than the Statement from Sen. Iman. They have put in the issue of the strike.

I rule that you consolidate all of them as you inquire about how somebody who was alive landed in a mortuary. Please, consider the concerns of the Senate that we might lose more lives from Monday, and urgently address the issue of the strike. Health is a devolved function, and you must move with speed.

The last Statement is from---

Is there a point of order?

Sen. Were: Thank you, Madam Deputy Speaker. I am glad that Sen. Sakaja is still here. Months ago, I requested a Statement on two issues given to his Committee on the frustrations pensioners go through in the Pensions Department, and the emergency fund within trade unions. I have not received a response.

The Deputy Speaker (Sen. Prof.) Kamar: Sen. Sakaja, do you want to respond? One minute.

Sen. Sakaja: Madam Deputy Speaker, responses were given to both. I think we just need to check with the secretariat, because a response was given. On the issue of the emergency fund, a response was given to the Committee on the COVID-19 situation in

Kenya, which I was chairing at that time. That response has been shared. If the Senator is not satisfied with that response, we can reopen it at any time.

On the issue of pensions, I will check with my secretariat, but I believe that we also dealt with that. There was a response. I will just check with her right now and will respond before the end of this Sitting.

In fact, I am happy that after the two Petitions that I have laid, my Committee is the only one that has no pending Petition. I am very proud of that. I am keen on this one and need to find out.

The Deputy Speaker (Sen. Prof.) Kamar: Sen. Were, we have problem with our Standing Orders because they do not ask the Committee to refer back to the Petitioners or Members who were asking. It is only courteous that they receive a copy of the report. The secretariat must also take note of that.

Do you still want to pursue something?

Sen. Were: Yes. I want to make a clarification. A response was given on the Statement on the emergency fund within trade unions months ago. It was unsatisfactory and I communicated this. Sen. Sakaja said that since he is also the Chair of the Committee on Labour and Social Welfare, it would be redirected to his Committee and he would deal with it. However, I have not received a response.

The Deputy Speaker (Sen. Prof.) Kamar: Since you had already communicated, I would like to encourage that you discuss further and see that you bring it to a conclusion, Sen. Sakaja.

We have two more Statements. We are way past our time for Statements. We want a Statement to be read by the Committee on Health under Standing Order 47 (1). Sen. Seneta will read a Statement regarding the commemoration of the World AIDS Day in the context of COVID-19, and thereafter, I will have the Majority Whip to read a Statement on the future programme.

Sen. Seneta.

Sen. Seneta: Thank you, Madam Deputy Speaker. Before I read the Statement, on behalf of the Chair, I thank Sen. Sakaja and the rest of the Members who appreciated our efforts as the Committee. I assure them that we will work hard to help in matters health.

Thank you so much for the trust.

COMMEMORATION OF WORLD AIDS DAY IN
THE CONTEXT OF THE COVID-19 PANDEMIC

Sen. Seneta: I rise pursuant to Standing Order 47(1) to make a Statement on an issue of general topical concern, namely, the commemoration of World AIDS Day in the context of the COVID-19 pandemic.

Madam Deputy Speaker, the World AIDS Day was established in 1988 as an international day to raise awareness on the Human Immunodeficiency Virus (HIV) pandemic, and is marked on 1st December every year. The event provides an opportunity to unite the globe to stop new HIV infections, support those infected and affected by HIV, and remember those who have lost their lives due to AIDS.

This year's World AIDS Day is being commemorated today, Tuesday, 1st December, 2020. Every year, the National AIDS Control Council (NACC) engages the

national Government and county governments, and mobilizes partners and stakeholders in all 47 counties to participate in the event.

The global theme for this year's campaign as per the joint United Nations Programme on AIDS (UNAIDS) is "Global Solidarity; Shared Responsibility". The theme underscores the significance of individuals, countries and the global community uniting in taking responsibility to address HIV and AIDS amidst the growing list of challenges that the World is facing today, including the COVID-19 pandemic.

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

[The Temporary Speaker (Sen. (Dr.) Mwaura) in the Chair]

Mr. Temporary Speaker, Sir, Kenya has adopted the 'Komesha HIV & COVID 19 #Tuwajibike' as the national theme. This is in line with the efforts of the Government towards preventing the spread of HIV and COVID-19. The aim is to call out for the ending of the spread of HIV and COVID-19 through citizens and Government partnership and co-operation.

Since the first case of HIV was officially recorded in Kenya in 1984, approximately 1.9 million people have lost their lives in Kenya as a result of HIV/AIDS related complications. By the end of 2019, the HIV prevalence rate stood at 4.5 per cent with approximately 1.5 million people living with HIV. At the same time, the prevalence of HIV is higher among women who have a prevalence rate of 5.8 per cent compared to the 3.1 per cent among men.

In 2019, there was an estimated 41,416 new infections and 20,997 HIV/AIDS related deaths across all ages; a decrease from the 101,560 new infections and 58,465 deaths in 2013 respectively. Despite the positive trajectory in the HIV and AIDS response---

The Temporary Speaker (Sen. (Dr.) Mwaura): Samahani Sen. Seneta, nakuomba uzungumze kwa mukhtasari tafadhali.

Sen. Seneta: Mr. Temporary Speaker, Sir, I will try.

Despite this positive trajectory in the HIV and AIDS response registered in Kenya, various social, legal and policy challenges continue to impede effective response to HIV, notable being Stigma, discrimination and limited access to justice for the affected and infected. This is despite the enactment of the HIV and AIDS Prevention and Control Act (HAPCA) 2006 to ensure prohibition of HIV-related stigma and discrimination. In addition, the country established and operationalized the HIV and AIDS Tribunal to increase access to justice against all forms of HIV stigma and discrimination.

Mr. Temporary Speaker Sir, the emergence of COVID-19 pandemic, however, has led to far-reaching ramifications on all sectors of national and global economies. The COVID-19 pandemic has had direct negative consequences on the fight against HIV risking, eroding the gains made thus far, especially on the Global target of 90-90-90.

Both COVID-19 and HIV control require the participation of citizenry and governments to control the two pandemics. The Government of Kenya, therefore, has put in place a number of restrictions to control the spread of COVID-19, including but not limited to the daily curfews and restriction in the number of participants in public

gatherings. It is against this background that the World AIDS Day 2020 will be commemorated under special circumstances.

Mr. Temporary Speaker, Sir, we have seen how the COVID-19 crisis has exacerbated the challenges faced by people living with HIV, women and girls and key populations, including in accessing life-saving health care, and how the crisis has widened the social and economic inequalities that increase the vulnerability of marginalized groups to HIV. However, this crisis has also been a wake-up call, an opportunity to do things differently, better and together. In many respects, the defeat of AIDS as a public health threat depends on how the world responds to COVID-19.

Mr. Temporary Speaker, Sir, the COVID-19 has also shown how political will can bring about change. We have seen governments putting in place extraordinary policy measures and financial resources to save lives and protect livelihoods. We have seen collaboration between countries to ensure continuity of HIV treatment and we have seen countries rallying behind the international call to make a COVID-19 vaccine a People's Vaccine, available to all equitably. As we enter the last decade of action to end AIDS as a public health threat by 2030, we need the political will to reach our goal. It can be done!

Global solidarity and shared responsibility requires us to view global health responses, including the AIDS response, in a new way. It requires the world to come together to ensure that health is fully financed, health systems are strengthened, access to life-saving medicines, vaccines and diagnostics is ensured as a public good, human rights are respected and the rights of women and girls, and gender equality are at the centre.

The latest progress report of the Global HIV Prevention Coalition, launched on 23rd November, 2020 in Geneva, shows that despite observed declines in new HIV infections among adults in several countries, overall progress in HIV prevention efforts remains variable and is too slow to reach the 2020 targets committed to at the 2016 United Nations High-Level Meeting on Ending AIDS. This is where United Nations Member States committed to reach a worldwide HIV prevention target of fewer than 500,000 new HIV infections among adults by 2020, a 75 per cent reduction from 2010. By the end of 2019, the reduction was at just 23 per cent, with 1.7 million people becoming infected with HIV last year.

Mr. Temporary Speaker, Sir, allow me to conclude by saying that now is the moment for bold leadership for equal societies, the right to health for all and a robust and equitable global recovery. This World AIDS Day, join me in calling on counties to step up their efforts to achieve the quest for HIV and AIDS reduction. This World AIDS Day, let us demand national solidarity and shared responsibility.

I thank you.

The Temporary Speaker (Sen. (Dr.) Mwaura): Sasa hivi, nampa Sen. Pareno nafasi.

ACTIVITIES OF THE COMMITTEE ON NATIONAL
SECURITY, DEFENCE AND FOREIGN RELATIONS

Sen. Pareno: Mr. Temporary Speaker, Sir, I wish this statement had been done in Kiswahili; I would have read it in Kiswahili. I would like to make a Statement relating to the activities of the Standing Committee on National Security Defence and Foreign Relations.

Mr. Temporary Speaker Sir, I rise pursuant to standing Order 51 (1) (b) to make a Statement on the activities of the Standing Committee on National Security, Defence and Foreign Relations for the period commencing 1st March to 30th September, 2020.

During the period under review, the Committee held a total of 13 sittings, dealt with three Petitions, nine Statements, one Bill and one inquiry.

In respect to the Petitions, the Committee considered the following: -

(i)Petition regarding enactment of a Military Veteran Law – the Committee held a meeting with the Petitioners and resolved to enact a law to be sponsored by Sen. Pareno. A report on the matter will be laid on the Table after consideration by the Committee;

(ii)Petition regarding the Perennial Landslides and Mudslides owing to heavy rains in Nandi County - the Committee held a meeting with the Petitioner and is scheduled to hold another meeting with the Cabinet Secretary, Ministry of Lands and the National Land Commission and other stakeholders; and,

(iii)Petition on the rising insecurity cases in Laikipia County - The Committee held a meeting with the Petitioner and is scheduled to hold other meetings with other stakeholders.

In respect of Bills, the Committee considered the pre-publication scrutiny of the Kenya Citizenship and Immigration (Amendment) Bill (Senate Bills No. 12 of 2020) on Tuesday, 21st July, 2020 and recommended for its publication. The Bill has since been published and forwarded to the Committee for consideration.

In respect to the inquiry, the Committee inquired on the whereabouts of three Senators namely- Sen. (Dr.) Lelegwe, Sen. (Dr.) Langat and Sen. Malalah, as directed by the Speaker on 17th August, 2020 and laid its report in the Senate.

Mr. Temporary Speaker Sir, during the period under review, the Committee considered the following Statements: -

(1)Statement request by Sen. Mwangi, regarding unresolved murder cases in Ol-Jororok in Nyandarua County. The Committee considered the response in the presence of Sen. Mwangi and the matter was concluded.

(2)Statement request by Sen. Cherargei, Regarding Extra-Judicial Killing by Police of Kevin Kipchumba and Boniface Kiprotich in Tabolwa Village Mosop Constituency in Nandi County. The Committee considered the response by the Ministry in the presence of the Sen. Samson Cherargei who promised to supply further information on the Statement to the Committee to enable it address the Statement adequately. Owing to lack of this further information the Committee regarded the Statement as concluded.

(3)Statement request by Sen. (Dr.) Ali, regarding Police brutality on Residents of Bute and Biyamafo, in Wajir County. The Senator was given a copy of the response and was satisfied. The Committee regarded the Statement as concluded matter.

(4)Statement request by Sen. Khaniri, regarding the increased cases of insecurity in Vihiga County. The was furnished with the response and was satisfied hence the matter was concluded.

(5)There was a Statement requested by Sen. Dullo regarding torture and extra-judicial killings of residents of Isiolo County by Kenya Wildlife Service officers. The Committee invited the Director General of KWS where the Committee was presented with responses. The Senate was not satisfied with the responses and the Committee has since resolved to hold other meetings to deliberate further on the Statement.

(6) We had a Statement requested by Sen. Dullo regarding smuggling of Marijuana from Ethiopia. The Committee invited the Inspector General (IG) of Police for a meeting. The Senator who had sought the Statement requested that it be postponed. The security agencies have since sent their responses, which have since been forwarded to the Senator for further comments.

(7) We had a Statement requested by Sen. (Dr.) Milgo regarding mysterious cases of death and injuries in Bomet County. The response was forwarded to the Senator who had sought the Statement. The Committee considered the matter in the absence of the Senator and the Committee was satisfied with the response and considered the matter as concluded.

(8) There was a Statement by Sen. Omanga regarding the alleged delay in issuance of certificates of good conduct. The Committee considered the matter in the absence of Sen. Omanga and was satisfied by the response given by the Ministry and the matter was concluded.

Mr. Temporary Speaker, Sir, the Committee intends to carry out the following activities during the next quarter-

- (1) Hold a meeting with the Cabinet Secretary (CS) for Interior and Coordination of National Government to deliberate on the ravaging, abductions and disappearance of members of public occurring in various parts of the country.
- (2) Hold a meeting with CS for Lands, Environment and Natural resources and the Chairperson of the National Land Commission to deliberate on the mudslides and landslides occurring in various parts of the country and how quickly it can be mitigated by the disaster kitty.

That is all for the Committee.

I thank you, Mr. Temporary Speaker, Sir.

Sen. Faki: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Mwaura: Ipi Hoja ya Nidhamu?)

Sen. Faki: Mhe. Spika wa Muda, kwanza naipongeza Kamati kwa hiyo Ripoti yake, lakini masikitiko ni kwamba Kamati hii haijaangazia Taarifa yangu ambayo nilileta hapa Tarehe 24 Mwezi wa Tano mwaka huu kuhusiana na kuangushwa kwa ndege ya Kenya nchini Somalia. Ndege ile ilikuwa ya Shirika la African Express Airways ambayo ilipigwa ikiwa inatua katika uwanja mmoja nchini Somalia.

Mwezi uliopita pia nilipewa fursa kuikumbusha Kamati hii kwamba hiyo Taarifa bado haijajibiwa na kwamba tunahitaji majibu kwa haraka kwa sababu kuna ripoti inayotakikana kutayarishwa na nchi ya Somalia ambamo ndege ilianguka.

Ripoti ile itasaidia kulipwa ridhaa kwa wale waliohusika katika ajali ile ambayo marubani wawili na wasaidizi wao walipoteza maisha yao.

Ni muhimu kwamba Kamati hii ilipe Bunge hili ripoti kwa ufasaha, ni lini watazingatia mambo hayo ikizingatiwa kwamba madai ya malipo kwa familia za wale waliopoteza maisha yao baada ya mwaka mmoja kutoka tarehe ya ajali. Ajali ilitokea mwanzoni mwa Mwezi wa Tano. Kwa hivyo, imebaki takriban miezi mitano kitambo madai yao yafe.

Vile vile, hatujapata ripoti ambayo itatupa mwongozo ni nani wa kulaumiwa kuhusiana na ajali ile. Ningependa nipate ufafanuzi wa swala hilo.

The Temporary Speaker (Sen. (Dr.) Mwaura: Umejieleza vizuri sana. Ninampa nafasi Mwenyekiti, Sen. Pareno, aweze kujibu kwa sababu ya muda.

Sen. Pareno: Kwa sababu mwenzangu ametumia Lugha ya Kiswahili na pia Naibu Spika wa Muda ameendelea kwa lugha hiyo hiyo, hata mimi ninaweza kujibu haya kwa lugha ya Kiswahili.

Ni jukumu langu kama Mwanakamati wa Kamati ya Usalama Nchini kufahamisha Kamati and Mwenyekiti kwamba Taarifa ya Sen. Faki haijashughulikiwa. Nitahakikisha imeshughulikiwa na Kamati yangu.

The Temporary Speaker (Sen. (Dr.) Mwaura): Swala hilo limeshughulikiwa.

Sen. (Dr.) Zani, hoja yako ya nidhamu ni ipi?

Sen. (Dr.) Zani: Thank you, Mr. Temporary Speaker, Sir. If Sen. Faki had not been here, we would not have realized that there are a couple of Statements that miss out in Committees. Since he is here and has raised them, I have a feeling that the same thing might be happening in other Committees.

I suggest that moving forward, we have a way that even as we make the reports to the House, we state all the Statements that have been received and then move on to tackle those that have been tackled at the Committee. That will help us avoid a gap within the House.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Mwaura): Ningependa kuelekeza kwamba Makarani wetu watusaidie kufuatilia hizi Arifa na Kauli ndiposa zisiweze kutokomea, kwa sababu haziwezi kuwekwa rasmi katika Ripoti za Kamati.

