

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 30th September, 2020

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

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

PRAYER

PETITIONS

DELAYED PAYMENTS TO SUPPLIERS OF COMMODITIES TO PUBLIC SECONDARY SCHOOLS DURING THE FIRST TERM OF THE ACADEMIC YEAR 2020

Sen. Cherargei: Thank you, Mr. Speaker, Sir. This is a Petition by Mr. Elkana Kitur regarding delayed payment of suppliers who supplied commodities to public secondary schools during their first term of the academic year 2020.

Mr. Speaker, Sir, this is a Petition to the Senate on behalf of Secondary school suppliers concerning delayed payments for commodities supplied.

I, the undersigned on behalf of Kenya Public Secondary School suppliers and Exhibitors, draw the attention of the Senate on the following-

That, the Government of the Republic of Kenya has introduced various measures to curb the spread of COVID-19 Pandemic in the country which have enabled contain the spread of the disease;

That further, the Government of Kenya has initiated numerous measures to cushion small and medium enterprises from the effects of the COVID-19 pandemic in order to keep them afloat;

That on 15th March, 2020, the Government abruptly closed all schools countrywide in a bid to control the spread of COVID-19;

That early this year the petitioners supplied commodities worth millions of shillings to public secondary schools. That the closure of schools occasioned loss of livelihood for the school suppliers as this is the main business;

That to date, the suppliers have already supplied the commodities to public secondary schools during the first term of the academic year 2020, are yet to be paid. Most suppliers heavily depend on loans from financial institutions to run their business. These loans continue to attract interest and penalties. That the petitioners have severally

sought redress with the Ministry of Education regarding payments of outstanding amount of money owed to them by public schools. However, their efforts have been futile;

That the matter presented in this Petition is not pending before any tribunal, court of law or independent body. Therefore, your humble petitioners pray that the Senate through the Standing Committee on Education-

(1) Recommends immediate payment of outstanding debts owed to public secondary school suppliers by the public secondary schools

(2) Recommends inclusion of public-school suppliers in the economic stimulus program being rolled out by the Government.

(3) Ensure that the petitioners' plight is addressed. Finally, make any other order or direction that deems fit in the circumstances of the matter.

These are the prayers of the Petitioners.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing 231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes. Sen. Wambua, proceed.

Sen. Wambua: Thank you. Mr. Speaker, Sir, for this opportunity to make a comment on the Petition brought to the Floor of this House by Nandi Senator. The issue of non-payment of contractors by secondary schools should not arise. The laws governing procurement in this country are explicit that by the time you are issuing a tender for supply of goods and services, you have ring-fenced the amounts equivalent to the cost of the tender you have floated.

This is a continuation of bad manners in the management of public affairs, especially the relationship between contractors and contracting agencies in public service. It shall be remembered that this House has been called upon to deliberate on issues of pending bills running into hundreds of millions of shillings. In support of this Petition, the running excuse in many public institutions is that they are unable to meet their financial obligations because of COVID-19. Let it be known that public schools are not factories, they do not manufacture anything that they sell, they are not business entities. You cannot say that because of COVID-19, they are not generating money to pay for services rendered and goods supplied.

Mr. Speaker. Sir, it should be noted that the suppliers to public institutions as stated in the Petition are doing their businesses through credit accessed in commercial banks. The banks are demanding payment for the loans they have taken. The Committee to which the petition will be committed should expedite the payment of the monies owed to the suppliers and the contractors. I support.

The Speaker (Hon. Lusaka): Sen. Murkomen, you have the Floor.

Sen. Murkomen: Thank you, Mr. Speaker, Sir. This is a very important issue which relates to public institutions. Sen. Wambua has captured it very well. This is because public procurement laws do not allow a Government entity to procure anything without having resources or money in its budget. We cannot talk about reviving our economy when we are not paying our suppliers. Most suppliers who supply to public secondary schools are small business entities at the local level.

In the last six months, our newspapers carried advertisements of properties being auctioned. These properties were owned by startup companies and entities who had started business with a contract sum of Kshs100,000 or Kshs500,000. They had supplied uniforms, food and other items to schools, but they have never been paid. You will rarely

get someone who had supplied goods worth more than Kshs1million. Many of these small traders borrow Kshs300,000, Kshs400,000, or Kshs1 million. The banks start to recover their money immediately from them irrespective of whether the Government has not paid them or not. It is a pity that their loans accrue interest and the Government, eventually, when it pays, it never pay with interest what the own these people.

Mr. Speaker, Sir, I would like the Committee on Education to take it seriously because the same attitude is depicted across the public sector. On Monday, the President spoke on the payment of farmers. He was talking about farmers who have not been paid for the last three years, yet it is known that they delivered maize to the National Cereals and Produce Board (NCPB). They are being told that they might be paid from 1st of October, 2020. Will they be paid the money plus interest because their loans from the banks are accruing interest?

If my memory serves me right, Sen. Sakaja and Sen. Farhiya brought a Bill which we passed in this House on prompt payment. I hope the National Assembly will prioritize that Bill so that we quickly have a legal framework that improves the public procurement law. It is not enough that you have money, but you must be ready to pay promptly.

There is an excuse the national Government, county government and public entities use to delay payment. When it is time to pay suppliers, they say “this matter is under investigation.” Someone reports to the EACC or the DCI and an investigation starts and the payment is delayed for years. We must find a way of also ensuring that if an investigation is going on, suppliers must be indemnified for any loss that will occur as a result of protracted investigations that, eventually, indicate that they did not commit any crime. Otherwise, many hustlers will not survive in this nation. It is a big problem.

When we discuss this issue, we must take it seriously. Suppliers of *mikokoteni*, wheelbarrows and farm equipment to schools must be paid. Hustlers deserve to be treated fairly.

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

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

Sen. Wambua: Mr. Speaker, Sir, the Petition was very clear. It was for suppliers to secondary schools. Is he saying these suppliers belong to the category of hustlers? Is that the decision that he has taken?

Sen. Murkomen: Mr. Speaker, Sir, I thank my friend, Sen. Wambua, for raising this very important issue. By his demeanor, conversation and appearance, I also consider him to be a hustler.