Sasa hivi nampa nafasi, Kiranja wa Walio Wengi wa Seneti.

(Interruption of debate on Statements)

PROCEDURAL MOTION

EXTENSION OF SENATE SITTING TIME

Sen. Kang'ata: Mr. Temporary Speaker, Sir, I beg to move the following Motion:

THAT, pursuant to Standing Order No. 31 (3) (a), the Senate resolves to extend its Sitting until the conclusion of business listed as in Order No.19 in today's Order Paper.

The reasons are simple. There are two key Motions that we need to dispense with today. The first one is on the Presidential Speech to the Parliament. It needs to be concluded. There were several Senators who wanted to speak on that Motion. Therefore, we need to allow them to converse and make their point.

Mr. Temporary Speaker, Sir, after we are done with that, I will be moving a Motion that we adjourn. During that Motion, several Senators will be interested to say something and also contribute, taking into account that if that Motion is done with, we shall take a break, which will be prolonged.

I beg to ask colleagues to support this Motion, so that we give each Senator an opportune time to speak before we take the prolonged break after today.

I urge colleagues to support this Motion.

I beg to move and ask my colleague, the Chairman of the Committee on Justice, Legal Affairs and Human Rights in the Senate, Sen. Omogeni, to second.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Omogeni: Thank you, Mr. Temporary Speaker, Sir. I second the Motion that has been put forth by the Senator for Murang'a, who is the Senate Majority Whip.

It is true that we still have some business that is pending and it is only fair that we give Senators in the House ample opportunity to make contributions to the Adjournment Motion.

I second.

(Question proposed)

Sen. Kang'ata: Mr. Temporary Speaker, Sir, if I heard you right, I think the way you have crafted your prayer, it appears like it does not rhyme with my actual Motion. This is because if I have heard the Chair right, he seems to suggest that it is after we have dispensed with all business appearing on the Order Paper, whereas mine is specific to Order No.19.

The Temporary Speaker (Sen. (Dr.) Mwaura): Tafadhali Kiranja wa Walio Wengi, tutaweza kumaliza orodha yote hii ya Hoja mpaka Hoja Nambari 19. Kwa hivyo, tunazungumza ipasavyo.

Hoja ya nidhamu, Sen. Sakaja.

Sen. Sakaja: Bw. Spika wa Muda, ukiangalia Kanuni zetu za Kudumu, Kipengele cha 93 kinasema kwamba Mbunge yeyote anaweza kuibua Hoja ya nidhamu wakati wowote Seneta mwingine anapochangia, kwa kueleza kwamba anasimama kwa Hoja ya nidhamu na atahitajika kuitaja Kanuni ambayo inakiukwa.

Nimekusomea Kipengele cha 93 katika Kanuni zetu za Kudumu na nimeona ya kwamba kumeanza kuwa na uzoefu. Nilimskia Sen. (Dr.) Zani akijaribu kuzua Hoja ya nidhamu lakini hakuskizwa. Hapo awali hata mimi nilipitia hayo. Sijui kama Kanuni hii imebadilika kwa sababu inasema kwamba Mbunge yeyote anaweza kuibua Hoja ya nidhamu wakati wowote ambapo Seneta mwingine anachangia kwa kueleza kwamba anasimama kwa Hoja ya nidhamu na atahitajika kuitaja Kanuni inayokiukwa. Hakuna mahali inasema kwamba Spika ataamua kama atampa nafasi ama hatampa kwa sababu ni haki ya huyo Seneta kuibua Hoja ambayo yuko nayo.

The Temporary Speaker (Sen. (Dr.) Mwaura): Nafikiri hakuna tashwishi Sen. Sakaja kwa sababu kila mtu ambaye ameomba kutoa Hoja ya nidhamu ameweza kupatiwa nafasi ya kufanya hiyo Hoja ya nidhamu.

Lakini tusiwe na ule uzoefu wa kwamba ni lazima. Seneta wa Mombasa alikuwa amesimama kwa Hoja ya nidhamu. Kwa hivyo, hauwezi ukachukua ile nafasi kumpa Seneta mwingine pia Hoja ya nidhamu kabla ile nyingine kumalizika. Kuna utaratibu wa Bunge la Seneti na hilo ndilo jukumu la Spika. Lazima Spika aonyeshe taratibu katika Bunge la Seneti.

Lakini najua kuna ule uzoefu wa kwamba kuna Maseneta wengine ambao wanataka wakishaitisha Hoja ya nidhamu, wengine wanyamaze lazima kwanza yeye azungumze. Nafikiri hiyo sio haki. Kuna utaratibu ambao unafaa kufuatwa na mimi kama Spika msaidizi nina jukumu la kuhakikisha kwamba kuna nidhamu katika Bunge la Seneti.

Sen. Kang'ata, endelea.

Samahani kwa hilo. Nimeelekezwa ipasavyo. Nataka sasa kuweka swala rasmi kwamba:-

Kutokana na Kanuni za Kudumu, Kanuni ya 31(3)(a) kwamba Bunge la Seneti liweze kuazimia kuongeza muda wa Kikao hiki mpaka mwisho wa Hoja zote, Hoja ya 19 ikiwa ya mwisho katika orodha ya Ratiba ya leo.

(Question put and agreed to)

The Temporary Speaker (Sen. (Dr.) Mwaura): Hoja ifuatayo. Sen. Kang'ata, endelea tafadhali.

(Resumption of debate on Statements)

STATEMENT

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 9TH FEBRUARY, 2021

Sen. Kang'ata: Mr. Temporary Speaker, Sir, pursuant to Standing Order No.52(2), I hereby present to the Senate the following status of business before the House. As you are aware, today is the last Sitting Day, pursuant to the Senate Calendar adopted on Thursday, 27th February, 2020 and recently altered on Wednesday, 11th November, 2020, pursuant to Standing Order 29.

At the rise of the Senate today, the Senate will proceed on recess until Tuesday, 9th February, 2021. With respect to the business of the Senate, the Senate had published a total of 94 Bills. Out of these Bills, 14 were assented to and 34 were pending consideration by the National Assembly most of which were deemed to be money Bills.

Mr. Temporary Speaker, Sir, however, following the judgment of the High Court in constitutional petition No. 284 of 2019, the court ruled in favor of the Senate and stated that all Bills should comply with Article 110(3) of the Constitution. This resulted in secession of consideration of all Bills that were before Parliament, which had not conformed to Article 110(3) of the Constitution.

The Senate has since complied with the judgment given by the High Court and republished nine Bills, six of which are currently undergoing concurrence.

Mr. Temporary Speaker, Sir, the offices of the Speaker and the Senate leadership have been engaging with our counterparts in the National Assembly to fast-track the process of regularizing all Bills to conform to the joint resolution process under Article 110(3).

We are optimistic that by the commencement of the Fifth Session in 2021, we will have made significant progress and the Senate will begin that session with its plate already full.

Mr. Temporary Speaker, Sir, we all appreciate and recognize the importance of Petitions as a legislative tool to undertake our mandate of oversight and representation.

I would like to bring to the attention of the Senate that a total of 109 Petitions have been submitted since the First Session, out of which 47 reports have been tabled by the respective committees to which the Petitions were committed.

Let me take this opportunity to thank the Standing Committees for this tremendous work and urge the other committees also to move with speed and conclude all Petitions and table reports as required by Standing Order No. 232(2).

Mr. Temporary Speaker, Sir, with respect to Statements, 136 have been requested during this session. Hon. Senators will recall that the Standing Orders were amended in 2019 to streamline the processing of Statements.

In this respect, Statements sought under Standing Order No. 48(1) are referred to the respective committees who are required pursuant to Standing Order No. 51 to make Statements for matters for which they were responsible and table quarterly reports on matters relating to activities of the committee.

I take this opportunity to applaud committees for their reports, which have been filed and also tabled before the Senate. I urge them to deal with pending Statements accordingly.

Mr. Temporary Speaker, Sir, with regard to Motions, a total of 81 Motions were filed in the Fourth Session. Out of this, the Senate has debated and concluded 70 of them and 11 are pending debate and conclusion including the ones listed in today's Order Paper.

It is important for Senators to note that only Motions will lapse at the end of this session. Therefore, respective movers will be required to file Notices of Motion afresh at the beginning of the Fifth Session in February 2021.

Mr. Temporary Speaker, Sir, I take this opportunity to thank all Senators for the dedication and commitment they have shown in their work, in the service of the people of this great Republic of Kenya.

As we proceed for recess, it is my hope that we will all be able to meet with our constituents, spend time with our families and friends, and also rest in preparation of the coming year, 2021.

Mr. Temporary Speaker, Sir, I hasten to state that as the COVID-19 global pandemic continues to persist, let us all continue to observe the World Health Organization (WHO), Ministry of Health and parliamentary guidelines and protocols for keeping safe and minimizing the spread of the pandemic.

In conclusion, being that time of the year that is associated with three important holidays in the Kenyan calendar, allow me to end by wishing all hon. Senators a happy Jamhuri Day, Merry Christmas and a prosperous 2021.

Mr. Temporary Speaker, Sir, I hereby lay the Statement on the Table of the Senate.

Thank you.

(Sen. Kang'ata laid the document on the Table)

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana Kiranja wa Walio Wengi.

Hoja ifuatayo.

MOTIONS

THANKS FOR THE PRESIDENTIAL ADDRESS

THAT, pursuant to Standing Order No.24 (6), the thanks of the Senate be recorded for the exposition of public policy contained in the Address of His Excellency the President, delivered on Thursday, 12th November, 2020 and further that the Senate notes the following Reports submitted by His Excellency the President in fulfilment of Articles 132 (1) (c) and 240 (7) of the Constitution, laid on the Table of the Senate on Tuesday, 17th November, 2020 –

(i) The Seventh (7th) State of the Nation Address by His Excellency the President delivered at a Special Sitting of Parliament on Thursday, 12th November, 2020.

(ii) The 7th Annual Report on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance.

(iii) The 7th Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya.

(iv) The Summary of the 7th Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya.

(v) The Annual Report to Parliament on the State of National Security.

(vi) The Report on the Ease of Doing Business: Reform Milestones 2014-2020.

(vii) The Office of the Director of Public Prosecutions Consolidated Annual Report for the Financial Years 2017/2018, 2018/2019 & 2019/2020.

(Sen. Poghio on 17.11.2020)

(Resumption of debate interrupted on 24.11.2020)

The Temporary Speaker (Sen. (Dr.) Mwaura): Sen. Omogeni, nafikiria ulikuwa na muda ambao ulisalia.

Sen. Omogeni: Asante sana Bw. Spika wa Muda. Nitajitahidi sana kuendelea na kumaliza katika lugha ile ya kitaifa ya Kiswahili. Nataka kumshukuru Rais kwa ile Hotuba ambayo alitoa. Hii ni kwa sababu alitueleza kwamba katika huu mwaka ambao alikuwa anatupa ripoti hii ambayo ilisomwa tarehe 12 Mwezi wa 11 mwaka wa 2020, Serikali ilikuwa imeweka mikakati ya kununua madawati ya shule 250,000.

Hii ni ili kuhakikisha kwamba watoto wetu watakapokuwa wanarudi shule mwaka ujao, watakuwa na nafasi ya kuwa na ule umbali wa mita moja na nusu. Hiyo ni ili kusiwe na madhara katika shule kupitia ugonjwa huu wa Coronavirus (COVID-19).

Bw. Spika wa Muda, nimejaribu kutembea katika Kaunti yangu ya Nyamira na nimeona kwamba kweli kuna shule nyingi sana katika Kaunti yangu ambazo bado hazijakuwa na nafasi ya kupewa madawati. Kwa hivyo, naomba wale ambao wanasimamia Wizara ya Elimu wafanye jitihada kuhakikisha kwamba madawati haya yapelekwe kwatika kaunti zote 47 zenye ziko katika nchi ya Kenya. Hatutaki kusikia kwamba madawati haya yamegawa katika kaunti fulani na kwamba kuna kaunti zingine ambazo hazijakuwa na nafasi ya kupata madawati haya.

Bw. Spika wa Muda, hoja nyingine ambayo ningetaka kuguzia katika ile Hotuba ya Rais ni kuhusiana na jitihada ambayo Serikali yake imeweza kufanya kupigana na hili janga la COVID-19. Nakubali kwamba Rais alipoanza kushughulikia ugonjwa wa COVID-19 alianza kusaidia wakenya ambao walikuwa wanaathiriwa na hili janga.

Aliweka mikakati rasmi ya kuwalinda Wakenya, haswa mambo ya kupunguza kodi na kuhakikisha kwamba watu walikuwa wanawekewa amri ya kutokutana ama kutembea kutoka kaunti moja hadi nyingine.

The Temporary Speaker (Sen. (Dr.) Mwaura): Ni Hoja ipi ya nidhamu Sen. Pareno?

Sen. Pareno: Bw. Spika wa Muda, sijui kama nilisikia vizuri, lakini ni kama mwenzangu, Sen. Omogeni, badala ya kusema kwamba watoto wameathirika akasema “*ku-affectiwa*”.

Katika lugha ya Kiswahili, sijawai kusikia kama kuna ngeli kama hiyo. Kwa hivyo, afadhali aitoe hiyo kutoka kwa taarifa ya Bunge, la sivyo itabidi aajibike kwa sababu ya masharti yaliyowekwa katika Bunge.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana, Sen. Pareno. Wewe tayari ulikuwa Mbunge wa Bunge la Afrika Mashariki. Kwa hivyo, nafikiria umebobea katika lugha. Lakini ningependa kuwaruhusu Maseneta wenzangu kwamba tujaribu tu kuzungunza lugha. Hata kama kutakuwa na dosari, lakini kujaribu ndio kuweza.

Endelea.

Sen. Omogeni: Asante sana Bw. Spika wa Muda. Mimi nawazungumzia watoto kule Kaunti ya Nyamira na Nairobi ambao wamezoea ile Kiswahili ya *Sheng*. Nataka kuwatia moyo kwamba Serikali imeweka mikakati maalum ya kuhakikisha kwamba wakirudi shuleni mwaka ujao, hawatakuwa kwenye hatari ya kupata ule ugonjwa wa COVID-19.

Nikimalizia kuhusu COVID-19, ningemuomba Rais wetu aangalie upya ile mikakati ambayo imewekwa kuthibiti huu ugonjwa wa COVID-19, haswa wakati huu ambapo tunaelekea katika ule msimu wa Krismasi. Kutakuwa na watu wengi ambao watakuwa wanakusanyika wakiwa katika sherehe za kuburudika na familia na marafiki.

Bw. Spika wa Muda, lakini hatari yenye iko ni kwamba, wataki ambao watu wanakusanyika wakiwa wanafanya sherehe na kuwa katika sherehe za maankuli, huo ndio wakati ambao kuna hatari kubwa sana ya kusambaza huu ugonjwa wa COVID-19.

Nataka niombe kwamba pia Rais atakaporejea tena Bungeni mwaka ujao, atueleze shughuli ambayo Serikali imefanya kupigana na janga la COVID-19. Ni vizuri kwamba, Serikali iangalie upya ile mikakati ambayo inaweza kuwekwa wakati huu wa msimu wa Krismasi. Hii ni ili tuweze kudhibiti zaidi huu ugonjwa wa COVID-19.

Bw. Spika wa Muda, kumbuka kwamba mwaka ujao kutakuwa na wanafunzi wengi ambao watakuwa wanarejea shuleni wiki ya kwanza ya mwezi wa Januari mwaka wa 2021. Ni vyema tuweze kuzuia kueneza huu ugonjwa ili kuhakikisha kwamba, watoto ambao watakuwa wanaenda shule mwezi wa kwanza mwaka ujao, wasiende kama wamepata ugonjwa wa COVID-19.

Bw. Spika wa Muda, hii ni kwa sababu itakuwa ni hatari sana kwa wanafunzi wengine kupata ugonjwa huu haswa walimu. Pia ni vizuri Serikali zetu za kaunti zihakikishe kwamba zimeweka mikakati ya kuwa na vitanda vya kutosha vya kulaza wagonjwa mahututi. Hii ni kwa sababu tukishamaliza huu msimu wa Krismasi, kuna hatari kwamba ugonjwa huu utapata tena mchangamko wa kuenea zaidi katika taifa lote.

Pia namshukuru Rais kwa hiyo Hotuba ambayo alizungumza kuhusu maneno ya Building Bridges Initiative (BBI). Nia yake ni kuwaunganisha Wakenya na kuhakikisha kwamba sisi sote tunaenda mbele kama taifa.