These suppliers supply wheelbarrows, *jembes*, *pangas*, firewood, beans, maize, rice and so forth, to schools. Most of them are hustlers. Bourgeois and dynasties do contracts worth Kshs500 million, Kshs1 billion, or Kshs2 billion. They are paid promptly because they have lawyers and have influence in the Government. This House must speak for hustlers and demand that they be paid on time when they supply goods to schools or any other public entity.

Sen. Khaniri: I thank you, Mr. Speaker, Sir, for the opportunity. I also hail Mr. Elkanah Kitur for having confidence in the Senate to resolve this matter. I also thank my good neighbour, Sen. Cherargei, for bringing the Petition on behalf of Mr. Kitur.

This is not a unique case to Mr. Kitur or to Nandi County. This is widespread. There are cases where peasant farmers supplied their produce to schools, but they have not been paid up to now. There are cases where small business men - I do not want to call

them hustlers - in the villages borrowed money from the banks and made various supplies to schools. Loans are accruing interest, but they have not been paid. Eventually when the money is paid, I do not think that it will be put into consideration that their loans accrued interest.

Mr. Speaker, Sir, we have been following events all over the world during this season of the COVID-19. I know that all over the world, many governments cushioned their small scale business people. As a country, we received a lot of money in support of the fight against the COVID-19 Pandemic. Besides this money being used to buy medical equipment and provide treatment, it was expected that small businessmen would be cushioned as well, just like it happened in many other jurisdictions.

I want to urge the Committee on Agriculture, Livestock and Fisheries, that this Petition will be directed to, to expedite, as Sen. Wambua said, so that we can alleviate the suffering that these people are going through.

Sen. Wambua and Sen. Murkomen have captured very well the issues that I wanted to capture. First of all, according to the Public Procurement and Assets Disposal Act, which also applies to schools, because they are also public institutions, any purchases of procurement must be done on budget and monies that are there. Saying that the suppliers cannot be paid because COVID-19 came in should not arise at all. This should raise a lot of audit queries in these particular institutions.

Mr. Speaker, Sir, we want the Committee to recommend for immediate payment of these particular suppliers. They should also recommend that the Government comes in to cushion the schools and traders. I agree with prayers that are contained in the Petition. These are things that are achievable. Therefore, I want to encourage the Committee to come to the rescue of these poor farmers and businessmen.

I support.

The Speaker (Hon. Lusaka): Sen. Dullo.

Sen. Dullo: Thank you, Mr. Speaker, Sir. Let me join my colleagues in congratulating the petitioner and also the Senator for Nandi.

I do not know really what we can do regarding the issue of public institutions not paying their dues. As my colleagues have said, most of those who are supplying or procuring services for public institutions like schools, are small scale farmers. Some of them are *mama mbogas* who borrow money from banks and merry-go-rounds to try and supply food and get something out of it. Unfortunately, those individuals are frustrated.

Mr. Speaker, Sir, as Sen. Khaniri has said, this is a matter affecting most parts of this country and most of the counties also. I think the Government has to take serious action as far as this matter is concerned.

The same goes with the county governments. You will find county governments committing counties and the National Government as far as procurement is concerned, even when they do not have a budget for it. You will see that pending bills are running up to billions of shillings.

Of late you will find that most of the contractors or individuals who have contracted with those institutions, they are going to court where they are forced to pay legal fees. In some cases you will find that the Government is actually fined heavily. This is really a very serious issue. This matter has come to the Senate severally and it looks like the Senate has no solution for it.

Sometimes we find the Auditor-General carrying out audits as far as pending bills are concerned. There was even a directive by the President that all pending bills should have been paid by the end of last financial year. Up to now, most of the counties have not adhered to it. Most public institutions have not adhered to it. It appears they do not even follow directives from the President, the Treasury or even this Senate.

I remember when the monies for county governments were actually blocked because of pending bills, they sat down with the Senate and the National Treasury. I remember that time Sen. (Eng.) Mahamud was the chairperson of the Committee on Finance and Budget and they committed themselves to clearing pending bills in bits before the end of the financial year.

Up to now, most of the counties still have pending bills running into billions. A very good example is Isiolo County. They have cases running in court. Something needs to be done and I believe the committee that is going to look into this will give a solution to what is happening with the public institutions.

I thank you.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir, for giving me this opportunity to air my thoughts. Indeed, it is very serious if school suppliers are not paid and especially during this COVID-19 period. I am aware of school heads who even meet the expenses of their schools from their own pockets. This should not happen. The Ministry needs to ensure that it gives money to schools, whether there is COVID-19 or not. In most schools, you will find that there are some suppliers who supplied goods and services even six months ago and they have not been paid. There is need for the Ministry of Education to be serious about issues of public schools. I am even aware that there are some stakeholders from some private schools that we met who were saying that they wanted Kshs7 billion from the Ministry of Education and the Ministry seemed to be in agreement that they will do something so that they give a concessional loan.

It is unthinkable that even the Ministry can think of such weird plans yet they have not satisfactorily met the demands of public schools.

When it comes to issues of suppliers, there should be no negotiation about it. Suppliers need to be paid. You will find that some of the suppliers in county schools are farmers. They spend so much money and take loans and then at the end of the day there are no returns at all. We have to see how to support and encourage Kenyans who are trying to eke a living instead of discouraging them.

I want to suggest that when this matter goes to the committee, the committee should be fair and just in ensuring that suppliers are paid.

I want to comment on a Bill that Sen. Murkomen has also commented on, on the issue of prompt payment to suppliers. I want to suggest to Sen. Farhiya to ensure that there is an indemnity clause in it. This will ensure that suppliers are indemnified in the case where they have not been paid. In the clause also, the interest should be paid to those suppliers who have supplied and they have not been paid within a limited time frame.

I support the petition.

Sen. (Dr.) Langat: Thank you, Mr. Speaker, Sir, for also giving me this opportunity to say something. I want to support this petition. Issues affecting the Ministry of Education currently are so numerous that they require a lot of attention even from this House.

If we remember from 2013, there were so many robust changes in the Ministry of Education that took place including free secondary education that I really tend to think some times that maybe the country was not even ready for it simply because schools have been left like that in the name of free education. They are so populated yet there are no teachers.

Parents have continuously been employing teachers but most of them have not been paid for a long time and we saw another Statement in this House last time to that effect. You remember the introduction of laptops that are not even functional up to now. These issues around the education sector should be addressed.

This is a very critical issue. First of all, this country has a high unemployment rate. These particular suppliers who are affected are people who are trying to engage in self-employment in a very simple way by supplying some items to schools. The moment they are not paid; these particular people are discouraged. We have heard that some of them borrowed loans and now their properties are being auctioned. This is something that is very serious which we need to address urgently.

This particular issue should be taken by the committee concerned, very seriously so that we save these people. I know very well the procurement process begins with a budget that has already been put in place. So sometimes these particular issues arise as a result of corruption. These people are intentionally failing to pay the suppliers.

Even during this COVID-19 situation, you can hear the Cabinet Secretary for Education saying that schools are opening next month, and even before that month ends, he says they will be closed up to January. The schools and the parents are so much confused. So much must be addressed in the Ministry of Education.

I support this petition. I would like to say that the committee that is going to address this particular issue must save these small scale suppliers.

Thank you, Mr. Speaker, Sir.

Sen. Madzayo: Asante Sana, Bw. Spika. Pia, mimi ningependa kujiunga na wenzangu, kuhusu swala hili la wale wanakandarasi ama wauzaji wa vyombo vidogo vidogo katika shule zetu.

Bw. Spika, utaona ya kwamba malipo haya wanayopewa kutoka kwa Serikali ni duni sana ilhali wanakandarasi hawa hutia bidii yote wanayoweza kwa kile kidogo walichonacho kuweza kujifaa na pia kufanya biashara hii ya uuzaji wa bidhaa hizi kwa njia ngumu sana.

Ni jambo la aibu kuona ya kwamba hivi leo baada ya hili janga la Korona kuweza kuliepuka - hata kama hatujaliepuka lote - ya kwamba, matokeo ya wakati huo mpaka hivi sasa, Serikali haijachukua hatua mwafaka kuweza kulipa wanakandarasi ama hawa wauzaji wa vitu vidogo vidogo katika shule zetu.

Wanaosoma katika shule hizo ni watoto wetu wala sio wa watu wengine ama kutoka nchi zingine. Hata kama kuna watoto wa kutoka nchi zingine, hao ni wanafunzi wanaotaka kukimu mitihani, ili waweze kuendelea. Ikiwa tabia kama hii itaendelea, na wanakandarasi hawa wakose kupeleka vifaa hivyo shuleni, basi shule hizo pia zitakuwa hazina uwezo wa kufundisha wanafunzi.

Tunaweza kufahamu ya kwamba, kabla hujakuwa mwanakandarasi, kwanza kwa sababu unapeleka vitu vidogo vidogo, unaenda na kuweka nyumba na cheti cha kumiliki ardhi kama rehani ili uweze kupewa mkopo. Mara nyingi mkopo huu huwa na muda.

Usipolipa unaweza kupata nyumba yako ama shamba lako linauzwa, halafu inakuwa ghasia ama shida kubwa kwa familia.

Hata inakuwa yule mzazi pengine anashindwa hata kupeleka watoto wake shuleni kwa sababu ya lile deni kubwa lililoko katika benki ambalo liweza kuongezeka riba.

Hivi sasa tukiongea, ile kandarasi haiwezi kupeanwa, kwa sababu watu hawaelewi ni asilimia gani ambayo naweza kulipwa ili waweze kujipanga kusambaza vifaaa tena. Matatizo kama haya yasilete shida kwa wale wanakandarasi wanaopeleka vifaa katika shule zetu.

La mwisho, kuna uzembe wa ufisadi ndani ya Wizara hii ya Elimu. Ikiwa hawawezi kulipa, je hizo pesa ambazo zimetengwa huwa zinaenda wapi? Ni lazima hawa wanakandarasi ama wauzaji wa hivi vitu vidogo vidogo ambavyo vinatakikana katika shule zetu walipwe mara moja wanaposambaza vifaa kwa shule hizi.

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 directed to the Standing Committee on Education. In terms of Standing Order No.232, 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.

We will have Sen. Mwaruma for the next Petition. Since they are related, you will read both together.

IMPENDING EVICTION OF MSAMBWENI RESIDENTS
BY SPARKLE PROPERTIES LIMITED

Sen. Mwaruma: Mr. Speaker Sir, they are related because they involve investors who take away land from the residents without mercy.

I am reading this Petition on behalf of the residents of Mswambweni in Voi, Taita Taveta County. This is a Petition to the Senate on impending evictions of Mswambweni residents in Taita Taveta County by a private company-

We, the undersigned citizens of the Republic of Kenya being residents of Msambweni village in Voi sub-county of Taita Taveta County, wish to present this Petition to the Senate of Kenya on behalf of ourselves and all the residents of Mswambweni.

(1) That the residents of Mswambweni are living in fear of eviction, any time by a private developer in the name of Sparkle Properties Limited.

(2) That the land Sparkle Properties Limited is about to evict Mswambweni residents from measuring 54.26 hectares is registered as No.1956/506, CR No. 23979.

(3) That the residents of Mswambweni have lived peacefully on their land since 1938.

(4) That in 1978, Mswambweni elders accepted a request by Bata Shoe Company to put a shoe factory on the land they were living in because the investor intended to create employment for local citizens.

(5) That Bata Shoe Company proceeded to acquire a 99-year lease grant of the land given to it by the elders effective 1st January, 1979 from the Ministry of Lands on the following terms and conditions, among others-

- (a) The land and the building to be put up shall only be used for a Bata Shoe Company and accommodation for a caretaker or a night watchman.
 - (b) The grantee shall not subdivide the land.
 - (c) The grantee shall not sell, transfer or sublet the land.
- (6) That for over 31 years from 1979 to 2011, Bata Shoe Company did not put up any shoe company but instead sold the land at Ksh12 million to Sparkle Properties Limited in 2013 for purportedly constructing a shopping mall in total disregard of the terms and conditions of the grant.
- (7) That in 2011, Sparkle Properties Limited's attempts to develop the land were resisted by Mswambweni residents because the company was a stranger to them.