Bw. Spika wa Muda, ningependa kumshukuru sana kiongozi wa taifa pamoja na kiongozi wa chama cha Orange Democratic Movement (ODM) aliyekuwa Waziri Mkuu Raila Odinga. Hii ni kwa sababu walihakikisha kwamba baada ya kupokea maoni kutoka kwa wananchi, ile ripoti ambayo tumeipata sasa ya BBI imeshughulikia mikakati ama mchangamko ambao Wakenya walikuwa wamezua kuhusiana na ile ripoti ya kwanza.

Nikizungumza kama Seneta wa Kaunti ya Nyamira, nataka niwashukuru sana. Hii ni kwa sababu tulipopata hii ripoti mara ya kwanza sisi hatukuwa tumeongezewa eneo Bunge katika kaunti yetu ya Nyamira. Lakini baada ya wengine wetu kuteta sana na kusema kwamba hatungekubali hii BBI kama hatungekuwa na eneo Bunge limeongezwa kule Kaunti ya Nyamira, nafurahi sana kusema kwamba sasa Kaunti yetu ya Nyamira imeongezewa eneo moja la Bunge. Ikiwa BBI itapita, sisi watu wa Kaunti wa Nyamira tutarudi hapa tukiwa na eneo Bunge na wawakilishi watano na sio wane.

Pia nafurahi sana kwamba Kipengele 11 sasa kinaongea kuhusu maneno ya kilimo. Ni kwamba wakulima wetu wa chai sasa watahughulikiwa na Serikali. Kule Nyamira, ukishughulikia mkulima wa chai na uhakikishe kwamba anapata mapato yake vyema haswa malipo ya chai ikiwa imewekwa kwa Kshs50. Sisi ndio tutakuwa mbele katika huu wimbo wa *reggae* kuliko watu wengine nchini Kenya.

Tunashukuru Serikali yetu kwa kuhakikisha kwamba kutakuwa na mikakati ya kushughulikia mahitaji ya wakulima wa chai, ili wasiendeleo kugandamizwa. Inafaa tufuate yale ambayo Rais alituambia katika Hotuba yake; kwamba, tumalize hali ya umasikini ili Wakenya wapate mapato ambayo yanawafanya waonekane kama binadamu. Ni lazima tushughulikie mkulima.

Bw. Spika wa Muda, hata ukiangalia maneno ya kilimo ya mimea kama kitunguu, wakulima hawapati soko la bidhaa yao. Hii kwa sababu wale wakulima kutoka Tanzania ndio wanaleta vitunguu kuuza katika soko letu hapa Kenya.

Ukiangalia upande wa mayai, mayai mengi ambayo tuko nayo hapa Kenya yanatoka kule nchi jirani ya Uganda. Ni sharti tuweke mikakati ya kuhakikisha kwamba tunamtetea mkulima.

Bw. Spika wa Muda, kule Marekani wakati hili janga la COVID-19 lilitokea, yule Rais ambaye anaondoka; Bw. Trump, aliweka kando karibu USD19 bilioni ili kuhakikisha kwamba hasara kwa mkulima inapunguzwa.

Hapa Kenya pia ningependa kwamba Serikali iweze kuweka mikakati ya kusaidia mkulima ili kupunguza hasara ambayo inawezakutokea na hili janga la Coronavirus disease (COVID-19).

Bw. Spika wa Muda, katika usambazaji wa umeme, namshukuru Rais vile alituambia kuwa Wakenya wengi sana sasa wamepata nafasi ya kupata umeme. Tangu Serikali ambayo tuko nayo sasa ichukue hatamu ya uongozi, kuna maeneo kadhaa ambayo yamefaidika sana na kuunganisha umeme kwa wananchi wa nchi yetu ya Kenya.

Shida ambayo iko ni kwamba ile kampuni ambayo inashughulika maneno ya kuunganisha umeme kwa wananchi, yaani, Kenya Power Company haina uwezo wa kuwafikia Wakenya wote.

Hata sehemu ambazo imewai kuunganisha Wakenya saa zingine kukiwa na kasoro katika ile mitambo ambayo inasambaza umeme ambayo tunaita *transformer*, inachukua muda mrefu sana kurekebisha mitambo hiyo ama kuleta ingine mpya wakati inaharibika.

Bwana Spika wa Muda, kwa mfano, kule eneo Bunge langu la Mugirango Kaskazini katika Kauti ya Nyamira kuna *transformer* ambayo iliharibika karibu miezi miwili iliyopita. Ni kule katika shule moja inaitwa Gekendo, karibu na Soko la Obwari. Hii ni kwa sababu hii kampuni ya Kenya Power Company hata kama tumeipatia jukumu la kuunganisha umeme kwa Wakenya, imeonyesha wazi kwamba haina uwezo.

Wakati umewadia ambapo inatakikana tukubali kwamba kampuni ingine ije ili iweze kusaidia katika hii shughuli ya kuunganisha umeme katika maeneo mbali mbali katika taifa letu la Kenya.

Bwana Spika wa Muda, katika maneno ya kupigana na umasikini na upweke kwa vijana, namshukuru Rais vile amesema sasa hivi hapa Kenya tuko na wale vijana ambao wanafanya kazi ya *boda boda*. Wanazidi sasa million moja nukta nne. Hao vijana wenyewe wanaleta katika uchumi wa taifa letu karibu Kshs357 bilioni.

Lakini pia kuna shida ambayo inawakumba hawa vijana. Hawa vijana katika zile sehemu za mashambani--- Seneta wa Kaunti ya Nairobi anaweza kutueleza, lakini kule mashambani wanasumbuliwa sana na maaskari. Mara nyingi hao vijana wakiwa wanafanya biashara zao wale askari ambao wameweka vizuizi barabarani wanawaitisha Kshs50 kila wakati wanapopita katika vile vizuizi.

Bw. Spika wa Muda, vile Rais amesema, angetaka kuona kwamba hao vijana uchumi wao iweze kuinuka siku zijazo wawe hata na makampuni ya kutengeneza *boda boda*. Lakini itakuwaje kwamba ile juhudi ambayo Serikali yetu inaunga mkono sana inawekewa pingamizi na maaskari wetu?

Nataka kuomba Serikali yetu ihakikishe kwamba wale maaskari ambao wako katika mabarabara zetu kazi yao isiwe kusumbua wale vijana ambao wanafanya kazi ya *boda boda*.

Bw. Spika wa Muda, nataka nikuambie kwamba hata Ijumaa iliopita nilikuwa katika Kaunti yangu ya Nyamira nikitembea kutoka soko moja inaitwa Ikonge, nikatoka katika barabara nyingine inatokea katika kampuni ya Kipkebe. Hapo kati kati, kuna maaskari wameweka kizuizi. Hao vijana wanasema kuwa kila mara wanapopita pale wanatoa kodi ya Kshs50. Wengine wanatoa Kshs100.

Huo sio ungwana kabisa. Baadhi ya vijana hao wamesoma sana lakini wanafanya kazi ya *boda boda* kwa sababu Serikali yetu haijaweka mikakati ya kutosha ya kupata ajira ya kutosha kwa vijana wetu.

Bw. Spika wa Muda, naomba Mkuu wa idara ya polisi ahakikishe kwamba mambo ya kutesa hawa vijana ambao wanafanya kazi ya *boda boda* ikome kabisa. Sio ungwana tena kuona vijana kama hao ambao wanajaribu kutafuta riziki kwa familia zao--

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The Temporary Speaker (Sen. (Dr.) Mwaura): Je, unataka kuarifiwa Seneta?

Sen. Omogeni: Bw. Spika wa Muda, ningependa. Nampa nafasi rafiki yangu, Seneta wa Kaunti ya Nairobi.

Sen. Sakaja: Asante Bw. Spika wa Muda. Ningependa kumuarifu Seneta wa Kaunti ya Nyamira. Namshukuru kwa nafasi hii. Ni kusema kwamba ni Hoja ya arifa. Ni kweli kuwa pia vijana wa Nairobi mara nyingi wanasumbuliwa na kunyanyaswa na maafisa wa polisi, lakini wanajitafutia riziki. Hivi leo kuna vijana wangu wengi ambao wanafanya kazi ya *boda boda* na pia wale wa matatu.

Ukiagalia upande wa Ruai, Njiru na Kayole kuna Forward Travellers Sacco wa matatu na wale wa Outer Ring na Eastern Bypass wameshikwa wengi. Wamewekwa kwa

“mariamu” jinsi tunaita ile lori. Wamejazwa na kushikwa bila kuzingatia kanuni za kupigana na COVID-19. Pia Nairobi tuna shida kama hiyo.

Nafikiria hiyo shida ya Nyamira iko zaidi. Nimefurahi kwamba mimi na wewe na Kamati yetu tutaenda Nyamira wiki ijayo kuangalia. Itabidi pia tuangalie mambo kama hayo. Wewe ni Mwenyekiti wa Kamati ya Haki. Tuko tayari pamoja na Maseneta wenzangu, Sen. Olekina, Sen. Mutula Kilonzo Jnr. na wale ambao wako katika Kamati hiyo. Sen. Olekina atakuja kama jirani wa Nyamira. Tutakuja kuzungumzia vijana na kuwapa moyo ya kwamba kupitia Building Bridges Initiative (BBI) kuna nafasi yao itapatikana hapo.

Sen. Omogeni: Bw. Spika wa Muda, nimefurahi sana na hiyo taarifa ya kujulishwa na Seneta wa Nairobi. Kwa hakika ni aibu sana kuona kwamba maaskari wetu ambao wanatakikana kutulinda na kuhakikisha kwamba wale wanafanya biashara hawatishwi, ndio wanawatesa vijana wetu.

Nafikiri kama Mwenyekiti wa Kamati wa Haki wiki ijayo sisi tutafunga safari hadi ofisi ya Ethics and Anti-Corruption Commission (EACC). Hii ni ili tujue ni jitihada gani zitawekwa na ile ofisi kuhakikisha kwamba maaskari wetu ambao wako katika barabara zetu na vizuizi hawawatesi vijana wetu wa *boda boda*.

Bw. Spika wa Muda, hii ni kwa sababu hakuna haja ya kukubalia kitengo cha polisi kuwatesa vijana wanaotea nchi yetu Kshs357 bilioni. Ni lazima tumuite Mkuu wa polisi na kitengo cha kupigana na ufisadi watueleze ni mikakati gani wameweka kuhakikisha kwamba hawa vijana ambao wanafanya kazi ya *boda boda* hawaendelei kufanyiwa dhulma na polisi katika vizuizi.

Nikiendelea pia nataka kumshukuru Rais. Amesema kwamba hii shughuli ya BBI vile tunaendelea mbele tukubali kwamba tuzungumze kama Wakenya. Mheshimiwa Rais ametuambia kwamba ile sheria ambayo imechapishwa na kuwasilishwa katika Bunge la Taifa ya kushughulikia maneno ya kura ya maoni--- Amesema kwamba tuangalie sheria hiyo ili tuweke mikakati ya kusaidia taifa hili kuenda mbele na kufanya kura ya maoni.

Bw. Spika wa Muda, tangu tupitishie Katiba yetu ya 2010, nchi hii haijawai kufanya kura ya maoni. Hii ndio mara ya kwanza kabisa tunaenda katika kura ya maoni. Mheshimiwa Rais ametusihia kwamba hii sheria ya kura ya maoni ikija kwetu, tuingalie na tuifanyie ukarabati kabisa. Tuwape Wakenya nafasi watueleze ni vipi tunaweza enda kwenye kura ya maoni tukitumia sheria hii.

Ningeomba Maseneta wenzangu kwamba tuangalie vile nchi zingine zinafanya. Mwaka 2008 nilipokuwa mwenyekiti wa Chama cha Wanasheria nchini, nilisafiri mpaka kule Marekani wakati kulikuwa kunafanywa uchaguzi kule. Niliona kwamba katika uchaguzi wao, vile wanafanya uchaguzi wa kuwachagua viongozi, pia unapata kwamba kuna maswali pale yamewekwa ya kura ya maoni.

Bwana Spika wa Muda, ukitembea katika kule nchi ya Australia, wananchi wanapewa nafasi ya kufanya mjadala. Swali ya kura ya maoni ikiwekwa kwenye wananchi wanapewa nafasi ya kuchagua.

Nataka niwaombe machifu wetu na manaibu wa chifu kwamba hii maneno ya kura ya maoni inaungwa mkono na Wakenya wengi. Hakuna haja hawa manaibu wa chifu wajaribu kuwadhulumu Wakenya wenzao. Hii sheria tutaenda kule na kuongea na watu wetu kule tunatoka na tutaipitisha kwa amani.

Hatutaki Wakenya washurutishwe. Huu ni mjadala ambao uko na wafuasi wengi. Tungetaka Wakenya wapewe nafasi yao waweze kuchukua hatua ya kidemokrasia. Kuna

wengi ambao wataipigia kura. Kuna wale wanaoipinga, ambao nafikiri ni wachache. Wakiikataa basi hiyo pia ni demokrasia.

Tumepata eneo Bunge mpya katika jimbo la Nyamira. Tumeambiwa kuwa mambo ya wakulima wa majani chai watashughulikiwa. Kwa hivyo, tutaungana na Wakenya wengine kuhakikisha kwamba tunawapatia wetu nafasi ya kusoma vitabu vya the Building Bridges Initiative (BBI). Wakiona kwamba wanafurahishwa na wanafaidi kutokana na mapendekezo yote kama kuongeza pesa kutoka asilimia 15 hadi 35 katika Majimbo, waunge mkono. Wakiona kwamba ni vizuri kwa sababu tumeweka maneno ya Ward Fund katika Katiba, watasoma na wakiona kuwa ni sawa watapiga kura. Hiyo ni demokrasia.

Kwa kumalizia, Hotuba ambayo Rais alitoa inatupa changamoto kama taifa kuunga Rais wetu mkono kuhakikisha kuwa Kenya inasonga mbele ikiweka Wakenya pamoja. Nimefurahi jinsi Rais alivyosema kuwa tumerahisisha maneno ya kusajili kampuni. Kila siku tunasajili zaidi ya kampuni 300. Shida ambayo tuko nayo ni kuwa wale wakuu wa majimbo, magavana, hawapatii vijana na kina mama wetu nafasi ya kufanya biashara. Unakuta kuwa wamama na vijana wamefanya jitihada ya kusajili kampuni zao lakini ukienda kwa serikali ya majimbo uulize vijana au wamama wangapi wamepewa nafasi ya kufanya biashara katika kaunti hakuna. Wale wachache ambao wamefanya biashara wakienda kutafuta malipo yao wanaambiwa watoe rushwa, inaitwa '10 per cent.'

Masenata, tunafaa kuweka mikakati zaidi ya kuhakikisha kuwa vijana wetu wanapewa nafasi ya kufanya kazi. Wale wawakilishi ambao wana ulemavu wameniuliza kule Nyamira kuwa hawapewi nafasi. Wanasajili kampuni zao lakini wakienda kwenye serikali ya Kaunti ili wapewe biashara, wanazungushwa huku na kule. Nafikiri ni vizuri tuitishe orodha katika kaunti zote 47 tuangalie watu ambao wako na ulemavu wamepewa nafasi ya kufanya biashara. Sheria inasema kuwa asilimia 30 ipewe vijana, kina mama na watu walio na ulemavu.

Magavana wetu lazima wafuate sheria kwa sababu hayo ndio madhumuni yetu kama taifa la Kenya.

Tunapoelekea Krismasi, na jinsi Rais amesema kuwa tujaribu tuwe na nchi ambayo ina umoja, tunafaa kukubali kuwa Wakenya wote wako pamoja. Tunaposhughulikia mambo ya BBI, inafaa kutuunganisha tuendeleo na tukubali kuwa nchi yetu ni moja.

Rais alisema katika Hotuba yake kuwa *referendum* nyingi zitakuja. Hii ni moja ambayo yeye na Raila Odinga wamependekeza. Kuenda mbele, amesema kuwa kutakuwa na kura ya maoni nyingi. Nchi itazidi kubaki na ubadilishaji wa Katiba utakuja leo, kesho na siku zijazo.

Asante, Bw. Spika wa Muda, kwa kunipa nafasi hii. Naunga mkono kwa moyo wote Hotuba ya Rais wa Taifa.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana kwa kujieleza kwa ufasaha mwingi, umahiri na pia ulikuwa na ari nzuri wakati ulikuwa unajieleza.

Jambo la kusikitiza ni kuwa viti ambavyo vinawakilisha watu wenye ulemavu katika Seneti vimeondolewa katika rasimu ya BBI kwa sababu lazima kuwe na usawa wa kaunti. Nafikiri kuwa hilo ni jambo ambalo linaweza kupigwa msasa.

Nampa Sen. Kang'ata nafasi ajibu kwa sababu yeye ni mdhamini wa Hoja hii.

Sen. Kang'ata: Thank you, Mr. Temporary Speaker, Sir. I take this opportunity to congratulate all Senators who have contributed to this Motion.

As correctly stated by various Senators, the President highlighted various issues concerning efforts that his Government has done to uplift Kenyans in terms of the political, economic and social sphere. The key highlight, as various Members have stated, is the issue concerning BBI.

Allow me to highlight few issues which Members have raised concern the Building Bridges Initiative (BBI).

Mr. Temporary Speaker, Sir, when His Excellency the President gave this Speech, the final Constitutional Amendment Bill concerning BBI had not been published. We now have a new Bill that took into account various issues that were raised by stakeholders. We all know that the proposed new Article 11 (a) of the Constitution had mentioned agriculture, but the revised version has added pastoralism and the blue economy. It means that the entire Arid and Semi-Arid (ASAL) region, that is, Wajir, Mandera, Marsabit, Turkana and Tana River, their issues are now captured in the proposed Constitution.

There is the issue concerning the blue economy. For the first time, the blue economy that involves activities like fisheries and maritime resources have found expression in the Constitution if BBI goes through.

Another new addition that we need to celebrate is the whole idea that agriculture, which has been mentioned expressly in the substantive part of the Constitution that gives Parliament the legal and Constitution background to enact guaranteed minimum return. It is a very contentious and emotive issue for people of Nyanza, Rift Valley and Mount Kenya region. When I was in the National Assembly, I brought a Bill proposing to guarantee returns for coffee farmers. However, it did not pass. Now, we have a constitutional provision if BBI passes that will enable the National Assembly or the Senate to create a guaranteed minimum return for various products. If that happens, our farmers will be protected from the vagaries of price fluctuations.

Mr. Temporary Speaker, Sir, the revised BBI Bill, which is undergoing signature collection, took into account the concerns that were raised by the Senator for Nairobi City County. The idea that functions were being transferred to the national Government will not happen. His Excellency the President took into account the views and Nairobi City County will be retained as it is; no single function will be transferred. To me, that is progress in the right direction. It shows that the Government listens and the BBI process is consultative.

Another thing that people complained about when the first BBI report was unveiled is the issue concerning independence of the Judiciary. This has been remedied.

The new Bill has also enhanced the powers of the Senate in the following manner. Number one, the Senate can vet commissioners of the proposed Youth Commission. Number two, we have the vetting power of the Controller of Budget. Also, the proposed Judiciary Ombudsman will come to this honourable House for vetting. It shows that the Government and the stakeholders went out of their way, bend backwards and listen to various criticisms levelled against BBI.

I will finalize with this point. People have been criticizing BBI saying that if it passes, Parliament is going to become bloated. I even heard one Parliamentarian say that we are creating a double decker Parliament.

Mr. Temporary Speaker, Sir, the key reason why there is a proposal to increase the number of parliamentarians is the endeavor by Parliament and also the Government to adhere to the so called gender top up principle. That principle is provided for under Article 27 of the Constitution. It is a principle that has been litigated in court, all the way to the highest court of this Republic.

There has been a decision that has not been vacated that we need to adhere to the two-third gender rule. As we are aware, there is even an advisory from the Chief Justice to the President to dissolve Parliament. What does that mean? We either agree to the two-thirds gender rule and increase more representation or, alternatively, we do away with this BBI amendment and Parliament still remains a contentious entity as currently constituted.

To cure that, we have to agree that we cannot have our cake and eat it and we have to consider expanding the legislature. I agree that we could have thought of other ways, but I can tell you that the ways of remedying that problem are few, and we have to take that route.

On the issue concerning constituencies, at a personal level, I support BBI for three reasons. Number one, minimum guaranteed return, which principle has been established by the New Article 11(a) of BBI.

Number two, Ward Development Fund, which I initiated in this House. It went to the National Assembly and was torpedoed. It is now going to become a constitutional provision if BBI passes.

Number three and most importantly, new constituencies. For the longest time, the people of Murang'a have been agitating for a new constituency. Now we shall have one extra constituency.

I am happy that it is not only Murang'a that is going to gain. Nairobi, Mombasa, and Mandera counties are going to gain constituencies. I am very happy when I see Bungoma and Kakamega gaining constituencies. The Rift Valley is another region that is also going to get more extra constituencies. For me, the way that constituencies have been drafted is a win-win situation.

I, therefore, beg to move and support the Speech by His Excellency the President. It was well taken.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana kwa kuchangia kwako uliokua na ufasaha, lakini ripoti ya BBI pia ina doasri kadhaa za uhariri ambazo zinafaa kuangaziwa. Niliisoma kwa masaa matano na nikaandika rasmi kwamba ninaiunga, lakini kuna tofauti kidogo.

(Question put and agreed to)

The Temporary Speaker (Sen. (Dr.) Mwaura): Kwa sababu muda umeyoyoma, tutahairisha Hoja zote kutoka Hoja ya Tisa hadi ya 18.

ADOPTION OF REPORT ON THE CONSTITUTIONAL
AMENDMENTS PROPOSED IN THE BBI REPORT

THAT, the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the Constitutional

amendments proposed in the Report of the Steering Committee on the Implementation of the Building Bridges to a United Kenya Taskforce Report, laid on the Table of the Senate on Wednesday, 11th November, 2020.

(Motion deferred)

ADOPTION OF REPORT ON THE CROPS (TEA INDUSTRY)
REGULATIONS, 2020 - LEGAL NOTICE NO. 97 OF 2020

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on the Crops (Tea Industry) Regulations, 2020 – Legal Notice No. 97 of 2020, laid on the Table of the Senate on Tuesday, 10th November, 2020, and that pursuant to Section 18 of the Statutory Instruments Act and Standing Orders 221(4)(b) and 221(5)(b), annuls in its entirety, the Crops (Tea Industry) Regulations, 2020 - Legal Notice No. 97 of 2020.

(Motion deferred)

BILL

Second Reading

THE MUNG BEANS BILL (SENATE BILLS NO. 9 OF 2020)

(Bill deferred)

MOTIONS

DEVELOPMENT OF LEGISLATION AND POLICIES BY
COUNTY GOVERNMENTS TO PROTECT THE ELDERLY

THAT AWARE that in 2006, the National Government initiated the Older Persons Cash Transfer (OPCT) Programme, popularly known as Pesa ya Wazee, which is an unconditional cash transfer programme to destitute elderly persons above the age of 65 years to cater for their subsistence needs;

NOTING THAT the beneficiaries receive a monthly stipend of Ksh2,000, delivered every two months through appointed payment agents, and also entitled to medical insurance through the National Health Insurance Fund (NHIF);

CONCERNED however that the programme's credibility is marred by issues of delayed payments to beneficiaries, difficulties in processing of payments through the stipulated agents and payments to unregistered persons;

NOW THEREFORE, the Senate recommends that the county Governments complement the efforts of the national Government and assist in resolving these challenges by -

1. Developing legislation and policies to protect the elderly, including ensuring all elderly persons in their counties are registered in the OPCT programme; and
2. Organize value addition mechanisms such as financial training to help the beneficiaries of the program to efficiently utilize this allowance.

(Motion deferred)

ADOPTION OF THE REPORT ON INQUIRY INTO THE
OPERATIONALIZATION OF NATIONAL CONSTRUCTION
AUTHORITY (DEFECTS LIABILITY) REGULATIONS, 2020

THAT, the Senate adopts the report of the Standing Committee on Roads and Transportation on its inquiry into the operationalization of National Construction Authority (Defects Liability) Regulations, 2020, laid on the table of the Senate, on Thursday, 24th September, 2020.

(Motion deferred)

REPORT OF THE 141ST ASSEMBLY OF THE
IPU AND RELATED MEETINGS

THAT, the Senate notes the report of the Parliament of Kenya Delegation to the 141st Assembly of the Inter-Parliamentary Union (IPU) and related meetings, held in Belgrade, Serbia, from 13th to 17th October, 2019 laid on the Table of the House on Wednesday, 4th March, 2020.

(Motion deferred)

NOTING OF THE REPORT OF THE 3RD
ORDINARY SESSION OF THE 5TH PAP

THAT, the Senate notes the Report of the Third Ordinary Session of the 5th Parliament of the Pan-African Parliament held from 7th to 18th October, 2019 in Midrand, South Africa.

(Motion deferred)

ALLOCATION BY COUNTIES A PORTION OF THEIR
BUDGET ON ECDE AND DEVELOPMENT OF A
POLICY TO INCORPORATE THE NEEDS OF CHILDREN

THAT, AWARE THAT, Constitution of Kenya (Article 53) affirms that children have basic rights, including the right to education, nutrition, shelter, health care and parental care, provisions that are aligned with those cited in both the Convention on the Rights of the Child and the Africa Charter on the Rights and Welfare of the Child, to which Kenya is a signatory;

CONCERNED THAT, the current status of day care facilities in the Country are not child friendly or habitable and there is need to bridge this gap to capture the play group class in the new 2-6-3-3-3 curriculum that is replacing the 32-year-old 8-4-4 system;

ACKNOWLEDGING THAT, most parents lack access to quality daycare facilities, which would provide a safe and stimulating environment to take care of their children while they are at work;

NOW THEREFORE, the Senate urges that County Governors in conjunction with the Ministry of Education to ensure that:

1. Counties allocate at least 10 percent of their budget on Early Childhood Development Education (ECDE) towards this vulnerable group; and
2. Policy is developed to incorporate the needs of children who are less than three years of age.

(Motion deferred)

PARKING CHARGES IN PUBLIC INSTITUTIONS OFFERING ESSENTIAL SERVICES

AWARE THAT, many urban areas and towns in Kenya lack designated car parking areas as a result of imbalance between parking supply and demand mainly due to ineffective land use planning and miscalculations of space requirements, thereby leading to exorbitant parking fees;

NOTING that, most essential services offered in hospitals, educational institutions and other public utilities are offered in urban centers, shopping malls and other designated areas that charge parking fees to access;

ACKNOWLEDGING, that whether they are delivered by public or private providers, essential services such as health, banking, education and other utilities are considered to be public services because they are public goods that sustain the well-being of every citizen and help in the development of the society as a whole;

CONCERNED, that access to hospitals, educational institutions and other places offering essential services might be hindered due to exorbitant parking fees levied on motorists accessing these services;

FURTHER CONCERNED, that charging entry fees amount to double taxation as the motorists who would have paid the parking fees will still pay for the services they seek;

NOW THEREFORE, the Senate urges the Cabinet Secretary for Lands, Housing and Physical Planning together with the Council of Governors to come up with a policy framework to create an enabling environment for protection of motorists accessing essential services from paying exorbitant fees for parking.

(Motion deferred)

FAST TRACKING CULTURAL DEVELOPMENTS IN COUNTIES

THAT, WHEREAS Kenya is a multi-ethnic and multi-racial country with rich and diverse cultural resources such as traditional medicine and foods, arts, craft, music, dances, dress among others;

AWARE THAT, the Constitution, in its preamble acknowledges the cultural diversity of the Kenyan people who are determined to live in peace and unity as one indivisible sovereign nation whilst, Article 11 of the Kenyan Constitution recognizes culture as the foundation of the nation and Part(2)(4) of the Fourth Schedule appoints cultural activities as a function of County Governments;

NOTING that while the Department of Culture under the Ministry of Sports, Culture and Heritage has been playing some of the key roles in promotion of cultural integration, formulation of policies and standards that will guide the development of culture, little information on existing policies has been available to the Kenyan public;

ACKNOWLEDGING that culture performs a significant role in the life of a child, the cultural background in which a child is brought up affects the totality of his or her life's activities;

CONCERNED that our children are losing their sense of identity due to the negative influences due to inadequate cultural identity catalyzed by globalization which has led to catastrophic consequences to the next generation as experienced in our country where a majority of young people are showing symptoms of feeling suicidal, anxious, feeling of hopelessness, anger, violence, feeling isolated, and paranoia;

NOW THEREFORE, the Senate urges the Cabinet Secretary, Ministry of Sports, Culture and Heritage to -

1. Formulate cultural development policies and initiatives to inculcate stronger community values, safeguard Kenya's heritage, recognize local heroes and promote socio-cultural opportunities in the counties;
2. Formulate strategies to create an enabling environment for protection and promotion of diversity of cultural expressions in all counties; and
3. Partner with the Council of Governors on the formulation and implementation of policy in accordance with Part (2)(4) of the Fourth Schedule of

the Constitution.

(Motion deferred)

The Temporary Speaker (Sen. (Dr.) Mwaura): Naona Sen. Sakaja ana hoja ya nidhamu.

Sen. Sakaja: On a point of order, Mr. Temporary Speaker. I would like to register my disappointment on Order No.9, which is a report of the Standing Committee on Justice, Legal Affairs and Human Rights on the constitutional amendments proposed in the BBI is not being adopted.

That is a very important report on this historic process. The Members of that Committee sat through very many meetings and our secretariat burnt the midnight oil to make it a reality. As much as some of the elements of that report could have been overtaken by events, it is good for it to be in the record of the House that the House adopted that report. There are many things proposed in that report that have been adopted by the BBI, while some have not. However, 20 years from now, your grandchild should be able to go online and see what we stood for as a Senate when the BBI report was being passed.

I am a Member of the Committee that prepared the report and I was willing to second the Chairperson on the Motion. However, in the absence of the Chairperson, I can move the Motion and it can be seconded by somebody else. This House cannot waste resources of our staff and Members sitting for long hours to discuss such a report for days and then the Chairperson just disappears and fails to move it.

Mr. Temporary Speaker, I seek your guidance on that issue. I am willing to move the Motion as a Member of that Committee in less than five minutes, so that it is part of the record of this House; that this House adopted the report on the position of the Senate on the issue that Sen. Kang'ata has spoken about in support to the BBI, as opposed to us just leaving the matter and throwing our work down the drain.

The Temporary Speaker (Sen. (Dr.) Mwaura): Sen. Sakaja sidhani Hoja hilo litatupiliwa mbali hata kama hatutalijadili leo. Nimesema kwamba nahairisha Hoja zote kwa sababu muda umeyoyoma. Nimearifiwa kwamba Hoja hilo laweza kuorodheshwa katika awamu ijao ya Bunge la Seneti. Kama hoja hilo laweza kuorodheshwa katika mwezi wa Februari tutakapo rudi, basi tutaliorodhesha wakati huo.

Sen. Sakaja: Bwana Spika wa Muda, kulingana na Kanuni zetu za Seneti, Hoja hilo litakuwa limepitwa na wakati tutakapo rejea Mwezi wa Februari.

Kwa hivyo, haitaweza kuzungumziwa tena kwa muhula unaofuata katika Awamu ya kwanza ya 2021.

Itakuwa ni vyema hata kama kwa sababu ya wakati, Ripoti hii izunngumziwe kwa dakika mbili tu, lakini iwe katika kumbukumbu ya Seneti kuwa tulijadili na kutoa mawazo yetu na tukapitisha Ripoti hii. Tuko na idadi ya kuititisha Ripoti hii ya kazi ambayo imefanywa na Maseneta.

The Temporary Speaker (Sen. (Dr.) Mwaura): Sen. Sakaja, nafikiri kwa sababu Mwenyekiti, Sen. Omogeni, aliwahi kuja hapa kuniuliza swala hilo, kwa sababu nilikuwa nimearifiwa kwamba tuahirishe Hoja zote kwa sababu ya muda. Nilimweleza kwamba hatutaweza kufanya swala hilo rasmi lakini ninakubaliana na wewe kuna uwezekano

kwamba Ripoti hii haitaweza kuorodheshwa tena mwezi wa Februari kwa sababu tuna Hoja nyingi mbele yetu.

Pengine nikupe nafasi ya dakika tatu ama nne uilete rasmi. Pengine Sen. Olekina ama mwingine –

Sen. Sakaja: Mr. Temporary Speaker, Sir, as I move this Report, I will ask Sen. Faki and not Sen. Olekina to second. Sen. Olekina is anti-BBI. We cannot risk.