(Loud consultations)

The Speaker (Hon. Lusaka): Senators, consult in low tones.

Sen. Mwaruma: Even my Chair of the Committee on Lands, Environment and Natural Resources should be listening to this one because I know it involves him directly.

(8) That in 2013, Sparkle Properties Limited filed a suit in the Environment and Land Court of Kenya, Suit No. 265 of 2013 seeking to evict over 3500 Msambweni residents living in 500 households to pave way for her to develop the plot.

(9) That the case was heard and judgement made on 24th February, 2020 in favor of Sparkle Properties Limited against the residents of Msambweni.

(10) That among other things, the judge in his judgement ordered-

- (a) Mswambweni residents to pull down their houses and leave the land vacant.
- (b) Mswambweni residents to pay general trespass damages of Kshs1.05 million.
- (c) Msambweni residents to pay cost of the suit.

(11) That if the court orders are executed, 3,500 people will be rendered homeless for being evicted from their ancestral land that they have lived on since 1938.

(12) That the residents of Msambweni have no other land anywhere that they can settle, in case they are evicted.

(13) That efforts to resolve the matter raised in this Petition with the relevant authorities have proved futile.

(14) That there is no case pending in court or any constitutional body on the matters raised in this Petition.

(15) Herefor, your humble Petitioners pray that the Senate through its relevant Committee-

- (i) Deals with this Petition immediately in view of the urgency and seriousness of the matters raised herein;
- (ii) That an investigation to establish-

(1) How it was possible for the Commissioner of Lands to allow Bata Shoe Company to transfer its lease grant to Sparkle Properties Limited in total disregard of the terms and conditions of the grant, which opposed the same.

(2) How it was possible for Bata Shoe Company to sell the land to Sparkle Properties Limited at Kshs12 million, and yet, it had not done any development on it.

(3) Recommends that appropriate action be taken against the Commissioner of Lands for colluding with Bata Shoe Company to transfer Msambweni residents' land to Sparkle Properties Limited, despite there being terms and conditions against the same.

(4) Recommends that the Ministry of Lands acquires the disputed land and settles the residents on it through compulsory acquisition.

(5) Take any other appropriate action it deems fit to ensure that the residents of Msambweni live in peace as before, and your petitioners will ever pray.

ENCROACHMENT OF LAND BELONGING TO MKAMENYI RESIDENTS
BY VOI POINT LIMITED IN TAITA TAVETA COUNTY

Sen. Mwaruma: Mr. Speaker, Sir, the second Petition is on behalf of the residents of Mkamenyi. This is a Petition to the Senate on encroachment of land belonging to Mkamenyi residents by Voi Sisal Estate in Taita-Taveta County.

"We, the undersigned citizens of the Republic of Kenya living in Mkamenyi Village in Voi Sub County of Taita-Taveta County, wish to present this Petition to the Senate on behalf of all the residents of Mkamenyi.

THAT Mkamenyi Village borders Voi Sisal Estate, which is land that was initially given as a present by the colonial government to a retired British soldier by the name Major Lezen in 1920 for a period of 99 years;

THAT the British soldier surrendered the land to the Government in 1980 and was reallocated to Voi Sisal Estate Limited, which then transferred the lease to Voi Plantations Limited in 2012;

THAT Voi Plantation Limited transferred the lease to Voi Point Limited in 2019;

THAT between 1900 and 1930, the Sisal Estate management requested Mkamenyi elders to allow them to use part of their land located close to the river to-

(a) carry out research on a variety of crops like coconuts, bananas, cashew nuts, sugarcane and sisal;

(b) install a water pump; and,

(c) grow food for their labourers.

THAT in the 1960s, the population of Mkamenyi residents had increased and so, they needed their land back and started agitating for the same;

THAT the Sisal Estate refused to give back the land but instead colluded with the police to forcefully extend its boundaries to the people's homesteads; evicting them and putting the land under sisal;

THAT those people who agitated for their rights of the Mkamenyi residents were arrested, charged with trespass and some were jailed;

THAT on 11th May, 2019, the honourable Senate of Kenya visited Taita-Taveta with the Senate Committee on Lands, Environment and Natural Resources to hear and recommend appropriate actions to solve the land problem in Mkamenyi;

THAT in July 2019, the Chief Administrative Secretary of the Ministry of Lands accompanied by land officers in the county, Ministry of Interior and Coordination of National Government officers, the Sisal Estate management and political leaders in the county - except me - met the residents of Mkamenyi and promised to give back the land being illegally occupied by the Sisal Estate to the residents;

THAT on 29th October, 2019, the management of Voi Point Limited invited three representatives of Mkamenyi residents to a meeting at Ngutuni Lodge, where they informed them that-

(a) the management would give them 35 acres of land instead of the over 150 acres they were occupying and have been claiming; and,

(b) the 35 acres which were being offered would be used to settle 28 families occupying the disputed land.

THAT the 33 members refused to accept that the offer of 35 acres, claiming that it was not adequate and that they needed more than 150 acres that the residents of Mkamenyi were initially occupying;

THAT the management of Voi Point Limited proceeded to do survey and beaconing of the 35 acres of land they promised to offer without involving the residents or the county government and processed a group title deed for the same;

THAT on 25th August, 2020, the management of Voi Point Limited invited the residents for the issuance of the 35-acre title deed, but the residents rejected it due to the following reasons-

(a) the residents needed more than 150 acres and not 35 acres that they were being offered;

(b) the group title deed had names of persons who did not live in Mkamenyi listed as owners of the land; and,

(c) the names listed in the title deed as the owners of the land were only six families, living out 22 families;

THAT efforts to resolve the matters raised in this Petition with the relevant authorities have proved futile;

THAT there is no case pending in court or any constitutional body on the matters raised in this Petition;

HEREFOR, your humble petitioners pray that the Senate of Kenya through its relevant Committee-

(1) Deals with this petition immediately in view of the urgency and seriousness of the matters raised herein.