Mr. Temporary Speaker, Sir, very simply, the Committee on Justice, Legal Affairs and Human Rights, which is the custodian of issues of human rights and the constitutionalism in the Senate, went through the proposals of the Task Force---

The Temporary Speaker (Sen. (Dr.) Mwaura): Pole Sen. Sakaja. Acha tumpe Karani wetu aisome hiyo Hoja rasmi.

ADOPTION OF REPORT ON THE CONSTITUTIONAL
AMENDMENTS PROPOSED IN THE BBI REPORT

Sen. Sakaja: Mr. Temporary Speaker, Sir, I beg to move:-

THAT, the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the Constitutional amendments proposed in the Report of the Steering Committee on the Implementation of the Building Bridges to a United Kenya Taskforce Report, laid on the Table of the Senate on Wednesday, 11th November, 2020.

Thank you, Mr. Temporary Speaker, Sir, for your wisdom and for giving us this opportunity. The standing Committee on Justice, Legal affairs and Human rights went through the Report of the Steering Committee on the implementation of the Building Bridges to a United Kenya Taskforce Report. We looked at the proposed amendments as a Committee over a number of days.

We looked at many of the proposals. For instance, Article 90 on Members of the National Assembly being drawn from both single and multiple Members of constituencies. This provision has since changed and I join the Majority Whip; a very senior Member, who as we do the Adjournment Motion, we shall talk about him a bit.

I join him in applauding the proposal of equality of the vote. Article 81 talks about the principle of universal suffrage and equality of the vote. This country is a signatory to the Universal Declaration of Human rights. Article 5 of that Declaration talks about the principle of equality of the vote and universal suffrage.

Since all Kenyans cannot go to any legislative assembly to represent themselves, then we are as equal as possible, the number of constituencies and representing as equal as possible number the people and that unit must be representative. This provides that number one, those counties that would have lost constituencies in the review under Article 89 do not lose those constituencies. The 290 are all protected.

Some counties would have lost, for example, Isiolo and Lamu would have had only one, but they remain. Those who deserved are able to get the additional constituencies in terms of population so that each county has an almost equal number.

Mr. Temporary Speaker, Sir, before that, there was gerrymandering and you would find, a representative in Nairobi, for example, Embakasi, one MP was representing 900 000 people, while another was representing 10,000. The weight of a vote must be as equal as possible.

I will skip Article 96 because it talks about the role of both Houses. We gave our thoughts on that, as well as Articles 97 and 98.

Mr. Temporary Speaker, Sir, I want to go to a provision that I was very keen on the issue of Nairobi City County. There was a proposal of Article 200, to transfer permanently functions from Nairobi City County.

Mr. Temporary Speaker, Sir, I want to thank you Senators for listening to me. This is because when we went to Naivasha, everybody was against touching a comma or a full stop, but I insisted that Article 1 says that the sovereignty of this country is exercised at the national and county level. By hardwiring or hardcoding, the transfer of functions from Nairobi, then the people of Nairobi will not have the same right of devolution as the person in Narok. A mother in Mutuini or Ruthimitu does not have someone she can hold to account for provision of health services that she has voted for at the county level, as a lady in Narok South or Lolgorian in Kilgoris.

Mr. Temporary Speaker, Sir, every Kenyan has a similar right to representation at the county and national level. Article 1 talks to the sovereignty of this country. We gave examples of very many countries that have succeeded having their capital devolved. The point we made was that do not try and solve a temporary problem that we currently have in Nairobi and we had with the last county government, by having a permanent solution of removing Nairobi from devolution. If 10 per cent of Kenyans are in Nairobi, which is 4.3 million out of 47 million, then we cannot deny 10 per cent of Kenyans the biggest gift of this constitution, which is devolution.

I am very happy that, that was taken into account. After Nairobi Metropolitan Services (NMS) finishes its work---. The NMS is doing very important work. They are dealing with cartels, infrastructure, they have good will and resources that a normal county government will not have had in the next---Because they exist for 24 months, the next administration, or the next County Government of Nairobi will have an easier time in dealing. That time, the resources will be higher.

If you look at what Building Bridges Initiative (BBI) is proposing, and I will speak to that later in the Adjournment Motion, when we talk about 35 per cent of resources to be devolved to the counties, that means that Nairobi County, if it is in the next financial year--- First of all, counties should get Kshs475 billion. Of that Kshs475 billion, with the formula that we put in as "*Team Kenya*" and as the Senate, it means that Nairobi County will get Kshs25 billion.

Mr. Temporary Speaker, Sir, with Kshs25 billion, then we add the own-source revenue - we passed the Sectional Properties Law - that will increase revenue in Nairobi by almost Kshs50 billion. We are talking about Kshs75 billion per year. All the challenges we have in this County and in many other counties like Mombasa, which is a City, can be sorted. City counties have a lot to gain on Sectional Properties and the formula we passed in this Senate with 35 per cent of the resources going to counties.

Mr. Temporary Speaker, Sir, with those many remarks, I want to thank the Secretariat. I want to thank Mr. Charles, Mr. Mitchel Otoro, and all members of our secretariat who participated in this process. They really informed us. I want to thank Sen.

Wetangula, Sen. Mutula Kilonzo Jnr. and Sen. Orenge. They took what the Senate was asking for. They did the back-channeling they needed to do.

Mr. Temporary Speaker, Sir, the version of BBI we have today, contrary to the hardliners who said not a comma should be removed--- I am glad that Sen. Kang'ata was not one of those hardliners. This is because we sat with Sen. Kang'ata with the President, and he will tell you where we sat. We said: "Please, Mr. President, just give an ear." I know that some people want a contest; there is no contest. Everyone is supporting BBI, except Sen. Olekina.

Mr. Temporary Speaker, Sir, we will have a better Constitution. It is not a solution, magical, but a step. When Sen. Olekina will be in Government and his President, we will move another step. It is a continuous improvement of our country.

Mr. Temporary Speaker, Sir, I beg to move that we adopt this Report of the Senate Committee on Justice, Legal Affairs and Human Rights. I ask Sen. Faki to second.

Thank you.

Sen. Faki: Asante, Bw. Spika wa Muda, kwa kunipa fursa hii kuunga mkono Ripoti ya Kamati ya Haki, Sheria na Haki za Kibinadamu katika Seneti.

Kwanza naipongeza Kamati hii kwa kukaa kwa muda mchache na kuja na Ripoti ambayo ina ufasaha makubwa. Itakumbukwa kwamba Kamati hii ina Wakili Waandamizi watatu ambao ni Sen. Omogeni ambaye ni Mwenyekiti, Sen. Amos Wako ambaye alikuwa Mkuu wa Sheria na Sen. Orenge ambaye pia ni *Senior Counsel*.

Vile vile, Kamati hii ina mawakili wengine watatu wakiwamo Sen. Dullo ambaye ni *Deputy Majority Leader*, Sen. Mutula Kilonzo Jnr. ambaye ni wakili mwenye tajiriba kubwa na Sen. Iringu Kang'ata, Kiranja wa Walio Wengi katika Seneti.

Naelezwa kuwa Mwenyekiti wa zamani wa Kamati ya Kudumu ya Haki, Mambo ya Kisheria na Haki Za Binadamu, Sen. Cherargei, ni mwanafunzu wakili ambaye aliapishwa juzi. Nachukua fursa hii kutoa pongezi zangu kwa Sen. Cherargei baada ya kuapishwa rasmi kama wakili wa Mahakama ya Kenya. Nilipitia mafunzo hayo miaka 29 iliyopita itakapofika 19 December 2020.

Kamati ilianguzia vipenge kadha vya Katiba ikilinganishwa na mapendekezo ambayo yalitolewa na Kamati ya Building Bridges Initiative (BBI). Jambo la kufurahisha ni kuwa katika Mswada ambao umechapishwa rasmi wa maswala ya mabadiliko ya Katiba, mchango wa Seneti umeonekana---

The Temporary Speaker (Sen. (Dr.) Mwaura): Hoja ya nidhamu kutoka Sen. Kang'ata.

Sen. Kang'ata: Mr. Temporary Speaker, Sir, I take this opportunity to thank Sen. Sakaja because despite having one hour as the Mover, he decided to take five minutes. I am requesting Sen. Faki to consider limiting time for contribution by other Members who will come after the Mover.

The Temporary Speaker (Sen. (Dr.) Mwaura): Sen. Faki, utachukua dakika kama tatu hivi.

Sen. Faki: Bw. Spika wa Muda, Sen. Kang'ata ni wakili kama mimi. Mara nyingi wakati wakili *senior* wako anazungumza, wakili ambaye ni *junior* anafaa kuketi na kusikiza ili aweze kupata hekima ya mafunzo yanayotokana na wakili senior.

Sitakuwa mrefu wa mazungumzo. Yangu ni kusema kwamba yale mapendekezo ambayo yalitolewa na Kamati ya Kudumu ya Haki, Mambo ya Kisheria na Haki za Binadamu ambayo yako katiki Ripoti hii yameangaziwa katika Mswada wa BBI ambao

umechapishwa rasmi. Wananchi wanaweza kusoma Mswada wa BBI na kuweka sahihi ili kutimiza mapendekezo ya sheria kuhusiana na ruwaza hiyo.

Hii itaenda kwenye kumbukumbu ya Seneti kuwa wakati tulipokuwa na fursa y kuboresha utendakazi wa Seneti katika Katiba yetu, sisi kama Maseneta wakati huo tulitoa mchango wetu kuona kuwa Seneti inabaki kuwa chombo muhimu cha kulinda ugatuzi katika Jamhuri ya Kenya.

Mapendekezo kuwa Nairobi iwe *metropolitan* yamekataliwa. Nairobi itabaki kuwa kaunti kama kaunti zingine. Tunapongeza kazi ambayo inafanywa na Nairobi Metropolitan Services (NMS) lakini utawala lazima urudi kwa wananchi. Utawala unarudi kwa wananchi ili wakati wananchi wapate fursa ya kuchagua viongozi wanaowataka.

Napongeza Mswada wa BBI kwa sababu ya kutupa Kaunti ya Mombasa maeneo Bunge tatu ili kuboresha utendakazi wa wabunge katika eneo lile. Naunga mkono Ripoti ya Kamati ya Kudumu ya Haki, Mambo ya Kisheria na Haki za Binadamu na naomba kwamba Bunge litapitisha Mswada huo.

(Question proposed)

Sen. Olekina: Mr. Temporary Speaker, Sir, I do not know whether to support. However, let me just congratulate my colleagues for taking their time to look at the recommendations of the steering Committee and the BBI taskforce.

Mr. Speaker, Sir, my biggest concern is that two of the most critical recommendations for this House which were proposed by the Standing Committee on Justice, Legal Affairs and Human Rights were not taken into consideration in the final BBI report. One of them is with regard to Article 123 of the Constitution. That is the right to vote. A few months ago, we were able to exercise that right to defend this House. However, I am disappointed because even though the Committee recommended that Article 123 be retained in the proposed Constitutional Amendment Bill, the taskforce did not take that into consideration. This is one of the reasons why I do not support the Constitutional Amendment Bill.

I have read through this BBI report, and I am disappointed that some of our proposals were not taken into account. One of the proposals that we felt strongly about is to do with the issue of the Consolidated Fund which is provided for in Article 203 of the Constitution. Perusing the report by the Committee, it does not mention anything to do with that. If it did, we could gain more in the BBI process. Right now, we are losing money in our counties. Our Constitution, which is a living document, is clear on Articles 202 and 203.

In the interest of time, I will be speaking on the issue during the adjournment Motion so that I can clearly explain to Kenyans what my reservations are. The Committee on Justice, Legal Affairs and Human Rights did their part. They went through the recommendations of the BBI Taskforce and raised their objections and further recommended that certain things be taken into consideration. However, I am disappointed that they were not.

I will support the Report because I have perused it, but also hope that in future, the process will be geared towards supporting the entire 47 million Kenyans and not some of them. This is what is in the Constitution. The preamble of our Constitution starts

with the words 'we the people'. If we are the one supporting it, then all the issues, particularly the voting power and revenue sharing should have been captured in the Constitutional Amendment Bill. I will reserve my comments for a later session.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana. Sioni Seneta mwingine ambaye angependa kuchangia. Samahani, ninamuona Seneta wa Turkana na Sen. (Dr.) Ochillo-Ayacko wanataka kuchangia. Sen. (Dr.) Ochillo-Ayacko una dakika tatu za kuchangia.

Sen. (Dr.) Ochillo-Ayacko: Thank you, Mr. Temporary Speaker, Sir. I have pressed my gadget and it appears on the other side.

The Temporary Speaker (Sen. (Dr.) Mwaura): Unaweza kuzungumza kwenye vipasa sauti viwili.

Sen. (Dr.) Ochillo-Ayacko: Mr. Temporary Speaker, Sir, let me try. I thank you for the opportunity to speak to this Report.

First, I want to appreciate the leaders of the Committee on Justice, Legal Affairs and Human Rights for coming up with a report regarding this important issue called reforms we have been looking for. I want to request Sen. Olekina to come on board. Constitutional making is a continuous process. It will never be made in one day, a year or 10 years. Others who will come after us will continue making it and even those who were ahead of us made several amendments to the Constitution. Let us all agree that this is not a perfect document, but it is an improved one, and other people will improve it further.

In future, legislation and other items that are purely manual are going to accept a digital arrangement. In the Evidence Act, that is already accepted and in other formats. This is an improved document, and I think that our Committee, the Committee on Justice, Legal Affairs and Human Rights has done a good job and they deserve accolades from all of us.

Mr. Temporary Speaker, Sir, there is still a lot to be done by way of looking at certain pieces of legislation and aligning them to the overall architecture of where this country is moving to. The Committee has an agenda before it. The agenda is urgent, and it is as important as what they have already done.

I want to ask the Committee membership to focus squarely now on other related pieces of legislation that are going to operationalize the architecture of the reforms that are envisaged in the BBI. If that is not done and left to other people, perhaps those people will have a different conceptual arrangement that will not allow the dreams in BBI to materialize. I want to ask them to quickly shift gears and look at related policies and pieces of legislation that need to be brought on board to realize the dreams that we have in BBI.

As for me and my followers in Migori, we will continue fighting for improvement of this document. It would be foolhardy to try and oppose it. It brings money to my village and many other villages that brought me here. It brings money to my county and many other counties neighbouring mine.

When you have money in your pocket, you are moving consistently towards leading a dignified life. I believe in human dignity, the dignity of the people of Migori, that of Sen. Kang'ata, and everybody in this House. Let us have money in the pockets of our followers and in our pockets so that we live a life that is not that of being broke, that of paupership and such related afflictions.

Thank you very much, Mr. Temporary Speaker, Sir. I support the report and hope that they will continue improving and working on other pieces of legislation and policies that we need.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante. Kwa sababu ya muda, nitamwita Mdamini wa hii Ripoti aweze kujibu. Nafikiri ni Sen. Faki, kwa sababu Sen. Sakaja hayupo.

Sen. Faki: Asante, Bw. Spika wa Muda. Mapendekezo yote na mijadala ambayo imetolewa na Maseneta katika kujadili Ripoti hii yatazingatiwa na Kamati. Tutaweza kuboresha utendakazi wa Kamati hii wakati tutakaporudi mwakani. Kama alivyosema Sen. (Dr.) Ochillo-Ayacko, kuna sheria nyingi ambazo zinatarijwa kufanyiwa ukarabati wakati BBI itakapopitishwa. Kamati itakuwa macho wakati wote kuweza kutekeleza.

Asante, Bw. Naibu Spika wa Muda.

(Question put and agreed to)

The Temporary Speaker (Sen. (Dr.) Mwaura): Hoja ifuatayo. Nimeahirisha Hoja zote, kwa hivyo tunaenda kwa Hoja ya 19 baada ya karani kuisoma.

MOTION FOR ADJOURNMENT

ADJOURNMENT OF THE SENATE PURSUANT TO THE APPROVED CALENDAR FOR THE 2020 SESSION

Sen. Kang'ata: Mr. Temporary Speaker, Sir, pursuant to Standing Orders 28 and 29, I beg to move: -

THAT, pursuant to Standing Orders 28 and 29, the Senate do adjourn until Tuesday, 9th February, 2021.

I move that we adjourn the Senate and come back on Tuesday, 9th February 2021. We need to adjourn for several reasons. One, we need to go home and celebrate with our families because we are in the month of December 2020. We have several holidays in the month of December such as Jamhuri, Christmas and Boxing Days. It is time for the Senators to take a break. The adjournment does not signify that we have concluded all business before the Floor of the House. We have several pending legislations, several pending statements and other matters. However, on the other hand, it is time for us to take a break.

Mr. Temporary Speaker, Sir, I draw the attention of this House to the very good work that has been done by the Senators for this Session. Allow me to draw the attention of this hon. House to the very good work that has been done by the Senators for this Session. Various statements and Motions that Senators brought to the Floor of the House were discussed robustly which have resulted to positive action on the part of the Executive and other governmental agencies. We need to celebrate this Sessions because it has been one of the most productive sessions.

Various Committees have also managed to do a lot. I have seen the good work that has been done by the on County Public Account Investments Committee (CPAIC) which has oversighted the Governors well. On that note, I would like to mention that I

attended the annual ICPAK conference, the body that controls accounts and met the vice chairperson of ICPAK. He told me that due to the work that has been done by the CPAIC of the Senate, fewer counties are now receiving adverse and disclaimer opinions of the Auditor-General.

A vast majority of the counties are now in the second category of what we call an opinion that is qualified. Going forward and based on the work of this Committee and this House, we will have more counties receiving unqualified opinions of the auditors. In the last financial year, only Nyandarua and Makeni counties received unqualified opinions. I am sure that the Senators can see a correlation between the work of the Senate and more counties doing a better job in terms of the auditing process.

Mr. Temporary Speaker, several legislations have been tabled before this House and processed in this Session. I hope that we will continue with the same spirit in the next session. I would like to highlight the fact that for the first time, the Senate successfully impeached a Governor. I remember we had almost eight previous attempts to impeach Governors, all of which were not fruitful. I remember the case of Embu County in the last Parliament where the case went to court, was litigated and the Gov. Wambora was reinstated back to his position. Other attempts that were brought before this House were concluded in favour of the Governors but for the first time, this House processed and impeached a Governor and decision has not been vacated by a court of law. We have to celebrate the fact that for the first time, the Senate has been able to successfully execute that mandate.

Finally, we also made history for passing a new generation revenue sharing formula that was much contested. I congratulate my colleagues in 'Team Kenya' for oversighting Government. There is something called constitutionalism. It is the idea that government's power is limited. To that extent, in Kenya, you did a good job.

Mr. Temporary Chairman, Sir, of course, congratulations go to 'Team Katiba' which I was a ranking member, was able to ensure our way was also realized that we now have a new formula that takes due account of population. Therefore, we are also happy. 'Team Kenya' and 'Team Katiba' all gave us a historical revenue sharing formula. I think this session will go down in the history of this Republic as having shepherded that process.

Mr. Temporary Chairman, Sir, I conclude by saying that I have no doubt the next session will be shaped by the debate on Building Bridges Initiative (BBI). That will be the defining discussion in the next session. This is because if for any reason BBI passes - I do not want to be speculative - we shall have established the Senate as what we call an 'Upper House'.

Therefore, I urge Members; please go home, if you allow this Motion to go through, debate BBI and explain the benefits of BBI to the members of the public. I will continue telling my people in my region that BBI brings several benefits. The first is more constituencies. Second is the Ward Development Fund, which I fought for strongly. This House passed it and it went to the National Assembly. It was torpedoed there and now BBI has revived it.

Thirdly, when I was in the National Assembly, I moved an amendment to the Higher Education Loans Board (HELB), to provide what we call a waiver of penalties to graduates who do not have employment. Now BBI has revived that idea and that, to me, it is going to assist poor graduates, at least, have some rebate for about four years.

Mr. Temporary Chairman, Sir, finally, those of us who come from farming communities, agriculture has now found expression in an explicit manner in the Constitution. The new Article 11 (a) once passed, will definitely provide a legal basis for what we call guaranteed minimum returns.

With those few remarks, I urge Sen. (Prof.) Ongeru to second.

Thank you.

The Temporary Speaker (Sen. (Dr.) Mwaura): Sen. (Prof.) Ongeru, proceed.

Sen. (Prof.) Ongeru: Thank you, Mr. Temporary Speaker, Sir. Let me also add my voice on this Adjournment Motion. This is the time we should go back to our homes and count the blessings that have gone through these Senate sittings, in various committees and plenary.

One of the most important things that we have gained during this session is what I call the peace dividends. Peace is a commodity that is priceless. The BBI has been able to bring about this understanding that even when we have the opposing sides at the extreme ends, we are eventually able to sit down together in a very amicable way to share and agree on the way forward.

Mr. Temporary Chairman, Sir, one of the things that we have agreed recently is the revenue sharing formula, which took some time. There was a lot of impatience with money not flowing to the county governments, therefore, creating many difficulties, particularly during this period of Coronavirus (COVID-19). More so, in the health sector, it became very difficult for us to put people together.

However, with these concerted efforts from both sides, those who were antagonist and protagonist, we were able to come to an agreement that was able to shepherd this process of revenue sharing to a very conclusive level.

Mr. Temporary Chairman, Sir, I congratulate both sides.

No side was a loser, every side was a winner. Eventually, Kenyans have settled on a formula which will help us to move forward.

A lot has been said against the BBI. However, at the end of the day, I say this with full knowledge that I sat in Serena Hotel and saw the difficulties that we had during the post-election violence.

The promulgation of the 2010 Constitution was as a result of the events and discussions that enumerated out of the Agenda 4 which generated so much interest for Kenyans and gave us a wonderful Constitution of Kenya, 2010.

After the promulgation, it was quite clear that we still needed to amend some Articles of the Constitution to re-align it with the new interests of Kenyans particularly the marginalized groups, for example, the youth and the county governments that were not receiving enough resources.

For me, the take away in BBI is the 35 per cent of the national revenue to be shared with the county governments. It will not be on the basis of the recently adopted accounts of 14 or 15 per cent which was little money going to the county governments. It will be based on the recently adopted Auditor-General's accounts.

The second take away is the youth commission which will cascade all the way to the ward level.

The third take away is the Ward Fund which we all fought for in the Senate. We agreed and it went to the National Assembly who could not agree. Fortunately, it has

found its way to the Constitution. I am quite happy that it will be something that we will live for.

I have always yearned for a time when this country will never go to war or into a crisis because of our politics. Therefore, I am glad that we will do much in this new BBI process. Let us embrace it all together. I have already signed for it and many people are signing for it. We should create a spirit of willingness for all of us to move together to the future without any doubt.

I do not want to say much about public accounts because my colleagues want to contribute also.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana.

Sen. (Prof.) Ongeri: Mr. Temporary Speaker Sir, with those few remarks, I second this Motion on Adjournment.

(Question proposed)

Sen. Cherargei: Asante, Bw. Spika wa Muda, kwa kunipa nafasi hii. Naunga mkono Hoja hii ambayo imeletwea na Mratibu wa walio Wengi.

Nina mambo mawili---

Sen. Madzayo: Nina hoja ya nidhamu, Bw. Spika wa Muda.

The Temporary Speaker (Sen. (Dr.) Mwaura): Una Hoja ipi, Sen. Madzayo?

Sen. Madzayo: Bw. Spika wa Muda, kwa unyenyekevu, taadhima na imani kuu tulionayo juu yako, tunataka hii hoja ya nidhamu, kwa sababu tunaenda likizo, ndipo tukaongeza muda kidogo ili tueleze matumaini yetu katika Bunge letu la Seneti kama alivyosema Mratibu wa Walio Wengi Katika Seneti---

Ninigependelea badala ya dakika mbili - kwa vile tumebaki wachache - tupate kama dakika saba ama nane kila mtu.

(Applause)

Asante, Bw. Spika wa Muda. Nina imani na uhakika kwamba utakubaliana na mimi.

The Temporary Speaker (Sen.(Dr.) Mwaura): Kwenye orodha yangu hapa, nina Maseneta wanne ambao nitawapa kila mtu dakika tano. Nimekubali kwa sababu pia ya weledi wa lugha na umahiri wako na vile ambavyo una haiba nzuri.

Sen. Cherargei, kijana mtanashati, una dakika zako tano.

Sen. Cherargei: Asante Sana, Bw. Spika wa Muda, kwa nafasi hii.

Kama nilivyotanguliza hapo awali, ninaunga mkono Hoja hii ambayo imeletwa na Mratibu wa Walio Wengi Katika Seneti. Hii ni mara ya kwanza kuunga Hoja ambayo ameleta kwa sababu tunaenda likizo.

Nina mambo mawili tu. Kwanza ni kuhusiana na kazi ya Bunge la Seneti. Tumejaribu pakubwa kulingana na vile ambavyo tumepewa katika Ibara ya 96 ya Katiba yetu ya Kenya. Tumejaribu kufanya yale yaliyokuwa mbele yetu na yale ambayo yametendeka.

Huu ulikuwa wakati ambapo uhuru wa Seneti na Bunge la Taifa uliangamizwa na Serikali ya Taifa. Ninakumbuka wakati huo ndio Mratibu wa Walio wengi katika Seneti, Sen. Kang'ata, alikuwa anafanya kazi hiyo. Nimeshukuru sana kwa kusikia Ripoti ya

Kamati ya Haki, Masuala ya Sheria na Haki za Kibinadamu wakizungumziwa hapa. Wakati huo ilikuwa jambo la heshima sana kuwa Mwenyekiti wa Kamati hiyo katika Seneti.

Tumejifunza mambo mengi. Kwanza, uhuru na demokrasia ya Seneti na Bunge la Taifa lazima umepewe nafasi kwa mujibu wa Katiba ya Kenya. Wenzangu wanapofurahia viti, kama vile ndugu yangu Kiranja wa Walio Wengi katika Seneti na Viongozi wa Walio Wengi katika Seneti, wajuwe ya kwamba raha ni kidogo tu. Ni lazima waambie wale wanaoogoza Serekali ya Taifa kuwa uhuru na demokrasia wa Seneti na Bunge la Taifa lazima uheshimiwe.

Pili, ni kuhusiana na ile kesi tuliopoleka katika Mahakama Kuu Zaidi Nchini. Nimefurahi kuwa uhuru wa mahakama zetu ulionekana. Bunge la Seneti limepewa nafasi bora ya kujiimarisha na kuheshimika hasa wakati tunapotunga Sheria katika Seneti na Bunge la Taifa.

Siwezi kujisifu lakini wakati huo nilikuwa Mwenyekiti na weledi wangu ulionekana. Ninafurahi kuwa katika historia ya Bunge la Seneti itajulikana kuwa Seneta wa Kaunti ya Nandi, Sen. Cherargei, alikuwa Mwenyekiti wa Kamati ya Haki, Masuala ya Kisheria na Haki za Binadamu. Inaonyesha kama wangukuwa wanatumia weledi, umahiri na uongozi bora katika Kamati za Seneti, ningekuwa ninaendelea kuwa Mwenyekiti wa Kamati hiyo.

La tatu na la mwisho, nimemsikia mwenzangu akiongea katika Hoja hii kuwa BBI inashughulikia--- Ninaomba Taifa letu la Kenya tuweze kutimiza malengo na azma ya Katiba ya 2010, ili kila Mkenya apate haki. Kama tutatekeleza Katiba hiyo asilimia mia kwa mia, hatutakuwa na haja ya kuja na mchakato wa BBI ambapo watu wengine hawajakubali kuwa wameshindwa katika uchaguzi.

Ninapooona Mwaka wa 2023 na kwenda mbele, tumeanza kasumba ambayo haitakuwa nzuri katika demokrasia ya taifa letu la Kenya.

Wale watakaoshindwa katika uchaguzi wa urais ama uchaguzi mwingine, watakuwa wanatumia *handshake* ama maridhiano kama njia ya kuingia katika uongozi.

Sijafurahia mchakato wa Building Bridges Initiative (BBI). Ikifika wakati huo, nitapinga. Hii kwa sababu haijapata ile azima na dhamira ya Wakenya. Uchumi wa taifa letu la Kenya hauwezi kukidhi ama kubeba ule mzigo ambao Wakenya wataongozewa. Kwa mfano, tutakuwa na Bunge kubwa ambalo tutakuwa tunalipa Ksh20 bilioni. Uchumi wa Kenya umekuwa uchumi wa mtumba. Uchumi ambao hauwezi kupanua Serikali ya kitaifa, na Bunge la Kitaifa na Seneti.

Bw. Spika wa Muda, nashukuru sana. Naunga Hoja hii.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana, kijana, Sen. Cherargei, kwa wasifu uliojipa. Waswahili wanasema, ngoja usifiwe.

Sen. Olekina, naomba uzungumze.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir, I rise to support this Adjournment Motion.

Let me begin by saying that I am a very proud Senator of the Republic of Kenya. I am proud of my colleagues including Sen. Stewart Madzayo, my senior, Sen. Faki, my brother also senior, Sen. Sakaja Johnson, “*Super Senator*”, for having come together to show this country a direction that we cannot achieve anything when we only think about our stomachs without thinking about the rest of the 47 million Kenyans.

Mr. Temporary Speaker, Sir, “*Team Kenya*” did a fantastic job to fight for revenue to be sent to the counties and ensure that no county lost any coin from what they had been allocated in the previous year.

Mr. Temporary Speaker, Sir, I also would like to thank my colleagues who came and joined us like Sen. Cherargei and my good friend, “*my ganja man*”, Sen. Irungu Kang’ata. Earlier on, when he was moving---

The Temporary Speaker (Sen. (Dr.) Mwaura): Samahani, Sen. Olekina, unamaanisha nini ukisema “*my ganja man*.”

Sen. Olekina: Hilo ni jina tunaitana. Haina maana yeyote.

Mr. Temporary Speaker, Sir, I was amused by my good friend, Sen. Irungu Kang’ata, because he rose to move a Motion and he did not sign that report. Some of these things are very interesting. I will let that slide.

I am quite happy with the work that this Senate did. 14 Bills were assented to by the President. That is good work for this Senate.

Mr. Temporary Speaker, Sir, on the issue of the BBI, I want to be very clear that when we worked as “*Team Kenya*” and eventually as 12 wise men and a lady who came together to give this country a direction, one of the things that we are trying to defend is Article 203 of the Constitution.

During this time, when we are going on recess, it will give us an opportunity to explain to our constituents and particularly myself, why I have serious reservation with the Constitution Amendment Bill.

Mr. Temporary Speaker, Sir, Article 203 of the Constitution relates to the issues of the Consolidated Fund. The amendments which are being proposed by the Constitution Amendment Bill will negate all the gains that we made in this House fighting for the revenue formula. That is one of biggest beefs with this Constitution Amendment Bill. There is no point of having sat here, burnt the midnight oil and then at the end of the day, we still divide the country by bringing the argument of “one man one vote one shilling.”

Mr. Temporary Speaker, Sir, my heart bleeds for the people of Lamu. When this Bill goes through, they will be denied money.

My heart bleeds for the people of Samburu whom when this Bill passes they will be denied some money. It saddens me that this Senate will no longer have voting powers to determine any matter because of the deletion of Article 123. We must explain these things to our people in our constituencies. Sir Winston Churchill once said, “Mountain tops inspire leaders, but valleys mature them.”

I believe that we have all matured in this House to a point where we want a country that will think about the 47 million Kenyans and not just a small section of the Kenyans. It is my prayer that this contentious Bill, the amendments to Article 203 will be removed. I do not know if we will have the opportunity to do so.

If we do away with the provisions or amendments of Article 203, we can support all these other things. I wish it had been put into legislative proposals because it could be changed at any time.

Yesterday we went to Naivasha because of a serious matter that relates to Narok County. In many instances, my people get frustrated when their cows are knocked down by fast moving vehicles on Mai Mahiu-Bomet Road. We agreed the road will not be closed whenever our cows are knocked down, but I urge Kenyans who use that road to be more cautious and allow cows to have the right of way.

There is also an issue of land disparity. Land has been taken away from the Maasai people. I believe that going back home, we can talk about this issue of land.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana. Muda wako umeisha. Nampa nafasi Sen. Sakaja.

Sen. Sakaja: Thank you, Mr. Temporary Speaker, Sir. I support the adjournment Motion. I really yearn for the day when Parliament will live up to its billing. The name Parliament comes from the Latin saying of parlance, which means to speak. When we are in Parliament and we are told to speak for two minutes or four minutes, yet we are here to speak and we have moved an adjournment Motion until we finish all the business. It goes against the reason.