(2) Investigates the circumstances that led to-

(a) the decision to offer 35 acres and not the more than 150 acres of land which is adequate to settle the Mkamenyi residents;

(b) the carrying out of survey and beaconing of the land without involving the county government or the residents;

(c) the listing of names of persons not living in Mkamenyi as owners of the land being offered title deeds.

(3) Makes a declaration that the process followed in the offer of the 35 acre of land and its title deed to the residents of Mkamenyi was unprocedural and unlawful and, therefore, null and void.

(4) Recommends that the Ministry of Lands initiates an all-inclusive open and transparent process of giving the residents of Mkamenyi adequate land that can settle them once and for all.

(5) Takes any other appropriate action it deems fit to resolve the matters raised herein, and your Petitioners will ever pray.

I thank you.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to the Petitions for not more than 30 minutes.

Sen. Madzayo, kindly, proceed.

Sen. Madzayo: Asante sana, Bw. Spika. Nataka kuunga hii *Petition* ya huyu ndugu yangu, Sen. Mwaruma, Seneta wa Taita-Taveta kuhusikana na hili shamba la Msambweni ambalo liko katika *Voi Constituency*, Kaunti ya Taita-Taveta.

Bw. Spika, shamba hili liko katika kijiji cha Mkamenyi ambacho kiko katika Kaunti ya Taita-Taveta. Historia ya shamba hili ni ya kusikitisha. Ijapokuwa kulikuwa na wenyeji pale, walichukuliwa kama wanyama na shamba hili likachukuliwa na kupewa mzungu kwa sababu zisizoeleweka, lakini iliepeanwa kama zawadi. Wenyeji wanaoishi katika hilo shamba sio wanyama.

Bw. Spika, ni jambo la kusikitisha kuona kwamba si mara ya kwanza, ya pili na haitakuwa ya mwisho kusema kuwa mashamba mengi katika eneo la Pwani yamepewa kwa watu binafsi kama zawadi ya kufurahisha mtu.

Tulipopata uhuru, Rais wa Kwanza, Mzee Jomo Kenyatta, alipeana sehemu fulani kama zawadi kwa watu fulani ambao ni mabwenyenye katika ardhi iliyoko baharini na maeneo mbali mbali eneo la Pwani.

Tunaona ya kwamba katika maeneo haya---

The Speaker (Hon. Lusaka): Sen. Kinyua, what is your intervention?

Sen. Kinyua: Bw. Spika, nimesikia Sen. Madzayo akisema kwamba Rais wa kwanza alipea watu fulani mashamba kama zawadi lakini sidhani kuna jambo kama hilo kuwa watu walipewa shamba kama zawadi.

Watu wengi wanaoishi katika mashamba hayo walinunua wakitumia hela zao na niko na ushahidi. Sijui fulani fulani ni kina nani. Watu wako na majina na hakuna fulani fulani. Kama ni kikundi cha watu, kinajulikana na hakuna haja ya mtu kusema watu fulani fulani ilhali anajua majina zao Watu wengi katika sehemu nyingi za Kenya walinunua shamba yao na hawakupewa kama zawadi.

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

Sen. Sakaja: Mr. Speaker, Sir, mine is similar.

It is easy to casually make a claim like that out of conventional talks out there. However, the Standing Orders demand that every Member should be responsible for a statement or fact.

I would like to ask if it is in order for him to say that the Former President gave land as gifts to people in that county. If so, he should substantiate or withdraw because you cannot just fly around with that.

We would like to know the people who received gifts. Once we know, we will ask where our fathers were; they should have received gifts during that time.

May he substantiate or withdraw that statement.

Sen. Madzayo: Bw. Spika, sijui kama ni kwa sababu ya sintofahamu za Sen. Sakaja na Sen. Kinyua kutamka maneno kama hayo.

Taarifa hii ambayo imesomwa na Sen. Mwaruma kutoka Taita Taveta inahusikana na mkoa wa Pwani. Sehemu ambayo imetajwa ni Msambweni na Kamheni ambayo iko Taita Taveta. Aliyepewa shamba ni askari jeshi wa kizungu ambaye ametajwa hapa na Sen. Mwaruma.

Kuna Ripoti ya Truth, Justice and Reconciliation Commission (TJRC) ambayo ilitaja watu ambao walipewa ardhi ya Pwani. Kama Sen. Kinyua hajui, chanzo cha Lake Kenyatta anakijua. Tuliuliza tinga tinga, tukapewa watu. Kama hiyo si zawadi, sijui kama kuna zawadi nyingine tena.

Ni jambo la kusikitisha mpaka hivi sasa tukiongea kuwa swala la Taita Taveta si shamba pekee, bali hata milima iliyoko Taita Taveta kuanzia Voi hadi Milimani ambapo watu wanatoa *tanzanite*, *ruby* na *green granite* ambayo ni rasilimali kama dhahabu, ina pesa nyingi zaidi.

(An hon. Senator spoke off record)

The Speaker (Hon. Lusaka): He referred to the Truth Justice and Reconciliation Commission (TJRC) Report.

Sen. Madzayo: Bw. Spika, tunajua kuwa ni nia ya Serikali kuona kwamba kila Mkenya amepewa nafasi ya kuishi pahali pake.

Watu wa Mswambweni ambao wameleta hii *Petition* hapa Seneti wasichukuliwe kana kwamba hao si Wakenya. Hawa ni Wakenya na wako na haki ya kuleta swala lolote ndani ya Bunge la Seneti.

Ni matusi hadi saa hii kuwa wao walikuwa wanaketi ndani ya ardhi eka mia moja hamsini kuambiwa wachukue eka thelathini na tano. Kama kuna matusi ni mtu kukuambia ulikuwa na ardhi eka mia moja na hamsini na leo unaambiwa uchukue eka thelathini na tano na uende zako.