Mr. Temporary Speaker, Sir, when you and I were in the National Assembly, we used to admire the Senate because of the quality of debates because Senators would speak. In the National Assembly, it was almost like a high school where you are given two minutes and you cannot even pass a point. Sen. (Prof.) Ongeru has years of experience. I want to hear Sen. (Prof.) Ongeru speak for 10 minutes. The late Martin Shikuku used to speak for three hours. I have spent a minute speaking that.

In this session, we have lost Kenyans to COVID-19. However, I would like to ask that we acknowledge frontline health workers who have been at the forefront of fighting COVID-19. They have been doing an amazing job. May souls of those who lost their lives during this fight against COVID-19 rest in peace. A few of our colleagues in the National Assembly have lost their lives and may their souls rest in peace.

As of today, Kenyans have lost thousands to this pandemic and are still dealing with this pandemic. In this session, the Senate has been able to come out strongly in terms of oversight not just on the pandemic, but also on county governments.

It has been a tough year in many respects, but it has been a year of growth. It has been a year where we have been seen to do our work as a House---

It has been a year of growth and where we have been seen to do our work as a House. Sen. Olekina acknowledged the work we have done, not just from 'team Kenya' but across the isle as Sen. Kang'ata said. We reestablished the place of this House because of two things. Number one, the amendment of the formula. It was not on population; Nairobi has the highest population but was number 28. With what we did we were able to get our rightful share based on not just population but other factors. If you add the BBI's proposed 35 per cent, counties from the next year if it is passed next year before the next financial year get Kshs475 billion. This is 35 per cent of the last audited revenue of Kshs1.3 trillion, whose 35 per cent is Kshs475 billion. Nairobi county will get Kshs25 billion. Narok County will get Kshs10.8 billion. Kilifi County should get Kshs14.4 billion. Kisii County should get Kshs11.2 billion under BBI.

Sen. Olekina: Mr. Temporary Speaker, Sir, on a point of order. I want to clarify one thing. My dear brother who I feel bad interrupting, we need to be factual. Today we have read in the dailies that the National Treasury is seeking to defer the payment of interest on T bills. Counties are claiming that they have not received money. Let us be practical. I concur with Sen. Sakaja, when he talks about parliament being given opportunity to speak and talk about this issue.

The Temporary Speaker (Sen. (Dr.) Mwaura): Seneta, hoja yako ya nidhamu ni ipi?

Sen. Olekina: It is on the issue of the content of the debate. The issue here is my good friend Sen. Sakaja said that when we pass this amendment-- I am on a point of order, Sen. Faki, when the BBI passes counties will get money. I want to understand why we have a challenge currently on paying interest on Treasury Bills and sending money to counties. Let us not bite what we cannot chew.

The Temporary Speaker (Sen. (Dr.) Mwaura): Sen. Olekina, kusema kweli hapo hakukuwa na hoja ya nidhamu. Nafikiri ulikuwa unachangia tu. Sen. Faki singalikupatia nafasi kwa sababu ilikuwa hoja ya nidhamu. Sen. Sakaja unaweza kuendelea.

Sen. Sakaja: Thank you, Mr. Speaker, Sir. The point of order by Sen. Olekina is neither here nor there. I understand what he is saying because of the pressure on the exchequer. What I am talking about is what is allocated. If this Government wants to give Kshs474 billion from Kshs3 trillion budget, they can realign the national Government budget. What the Members of Parliament do not know because they talk about the National Government-Constituencies Development Fund (CDF) being put there, it will be less. When you remove 35 per cent which is a percentage of that, add 70 counties you are dividing a smaller amount by many more. We support for the sake of our counties to get enough money.

Nairobi was getting Kshs100 million in the first bad formula that was brought. I moved that to an addition Kshs3.3 billion. With BBI plus the formula we are going to Kshs25 billion. We passed the Sectional Properties law, that if you have improved a piece of land and you have built apartments each of them is going to pay the correct rate they are supposed to pay. The revenue of Nairobi County has the potential of going to Kshs100 billion and we will sort out our problems. Part of the reason I have worked with BBI is that they have acknowledged that given a second chance and resources and right leadership Nairobi County can be governed properly.

Initially, before we amended the BBI report, it was solving a temporary problem, that of Hon. Sonko and Hon. Kidero with a permanent solution of removing devolution from Nairobians who will still have the right. We were born in Nairobi; I was born 2.3 kilometers from here. My county is Nairobi. If you tell me to look for devolution elsewhere, I do not know any other place. I speak English and Swahili and six languages because all my neighbors are from all communities. This is our home and we have the same right to devolution as the people in Kisii, Narok and Kilifi.

Sen. Olekina has spoken about Article 203 and I want to advise him. We will have a basketball tournament. We have agreed to do a one on one challenge and I will defeat him. Even as we do that, Article 203 that is being proposed in the BBI is impractical but there should be no fear.

When you talk about per capita capped by three times, if you remove the amount from those that go beyond three and redistribute it, it gives you what we call in Mathematics, a cyclic error. This is because the amount you will redistribute will be three times of that per capita. It is an aspirational clause. As you do it, try and reduce the per capita discrepancy, which is what we appeal.

Mr. Temporary Speaker, Sir, for instance, Nairobi County has been getting Kshs3000 per capita. One Nairobiian gets Kshs3000, while one person in Lamu gets Kshs20,000. We want to move towards a better per capita. The variance should not be as wide, but we cannot put it to be three times more. The long and short of it is that, despite the fact that we support a proposal that will bring us together---

As I finish, let me say that the Building Bridges Initiative (BBI) is not a perfect document. The only perfect document is the Bible. However, every generation must do what it must to actually advance or progress our unity as Kenyans. Right now, it is not perfect, but it is the best thing that we can do for the unity of this country. The next generation and the next Parliament will have an opportunity to improve on it. We cannot waste and squander this opportunity for a united Kenya. That is why we support the BBI-

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The Temporary Speaker (Sen. (Dr.) Mwaura): Asante Sana, Sen. Sakaja. Sasa hivi nitampa nafasi Sen. Faki.

Sen. Faki: Asante, Bw. Spika wa Muda, kwa kunipa fursa kuchangia Hoja ya kuahirishwa kwa Seneti kwa sherehe za Krismasi na mwaka mpya.

Kwanza, ninapongeza Seneti kwa kazi ambayo tumefanya. Kazi hii imeangaziwa na Mratibu wa Waliowengi. Kwa hivyo, sitaguzia kila kitu tumefanya.

Vikao vya mwaka huu vimeshuhudia mabadiliko ya uongozi wa Seneti kwa upande wa Waliowengi. Tulipata kiongozi mpya wa Waliowengi pamoja na Wenyeviti wa karibu Kamati zote za Seneti. Pia mimi nilibahatika kuchaguliwa kama Mwenyekiti ywa Kamati ya *Delegated Legislation*, ambayo kwa hakika si jambo la kulichukulia mzaha. Ni jambo kubwa kwa sababu ninaweza kukaa katika Kamati ya *Liaison* na kutoa mchango wangu katika hili Bunge.

Bw. Spika wa Muda, yale madabiliko ya uongozi yameleta sura mpya katika Bunge, kwa sababu Maseneta kutoka upande wa Waliowachache wamepata fursa kuwa viongozi wa Kamati tofauti tofauti. Ninazungumzia Kamati ya *Justice, Legal Affairs and Human Rights*, Kamati ya *Devolution and Intergovernmental Relations*, Kamati ya *National Cohesion, Equal Opportunity and Regional Integration*, na pia Kamati ya *Delegated Legislation*.

Kamati hizo zote zinaongozwa na viongozi shupavu kutoka upande wa upinzani wa Seneti. Hii imeongeza *diversity* katika Bunge hili kwa sababu viongozi ambao wamechaguliwa wote ni watendakazi, na itaboresha kazi ya Bunge hili zaidi.

Ningependa pia kupongeza Bunge hili kwa kusimama kidete na kuenda mahakamani kutetea sheria zilizopotishwa bila mchango wa Seneti. Imethibitishwa na mahakama kuwa lazima sheria ifwatwe wakati Bunge la Kitaifa linapitisha sheria ambazo zitawaathiri Wakenya.

Bw. Spika wa Muda, ninafurahi kwamba tulipitisha *formula* mpya ya *third generation formula* ya ugawaji wa rasilimali za kitafia kwa serikali za ughatuzi na Serikali Kuu. Hii itachangia pakubwa maendeleo katika kaunti zetu. Kaunti ya Mombasa, ambayo ilikua inapoteza takriban Kshs700 milioni sasa imebahatika na kupata Kshs1 billioni zaidi katika mgao wa 2021/2022.

Bw. Spika wa Muda, pia ningependa kughusia hali ya nchi ilovyo kwa sasa. Sasa tunapambana na janga la Korona, tumeona kwamba huu mlipoko wa pili umekuja kwa kasi. Watu wengi wamepoteza maisha yao kuliko katika mlipuko wa kwanza.

Huu mlipuko wa pili umeonyesha dhahiri shahiri kwamba kaunti nyingi hazikuwa zimejitayarisha. Walipaka wananchi mafuta kwa mgongo wa chupa. Wengi hawakuwa wamejitayarisha. Vifaa vingi vilikua duni. Hakuna *ventilator* na vifaa vya *Intensive Care Unit (ICU)*. Kwa hivyo, watu wengi wamepoteza maisha kwa sababu ya utepetevu wa serikali za kaunti na serikali kuu.

Ipo haja ya kuhakikisha kwamba kazi yetu ya kuchunguza na kuhakikisha kwamba tunafanya uangalizi ya kisawasawa kama Bunge la Seneti unaendelea katika mwaka ujao kwa sababu hiyo ndio njia pekee ya kuhakikisha kwamba wananchi wanapata faida kwa kuwepo kwa Bunge la Seneti.

Bado kuna visa vya maafisa wa polisi kula hongo na kusumbua wananchi hususan wale wanaosafiri. Kwa mfano, katika Barabara Kuu ya kutoka Mombasa kuenda Lamu, kuna vizuizi karibu ishirini ambazo zinachangia kuongezeka kwa gharama ya kufanya biashara katika nchi yetu. Madereva hawawezi kupita vizuizi katika barabara zetu bila ya kuwacha chochote. Utaona pia kuna ubaguzi katika kusimamisha magari katika vizuizi hivyo. Kwa mfano, magari yanayobeba miraa na bidhaa zingine za haraka zinakubaliwa kupita kwa haraka bila kuzuiliwa kama bidhaa za kisawasawa zinazoenda kuwafaidi watu wa Lamu.

Bw. Spika wa Muda, tunapoenda katika mapumziko haya na tunapokaribia sherehe za Krismasi na Mwaka Mpya, watu wengi watakuwa wanasafiri kutoka sehemu moja kwenda sehemu nyingine. Kwa hivyo ningependa kuwahimiza kuzingatia kanuni zilizopo za kupambana na COVID-19 hivyo wanafaa kupunguza msongamano katika maeneo watakoenda kusherehekea. Nawahimiza Wakenya pia kuangalia kwamba kuna usalama wao binafsi na usalama wa wananchi wengine kokote watakapokuwa.

Maafisa wanaohusika na kulinda usalama lazima pia wawe macho kuhakikisha kwamba wananchi wanafwata sheria na vile pia wale wanaeka vizuizi vya uongo ili kuwagandamiza wananchi katika sehemu mbali mabli kule mashambani wanapelekwa mahakamani ili kuona sheria inafwatwa.

Bw. Spika wa muda, nachukuwa fursa hii kuwatakia Maseneta wote sherehe murwa za Krismasi na Mwaka Mpya. Ningependa pia kukupongeza kwa kutilia mkazo matimizi ya lugha ya Kiswahili katika Bunge hili. Nilifurahi sana wiki iliyokwisha---

The Temporary Speaker (Sen. (Dr.) Mwaura): Muda wa Sen. Faki umeyoyoma lakini ningependa kumuongeza muda kidogo ili amalize sentensi yake.

Sen. Faki: Bw. Spika wa Muda, nilifurahi sana wiki iliyokwisha kumuona kiongozi wangu wa waliowachache katika Seneti, Sen. Orenge, akizungumza kwa lugha ya Kiswahili. Sen. Orenge alizungumzia jambo muhimu ambalo tunafunzwa katika dini ya Kiislamu kwamba alama za mtu mnafik ni tatu. Ya kwanza akiweka ahadi, huvunja ahadi yake. Ya pili, akiaminiwa, hufanya hiana na ya tatu, akitoa ahadi, hawezi kutimiza.

Asante Sana, Bw. Spika wa Muda, kwa kunipa fursa hii.

The Temporary Speaker (Sen. (Dr.) Mwaura): Ilidhihirika kwamba Sen. Orenge anaweza kuzungumza vyema katika Lugha ya Kiswahili. Nimeweza kuona kwamba tangu tuanze kuzungumza katika lugha ya Kiswahili katika Bunge la Seneti, watu wengi ambao walikuwa wanadhani kwamba hawawezi kuzungumza katika lugha ya Kiswahili wanazungumza katika lugha hiyo kw ufasaha. Fauka ya hayo, Bunge la Kitaifa pia limetuiga sisi kwa sababu wameweza hata kuzindua kanuni za kudumu katika lugha ya Kiswahili iliyokuwa idhana ya Bunge la Seneti lakini wakakimbia na kuzindua kanuni zao za kudumu katika ya Kiswahili kwanza. Tunaendeleza vikao vya Bunge la Seneti katika lugha ya Kiswahili hivyo Wakenya wengi wanaweza kufuata mijadala kwa urahisi.

Ninajua kwamba wanaonukuu mazungumzo haya katika HANSARD wana changamoto lakini ninaimani kwamba tutaendelea kukuza ufasaha wetu wa lugha ya Kiswahili. Ingekuwa bora pia kama ratiba ya shughuli ya Bunge ingeweza kufasiriwa kwa lugha ya Kiswahili kwa sababu ninapata shida sana ya kufasiri kutoka lugha ya

Kingereza mpaka lugha ya Kiswahili. Nimejizatiti sana kufanya ufasiri lakini ni vyema kuwa na tafsiri rasmi kwa sababu hii ni lugha ya taifa na wala sio lugha ya Sen. Mwaura.

Hivi sasa ningependa kumpa Sen. Madzayo nafasi ya kuzungumza.

Sen. Madzayo: Bw. Spika wa Muda. Ningependa kukupa wewe kongole kwa sababu wewe ndiye Spika ambaye anatukuza lugha ya Kiswahili au lugha ya mama. Sisi Wapwani husema kwamba kuongea lugha ya kimombo kwa ufasaha haimaanishi unajua asili zaidi.

Wewe ni mtu anayejua asili zaidi. Kwa hivyo, nakushukuru sana na pia kukupatia kongole kwa sababu hizi sheria zetu za hapa ndani ya Bunge la Seneti unazielewa na unaweza kuzitafsiri vilivyo kwa Kiswahili. Makosa yako ni kwa sababu hakuna binadamu aliye kamili.

Bw. Spika wa Muda, mimi naunga mkono kwa mara ya kwanza Mratibu wa Waliowengi ya kwamba watu waende likizo. Likizo ni kwa sababu ukifanya kazi kwa muda, binadamu yeyote lazima apate nafasi ya kupumzika, hususan wakati huu wa krismasi. Ni wakati wa kujumuika katika familia na watu wengi pia kuwa pamoja.

Lakini katika ile hali ya kuwa pamoja tuweze kuzingatia haswa zaidi mambo ya Coronavirus disease (COVID-19). Tuangalie kwa sababu hili janga la COVID-19 limetokea katika Kenya ama ulimwengu mzima baada ya karibu karne nzima ya miaka 100.

Bw. Spika wa Muda, hivi sasa Bunge la Seneti linaenda likizo na mimi naunga mkono. Tukiwa katika likizo yetu, ni kama vile hawa viongozi wetu wanaotungoza katika taifa letu la Kenya, hususan Mheshimiwa Uhuru Kenyatta Rais wa Jamhuri ya Kenya na ndugu yake, Baba Raila Amollo Odinga.

Waliweza kufanya "*Handshake*" na hatimaye kuzindua kupeana pambaja na mkono. Halafu tukasonga mbele zaidi na kusema kwamba kuna umuhimu kuleta Wakenya pamoja. Kama tutaleta Wakenya pamoja, ni jukumu letu kuwa na kitu kama daraja. Na ile daraja wakaita BBI. Sasa ni kujenga daraja ya kuona Wakenya wote wasiangaliane kwamba huyu ni Mkikuyu, Mgiriamu, Mjalu, Mkamba, Mkisii, Maasai na kadhalika.

Bw. Spika wa Muda, kwanza nampa heko sana ndugu yangu huyu Maasai, Sen. Olekina. Alitaka kufukuzwa hapa ndani. Aliye uliza swali hilo pia alikuwa ni huyu Kiranja wetu akitaka kujua kama alikuwa amevaa sawa sawa ama la.

Lakini namshukuru Spika wetu Mhe. Kenneth Lusaka. Alisimama kidete na kusema amevaa kisawa sawa. Kwa hivyo, huyu kiongozi wa Wamaasai anayevaa namna hii na anaongea sana amevaa vizuri sana. Sijui kama kuna nguo nyingine ambayo amevaa, lakini vile alivyovaa. Tunajua vile Wamaasai wanavyovaa. Huwa wanavaa mavazi haya alafu ile mambo mengine hawakuzoea tokea wazaliwe.

(Laughter)

Bw. Spika wa Muda, hakuna katiba iliyo kamili. Nataka kusema kinagaubaga kwamba hata BBI ikiwepo, sisi tutakao kuwa tunaendelea na hata tukishaenda--- Kwa vizazi vijavyo, hakuna katika ulimwengu mzima katika ambayo iko kamili. Kwa hivyo kama tunatafuta katiba ambayo iko asilimia mia moja, haitopatikana.

Lakini kwa wakati huu ambao sisi ndio viongozi, ni sharti tufanye juhudi zozote ambazo mimi naunga mkono zaidi yaliyo ndani ya BBI. Yana uwezo ya kusaidia Wakenya kwa hivi sasa kuwaleta pamoja.

Bw. Spika wa Muda, nikisema hivyo ni kwamba katika BBI tunaona hata katika maeneo Bunge mengine, hata Kauti ya Kilifi tunayo bahati ya kwamba tumezaana kisawa sawa kama zaidi ya watu wa Kaunti ya Murang'a. Tumepata viti nine vya maeneo Bunge.

Kwa hivyo, mimi Seneta wa Kilifi nikijaaliwa na Mwenyezi Mungu nitakuwa na maeneo Bunge kama 11 inshala Mwenyezi Mungu akipenda. Kwa hivyo, naunga mkono hii BBI. Sisi sote kama Wakenya ni lazima tuwe kitu kimoja na tupendane ili Kenya iwe inaweza kuendelea mbele kimaendeleo.

The Temporary Speaker (Sen. (Dr.) Mwaura): Endelea kwa dakika moja tafadhali.

Sen. Madzayo: Bw. Spika wa Muda, pia nataka kuunga mkono Bunge la Seneti kwa kusimama kidete na ile "*Team Kenya*" ambayo ilifanya vilivyo usiku na mchana, kuwe na mvua ama jua. Hatawezekana ikiwa kama Wakenya watagawanyana. Tulisema kuwa haitawezekana. Kila kaunti ipate pesa yake na hatimaye tuliweza kupata.

Kwa hivyo, yale mengine ambayo tunasema yataangaliwa pole pole halafu uhusiano mwema utaendelea na kila mtu atafaidika na pesa tutakazokuwa tunapigania ziwe zinaweza kwenda katika serikali zetu za mshinani.

Bw. Spika wa Muda, la mwisho ni kwamba sisi katika hizi shamra shamra, tunasema kwamba Bunge la Seneti ni lazima pia liheshimiwe. Tunaona hivi sasa bado kuna marekebisho tunahitaji.

Lakini, hata kama yako, tukipitisha, tutayarekebisha alafu tuendelee kama Wakenya wa nchi moja ambao wanapendana hili nchi yetu ipate mafanikio.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante Sen. Madzayo kwa weredi wako wa lugha na kujieleza. Umewahi kusema kwamba mmezaana kuliko watu wa Murang'a. Hilo ni changamoto kwa Sen. Kang'ata. Watu wa Murang'a wana idadi moja ambayo imefanya wapate eneo bunge nzima la Kahuro, Kiharu, ambako Sen. Kang'ata aliwahi kuwa Mbunge.

Sasa hivi ninampa nafasi wakili mwandamizi, George Mbogo Ochillo-Ayacko.

Sen. (Dr.) Ochillo-Ayacko: Thank you, Mr. Temporary Speaker, Sir. The name Mbogo, where I come from, is a warrior's name. So, my family are warriors' not necessary violent ones but warriors for justice.

I thank my colleagues in the Senate and your Office for the session that we have had. We have had a healthy session and robust engagement.

I hear the so called Team Kenya celebrating the formula that we have had. I would like to tell them that the formula is a product of a vibrant engagement similar to that between a man and woman that yield to a birth of a child. So, nobody should celebrate as being the single parent of the good product of the Senate. It was the engagement of Team *Katiba* and Team Kenya that brought money flowing like rain in torrents to counties. I hope that the expectant counties will get that money. It is important that they get it.

Mr. Temporary Speaker, Sir, we are celebrating the prospects of enactment of legislation including the Constitution that are associated with BBI. It is something to celebrate. BBI is premised upon sharing of resources and building a peaceful nation.

If you recollect our engagement with the President in Naivasha, he said something that I keep on remembering. He said that he had a visit to France where he had gone to witness the signing of an agreement between a private company that was planning to put up a road in Kenya. However, they wanted one guarantee of whether we will have Kenya beyond 2020. They wanted a guarantee of peace, existence and unity.

The discussions that we are having in BBI and the fact that the hardliners are coming together and putting priority of the nation over personal interest or ambition is a step towards unifying this nation. Therefore, we must thank BBI, the President of Kenya and the people's president for coming together for the sake of the nation.

Mr. Temporary Speaker, Sir, having said that, BBI intends to share resources fairly. However, we are yet to address the enlarging of the cake. What will we share? The economy is going down because of Covid-19 and young persons are unemployed because of dwindling prospects.

So, the time has come to look at Covid-19, the economy and BBI because none will be successful without the other. We must deal with Covid-19 so that it does not eliminate us from existence. We must look at the economy so that we have something to share. If we do not have something to share, we will be violent and vicious in our competition which is unhealthy for a nation that is craving for unity.

Although the Building Bridges Initiative (BBI) is putting the framework for sharing resources, it is now time for us to concentrate on working on those resources and how to enlarge the cake and to ensure we have resources we can share.

I come from Migori County where we have fish in, agriculture and potential for its realization in abundance. My county is similar to others that are sugarcane-growing. The sugarcane farmers have been told about an "animal" called privatization. That "animal" has mutated into something called leasing. This leasing or privatization as far as the farmers are concerned want a factory that will pay them in time at the right prices for what they deliver.

The employees of Sony Sugar Company and other mills want to be paid in time. They have not been paid for the last two years. They are surviving by the grace of God. The suppliers also want to be paid on time.

I support.

The Temporary Speaker (Sen. (Dr.) Mwaura): Kulingana na Kanuni Za Kudumu zetu, hilo si suala ambalo tunaweza kupigia kura. Kwa hivyo, ninawashukuru sana. Kabla ya kuahirisha kikao, nina Waraka Rasmi ambao ningependa kusoma kutoka kwa Bw. Spika wetu.

TAARIFA KUTOKA KWA SPIKA

LIKIZO YA SENETI

Waheshimiwa Maseneta watadhimiwa, kama mnavyojuwa tunapomaliza Kikao, hiki Jumanne, tarehe 1 Desemba, 2020, Seneti litakwenda kwenye likizo mpaka Jummane tarehe 9 Februari, 2021 kulingana na kalenda ya Seneti.

Ni mwaka uliokuwaje jameni? Ni mwaka ambao umekuwa wa kumbukumbu katika historia za Bunge. Ni wakati tumejizatiti zaidi fauka ya tamaduni na Kanuni zetu ili kuhakikisha kwamba tunafanaya kazi katika mazingira ambayo si ya kawaida.

Tumekuwa na changamoto nyingi kutokana na misukasuko lakini tumebaki kuwa kundi moja na familia moja ya Waheshimiwa watadhiimiwa.

Mwaka wa 2020 ulianza kwa matumaini makuu. Tulikuwa na Kikao cha faragha cha viongozi katika Mwezi Machi kupanga mipangilio ya vile ambavyo tutakuwa na ajenda ya Bunge hili, utunzi wa sheria na kadhalika. Hususan tulitaka kuhakikishi tumepea nguvu ugatuzi na kuhakikisha kwamba Kanuni zetu za kikatiba na hususan miundo-msingi inayofaa.

Vilevile, mikakati yote ambayo inafaa kuwepo imezingatiwa kwa kuhakikisha tunaweza kutekeleza majukumu yetu ya kikatiba hasa jukumu la Bunge la Seneti kwa ujumla ili kuhakikisha kwamba tunakidhi mahitaji ya Wakenya na wadau wetu wote.

Waheshimiwa Maseneta, tunajua kwamba kutokana na janga kuu la COVID-19 katika Mwezi huo tu wa Machi, shughuli zetu zilikuwa haziwezi kuendeshwa vizuri kwa sababu mabunge yote ulimwenguni yalianza mikakati ya kuhakikisha kwamba yanachunga kuenezwa kwa ugonjwa wa COVID-19 kati ya Wabunge wenyewe na wafanyikazi wa Mabunge hayo.

Jambo hilo lilitufanya tukaanza kuwa na mikakati maalum ya kuhakikisha tunakuwa na vikao vya kamati kupitia majukwaa ya mtandao na kuhakikisha kwamba Ukumbi wa Seneti unaweza kuhodhi Maseneta 28 pekee. Pia, ilitubidi tuweze kuhakikisha kwamba miundo msingi ya kiteknolojia imeimairishwa ili kupunguza magonjwa haya na watu wanaweza kuweka nafasi kati yao.

Hilo ni jambo ambalo hatujazoea. Itakumbukwa kwamba wakati mwengine Maseneta walikuwa wanaketi kwenye viti ambavyo havifai kukaliwa. Ilikuwa ni changamoto kuhakikisha kwamba kila Seneta ana nafasi ya kuzungumza.

Ilitubidi kuhairisha Warsha ya Ugatuzi ama *Devolution Conference* na Warsha ya Utunzi wa Sheria, *Legislative Summit* na pia vikao maalum nje ya Jiji la Nairobi kuhakikisha kwamba hatuenezi ugonjwa huu wa korona.

Waheshimiwa Maseneta, mtakumbuka kwamba Kamati ya Muda ya COVID-19 iliundwa na ilikuwa ya kipekee katika Bunge zetu mbili. Kamati hiyo ilifanya kazi nzuri sana kuhakikisha kwamba imetoa mikakati na kupiga msasa miradi yote kuhusu janga hili ambalo liliendeshwa na Serikali ya kitaifa na zile kaunti.

Kwa hivyo, ilitubidi kubadilisha Kanuni za Kudumu za Seneti ili tuwe na kikao cha jumla cha Kamati zetu kwa njia ya mtandao. Tunashukuru kwa sababu Kamati zetu sasa hivi zinaweza kuwa na vikao vyake kupitia mtandao, lakini ukiangalia Sehemu ya 29(a) ya Kanuni za Kudumu za Seneti hatukuweza kuwafikia lengo la kuwa na kikao cha pamoja cha Bunge la Seneti kupitia mtandao. Nataka kuwahakikishia kwamba jambo hili linashughulikiwa na Ofisi yangu.

Waheshimiwa Maseneta, jambo ambalo lilikuwa la muhimu sana katika awamu hii ya nne ni kwamba tuliweza kupitisha Mgao Wa Tatu wa Fedha katika serikali gatuzi na Ratiba ya Ugavi wa fedha kupitia Mswada huu kwa serikali zote 47 za gatuzi. Sote tunakumbuka kuafikiana kwa mgao huo halikuwa jambo rahisi. Tulikuwa na tumbojoto kila wakati tulijaribu kugawa pesa kwa kaunti zetu. Maseneta walizomeana. Wakati mwengine tulikuwa na dosari kama jambo hili lingewezekana. Tulikuwa na vikao zaidi ya kumi. Lakini kwa uvulivu wetu, kuwa na subira na kuelewena, Waheshimiwa Maseneta walifikia azimio la pamoja na kupitisha fomula ya huo Mgao wa Tatu na Ratiba Rasmi ya Ugavi wa Fedha kwenye serikali gatuzi.

Nachukuwa fursa hii kuwashukuru nyinyi nyote kwa sababu ya vile ambavyo mlivyofanya kwa ujumla na pia kila mmoja wenu kwa kuonyesha umahiri mkuu na uzalendo.

Waheshimiwa Maseneta, mtakumbuka kwamba tarehe 20 Oktoba, 2020, Mahakama Kuu ilitoa uamuzi kutokana na Athihali Nambari Mia Mbili Themanini na Nne wa mwaka wa 2019 ambao ulikuwa unatoa maswali kuu kuhusu hali ya Katiba ya Miswada yote ambayo ilikuwa imepitishwa na Bunge la Taifa bila ya kuhusisha Bunge la Seneti kuambatana na Kifungu 110(3) cha Katiba yetu tukufu ya Jamhuri ya Kenya.

Uamuzi huo wa kihistoria wa Mahakama Kuu umeweza kuzindua na kuumbua upaya namna ya utunzi wa sheria na kanuni za Bunge kwa ujumla. Uamuzi huo umeweza kuonyesha kwamba lazima Katiba na sheria zote za Kenya zifuatwe na umeipa Bunge la Seneti hadhi ya juu hususani tukizingatia mambo yote ya ugatuzi kwa ujumla.

Ni muhimu tunaposonga mbele kuhakikisha kwamba tunafuata kanuni zote na sheria zote hususan ibara hii ya 110(3) ambayo inasema kwamba lazima Maspika wote wawili waweze kuwa na hati ya kuidhinisha kila mswada kabla ya kuwasilishwa katika Bunge yoyote hususan. Hilo ni jambo ambalo linasaidia sana Bunge la Seneti kuwa na nguvu zaidi.

Waheshimiwa Maseneta, nafikiri tumepiga hatua kubwa sana kuhakikisha kuwa Bunge la Seneti limeweza kuheshimiwa na naomba muwe na subira na kuelewa wakati Ofisi yangu inapofanya kazi pamoja na Bunge la Seneti na Spika wa Seneti kuhakikisha kwamba miswada hii imeweza kuchapishwa upya kulingana na ibara ya 110(3) ya Katiba yetu.

Waheshimiwa Maseneta, ningependa kusema kwamba tumefanya kazi vyema kabisa katika awamu hii ya nne. Lakini nataka kusema kwamba tunapoingia katika awamu ya tano, tunahitaji sana kufikiria vile ambavyo tutakavyofanya kazi wakati hili janga la COVID-19 litakuwa limemalizika. Ni muhimu sana tufikirie vile ambavyo tunaweza kukuza uchumi wetu katika anga ya kitaifa na pia katika kaunti zetu zote na vile ambavyo tutaweza kufanya biashara yetu na kuendesha vikao vyetu vya Bunge hii na Kenya kwa jumla.

Kwa sababu hii, Ofisi yangu inatumai kuwa na kikao maalum tukiwa pamoja na uongozi wa Seneti ili Maseneta waweze kufikiria vile ambavyo tutaweza kuendelea na vikao vyetu na kuendesha nchi yetu hii ya Kenya. Nataka kusema ya kwamba tutakuwa tukiwasiliana kuhusu kikao hiki kabla ya kuanza awamu ya tano.

Waheshimiwa Maseneta, nachukua fursa hii kuwapatia kongole zangu kwa sababu ya kujitolea kwenye na vile ambavyo mumeweza kuhakikisha kwamba hamjatelekeza majukumu yenu hata kama kumekuwa na hili janga la COVID-19, na vile ambavyo mumehakikisha ya kwamba mumeweza kutimiza majukumu yenu ya kikatiba.

Tunapo amka sasa kuahirisha kikao hiki, nawatakia muwe na wakati mwema na familia zenu, muwe na likizo njema na pia muwe na mwaka mpya wenye mafanikio wa 2021.

Nawashukuru.

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Mwaura): Waheshimiwa Maseneta, kwa sababu tumekamilisha shughuli za kikao hiki cha Seneti, ni wakati wa kuahirisha kikao hiki.

Kikao hiki cha Seneti kimeahirishwa hadi Jumanne, tarehe 9 Februari, 2021, saa nane unusu.

The Senate rose at 8.23 p.m.