Kudharauliwa inafaa kukoma ama ifike mwisho. Hili swala la ardhi ni swala chungu sana na si swala la kuchukuliwa mzaha jinsi Sen. Sakaja anasema mwambie aseme ni nani na nani walifurushwa. Anafaa kujua kila siku mimi huenda *police station* kutoa Waghiriama ambao wameshikwa na kuwekwa ndani. Wengine hushikwa na kufungiwa katika *police cell* na wengine wanatupwa katika *yard* za askari.

Askari wa Kilifi hawana kazi yoyote saa hii isipokuwa kungoja *service ya injunction* waende wakafukuze watu katika mashamba yao. Wakiambiwa kuna wezi mahali fulani wanasema gari haina mafuta ya kuenda huko. Lakini wakiambiwa ni kuenda kutoa Waghiriama pale ndani na kuwaweka watu wengine, hiyo nafasi ya kuenda uko na *petrol* inapatikana.

Mimi naunga mkono Sen. Mwaruma vile amesema. Kamati ambayo itapewa jukumu hili, *the Standing Committee on Lands, Environment and Natural Resources* ambayo inaongozwa na Sen. Mwangi, lazima ishurutishe kwamba watu Hao wapewe ardhi yao yote ya eka mia moja na hamsini.

Asante, Bw. Spika.

Sen. Cheruiyot: Thank you, Mr. Speaker, Sir.

There is an increasing number of Petitions coming to this House lately. This is a testament of belief that Kenyans get that when they present their issues before this House; they are sorted firmly, expeditiously and they get justice most of the time.

This should serve as an encouragement to Members who sit in various committees that handle different Petitions. Petitions are an alternative form of dispute resolution that are firm in law, but have a greater force than some of the long unwinding judicial processes that exist in this country.

Citizens know that if you present a Petition before the Senate of the Republic of Kenya, chances are before 60 days are over, you will have received a response. Most of the time if you are a citizen whose rights are being violated, you will find that the findings of the Committee will be in your favor and they will send good recommendations to different Government agencies that are able to resolve issues that will help citizens get justice from this House.

We should continue to look at Petitions each and every time they are presented in this House in the manner that we have done. The issue before the Floor presented by Sen. Mwaruma is not a light issue. This is a very heavy issue amongst people of the Coast as a region.

Land issue at the Coast region has been mishandled by successive regimes. Whenever we travel to the Coast Region for various committee engagements, residents there always ask what Parliament is doing about their land issues. We know very well that the people of Coast region have been disposed of their land, but successive governments keep on promising them that they will sort out their land issues. Land transactions at the Coast region are shrouded with manipulation and people taking advantage of the not so well educated citizens in that part of the country.

I wish to challenge our colleagues who sit in the Committee on Lands, Environment and Natural Resources, which is chaired by the very able, Sen. Mwangi Githiomi, to take time and canvass this issue. To the best of my knowledge, this is not the first time that we are receiving a petition from the Coastal region with regard to disenfranchisement on land rights and dispossession of property that belongs to them. We, as a House, must sort out an issue with finality. These issues must cease being both to citizens who are taxpayers. This House is run by the contribution of taxes that come from the people of that region. The people of Coast deserve to receive an equal share of the good work that this House continues to do.

The National Land Commission (NLC) which the constitutionally mandated body to deal with many of these issues gave a very vague ruling. I know that because the people that I represent in this House were also interested parties having been disposed of land by the Queen's Own Rifles. That land up to date continues to be owned by multi-nationals whose home of operations are our former colonial masters. We have not been able to enforce that ruling given by NLC because of the cavalier manner in which it was issued. The NLC has not taken time to ensure that various county governments live up to their expectations as far as land issues are concerned.

Recommendation made that the many multi-national companies that do mining and explorations in the various parts of the country need to declare openly the size of land that they control in the Republic of Kenya. Once that declaration is made, then the second state should be to establish how they got that land, in the first place. If the land owned by the multi-national companies was disposed of people, they need to come out clearly and state the repayment plans for people and inhabitants whose land they took. That is yet to be done.

Mr. Speaker, Sir, I expect that when the Committee on Lands, Environment and Natural Resources is seized of this matter, they will invite the NLC and demand of them to give a status update of all the issues that have been presented before them in the last few months that they have been in office. It has been close to over one year since the new NLC took office. This will be a good time for the Committee on Lands, Environment and Natural Resources to present before this House the framework that the NLC has set up so that we do not end up with the kind of issues that we experienced during the term of the previous NLC which served in the first six years of the NLC.

There is a lot of work that is cut out for the Committee on Lands, Environment and Natural Resources. I look forward to reading their report on this Petition and their recommendations. I hope that, at the end of the day, the people of the region that has been mentioned in the petition will go home a happy lot and believe that the Parliament of Kenya exists for the service of ordinary citizens of this Republic like them.

I thank you, Mr. Speaker, Sir.

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

Sen. Omogeni: Mr. Speaker, Sir, Sen. Mwaruma has raised a very important issue before the House. If you follow the report on the Truth Justice and Reconciliation Commission (TJRC), you will note that there is no region that has been affected by the poor inhabitant like the Coast region. It is only there that you will find people we call 'absentee landlords'; people who own big tracks of land that should ordinarily be owned by the local people, yet they are somewhere in the diaspora.

I will invite my colleagues who are raising doubts on the misuse of the former presidents on allocations of land to take a keen interest and read the TJRC report. There was also another report that was prepared in 2012 by a reputable lawyer called, Ndung'u which is popularly referred to as the 'Ndung'u Report'. Reading the two reports, you will find that the poor Kenyans at the Coast were disposed of their land and some of them are living at the mercy of very powerful individuals in this country who remind them every day that they will evict them.

The Senate represents the poor of the poorest in this country. We should take a very keen interest when a petition such as the one that has been presented to us by Sen. Mwaruma. I hope that the Committee that will look into this matter will dig deep into the recommendations that are in the TJRC and Ndung'u reports and come up with ways of addressing the injustices. The recommendations of the TJRC have never been adopted because the National Assembly has never put in place the framework for Kshs10 billion that was set aside for compensation. Until and unless the National Assembly makes that fund actualized, Kenyans will continue to suffer.

I am disappointed that the Taita Taveta County Government is sitting back as people go court to file cases and get orders of eviction against the resident of Taita Taveta without extending legal assistance to them. The petition that has been read by my good friend, Sen. Mwaruma, was decided by the High Court.

The County Government of Taita Taveta had another avenue of assisting its residents by filling an appeal so that they set aside the order that was issued by the High Court. I hope that the Governor of Taita Taveta County, Hon. Samboja will take a keen interest on this issue and extend some help to Taita Taveta people so that the litigation that is taken to court by the people who own land can also be defended by the residents of Taita Taveta County.

Mr. Speaker, Sir, I would like to take this opportunity to update the House on the issue of the advisory that was given by the Chief Justice. Our advocate, Mr. Ahmed Nassir and Company have already moved to court. They filed the case yesterday. As I speak, they are in court seeking for further direction on the matter. I, therefore, urge Members to be patient. Mr. Ahmednasir Abdullahi is a senior advocate. He is one of our most respected senior counsel in this country.

(Loud Consultations)

The Speaker (Hon. Lusaka): Order, Senators! Kindly consult in low tones. Sen. Omogeni is communicating a very important message that affects all of us so you had better listen keenly.

Sen. Omogeni: Mr. Speaker, Sir, I have a lot of faith and confidence in Mr. Ahmednasir Abdullahi. Over the weekend, the Committee on Justice, Legal Affairs and Human Rights had the opportunity to review the petition that was to be filed by our lawyer and gave our input.

I can assure this House that Mr. Abdullahi has raised serious constitutional issues that are worth being considered by the High Court and may lead to the reviewing of the advisory by the Chief Justice that went to the President. I will not go into the details of the matter, but I would like to assure the House that we are in safe hands so we should hope for the very best from our lawyer, Mr. Ahmednasir Abdullahi.

Mr. Speaker, Sir, I thank you.

The Speaker (Hon. Lusaka): I can see a lot of interest on this matter, but unfortunately time is not on our side. We have to move to the next Order. Our Statement House is between 3.00 and 4.00 p.m. It is now 20 minutes to 4.00 p.m.

Hon. Senators, pursuant to Standing Order 232(1), the Petition is committed to the Senate Standing Committee on Lands, Environment and Natural Resources which is the relevant Committee for its consideration.

In terms of Standing Order 232, 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 want to rearrange these Statements so that we go to---

Sen. Madzayo: Jambo la nidhamu, Bw. Spika.

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

Sen. Madzayo: Bw. Spika, kanuni za Bunge hasituruhusu kusimama au kuingia hapa unapozungumza. Nimemuona ndugu yangu Sen. Linturi ambaye ni shemeji wangu kutoka Meru, akiingia ukiwa bado umesimama, akapita na kuketi. Amevunja moja ya kanuni za Bunge la Seneti. Ningeomba uchukue hatua mwafaka ya kumrekebisha Sen. Linturi ama aombe msamaha kwa kitendo chake hicho.

The Speaker (Hon. Lusaka): Sen. Linturi, itabidi uombe msamaha ama niku---

Sen. Linturi: Bw. Spika, mimi ni mtiifu wa sheria na kanuni za Bunge hili. Nilipofika pale '*nilibow*' lakini ulikuwa umeketi. Singeingia kama ulikuwa umesimama kwa sababu nafahamu kanuni za Bunge. Pengine kwa sababu sioni mbali, nimefika katikati ukasimama. Kile ningeomba ni unipe nafasi *nibow* na nirudi nikae sababu na heshimu Bunge hili.

(Sen. Linturi walked to the bar and bowed to the Chair)

The Speaker (Hon. Lusaka): Hiyo ni sawa.

I want to rearrange the Statements so that we start with the Statement under Standing Order 51(1)(a). The Chairperson, Standing Committee on Health to make a Statement sought by Sen. Mugo.

STATEMENTS

DEATH OF A PATIENT AT M.P. SHAH HOSPITAL DUE TO ALLEGED NEGLIGENCE

Sen. Seneta: Mr. Speaker, Sir, I am issuing this Statement on behalf of the Chairperson, Standing Committee on Health.

Pursuant to Standing Order No. 51(1) (a), I rise to issue a Statement regarding the death of a patient at M.P. Shah Hospital due to alleged negligence. At the Siting of the Senate held on Tuesday, 9th June, 2020, Sen. Mugo, MP, requested a Statement from the Senate Standing Committee on Health regarding the death of Ms. Virginia M. Assaf allegedly as a result of negligence occasioned by staff at the M.P. Shah Hospital on 26th May, 2020.

The Statement sought to have the Standing Committee on Health investigate whether contrary to Article 43(1)(a) of the Constitution and Section 7 of the Health Act, M.P. Shah Hospital caused the untimely death of the late Ms. Virginia Assaf by putting commercial interest before her wellbeing.

In carrying out its investigation, the Committee on health held meetings with members of the family of the deceased patient, the Ministry of Health, the Kenya Medical Practitioners and Dentists Council (KMPDC), the management of M.P. Shah Hospital and the National Hospital Insurance Fund (NHIF). The meetings were aimed at clarifying the circumstances that led to the death of the patient as well as understanding the broader legal policy regulatory and structural factors that may have contributed to her unfortunate and untimely death.

The Committee further resolved to refer the case to KMPDC on 17th June, 2020 with a view towards establishing the following-

(a) The status of the rules and regulations pertaining to the provisions of emergency medical care in line with Section 112 (1) of the Health Act, 2017.

(b) The implications of M.P. Shah Hospital's treatment of the late Virginia M. Assaf in relation to the current Constitutional and legal provisions guiding the provisions of emergency care in Kenya, particularly Article 43(2) of the Constitution and Sections 7, 12, 2(b) and 91 (1)(b) of the Health Act 2017.

(c) Relevant information on the gaps, issues and challenges pertaining to the provision and regulations of emergency health care services.

Mr. Speaker, Sir, Article 43(2) of the Constitution and Section 7(1) of the Health Act, 2017, guarantees every person the right to emergency medical treatment. Section 91(b) of the Health Act further obligates all private institutions and private health workers to provide emergency services in the field of expertise as required or requested

either by individuals, population groups or institutions without regards to the prospects, or otherwise of direct financial reimbursement.

Mr. Speaker, Sir, in the course of its investigation, the Committee found that at the time of presenting at the hospital the late Ms. Virginia Assaf was conscious and stable as evidenced by the fact that she could communicate and made a payment of Kshs9,000 for her treatment via Mpesa at 4.51a.m.

The Committee further found that the medical officer on duty who first attended to the patient correctly and promptly diagnosed the patient with acute ST-Elevation Myocardial Infarction (STEMI) with late presentation in consultation with the hospital cardiologist.

Based on the patient's diagnosis, according to the established emergency medicine guidelines and protocols, the appropriate givinnence emergency treatment that the patient ought to have received was a Percutaneous Coronary intervention (PCI), and a coronary angiogram, within 30 minutes of arrival at the hospital.

However, in the case of the late Ms. Virginia Assaf, contrary to Article 43 (2) of the Constitution, and Section 7 of the Health Act (2017), this emergency treatment, PCI, was delayed for an estimated 3 hours and 45 minutes due to financial motives.

Mr. Speaker, Sir, the Committee also found that according to submissions by the family members of the late Ms. Virginia, every medical treatment conducted on the patient by the hospital was only done upon confirmation of payment. For example, despite having presented to the hospital at 3.15 a.m., and a diagnosis of micro cardiac infarction being made at 3.30 a.m., the patient received the urgent medication she required after 4.00 a.m., and even then, only after family members had made a payment of Kshs500,000.

Allow me to also note that the late Ms. Virginia was a beneficiary of the National Hospital Insurance Fund (NHIF) super cover, registration No.3888941. At the time of her death, her monthly NHIF contribution was up to date, and she was, therefore, eligible for medical benefits until the end of June 2020.

Accordingly, MP Shah Hospital notified NHIF of her admission on 26th May 2020, under inpatient (IP) No.10396737, but subsequently failed to make any further request for the treatment.

Mr. Speaker, Sir, the case of the late Ms. Virginia is not an isolated case at all. As we all know, thousands of Kenyans lose their lives every year from lack of receiving timely lifesaving medical interventions and appropriate emergency healthcare.

Mr. Speaker, Sir, in consideration of the above, the Committee notes that Section 15 of the Health Act assigns critical functions to the national Government for the realization of the right to emergency medical treatment as follows-

- (a) Development of emergency care health policies, laws and procedures in consultation with the county governments and other stakeholders.
- (b) Resource mobilization for uninterrupted access to all health services, including emergency care.
- (c) Establishment of an emergency medical treatment fund.
- (d) The provision of training, maintenance of standards, and coordination mechanisms for emergency healthcare.

However, delay by the Ministry of Health to develop and publish the emergency medical care policy regulations and guidelines in accordance with Section 15 of the

Health Act remains a key challenge facing the provisions and regulations of emergency healthcare.

The Committee further notes that pursuant to Section 15(x) of the Health Act (2017), there is an urgent need for the national Government to expedite the establishment of an Emergency Medical Treatment Fund for the facilitation of emergency medical treatment and care.

Mr. Speaker, Sir, based on the forgoing, the Committee recommends that the conduct of MP Shah Hospital, in respect to its provision of necessary emergency treatment for the late Ms. Virginia Assaf be investigated by the Kenya Medical Practitioners and Dentists Council (KMPDC) in light of Article 43 (2) of the Constitution, and Section 91 (b) of the Health Act.

The Committee further recommends that a fine of Kshs3,000,000 be surcharged against MP Shah Hospital in accordance to Section 7(3) of the Health Act (2017), and Section 26(e) of the Medical Practitioners and Dentists Act, for negligently failing to conduct a lifesaving PCI in a timely manner as per recommended clinical practice and guidelines.

Additionally, the Committee recommends that the conduct of MP Shah Hospital, in respect to its delay in providing emergency treatment for the late Ms. Virginia Assaf be investigated by NHIF, in light of its failure to provide mandatory emergency services, contrary to its contractual obligations.

Mr. Speaker, Sir, in respect to the general state of emergency medical care and treatment in Kenya, the Committee recommends that the Ministry of Health expedites the passage and publication of the Emergency Medical Policy (2020-2030), the Emergency Medical Care and Strategy Plan (2020-2025), and the Emergency Medical Care Regulations, in accordance to Sections (15) and (112) of the Health Act, respectively.

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

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

Madam Deputy Speaker, the Committee further recommends that the National Treasury and the Ministry of Health act to expedite the integration of emergency medical treatment and care in the Universal Health Coverage (UHC) package. Additionally, the Committee recommends that the Ministry of Health expedites the development of an Emergency Treatment and Care Bill, with a view to operationalizing the provisions of Article 43(2) of the Constitution, and Sections (7) and (91) of the Health Act.

The Committee also recommends that all public and private healthcare providers develop and implement policies for timely and appropriate emergency medical care and treatment in accordance to Article 43 (2) of the Constitution and Section (7) and (91) of the Health Act.

In order for the recommendations of the Committee to be actionable, the Committee resolved to table its report for consideration and adaption by the Senate, which I did on Thursday last week, 17th September, 2020.

I thank you.

Sen. Sakaja: Thank you, Madam Deputy Speaker. I first want to offer my deep condolences to the family of the late Ms. Virginia Assaf who died due to negligence in

Nairobi City County at MP Shah Hospital. I thank the Committee on Health for addressing this matter, and specifically Sen. Mugo for raising it.

If you look at this Statement, it is a huge indictment on MP Shah Hospital as well as many of our private hospitals in Nairobi City County. Many of our private hospitals are denying Kenyans emergency healthcare treatment and they are putting profit before the lives of Kenyans. All doctors have signed the Hippocratic Oath that compels them to, first, save lives and to think about the sanctity of human lives.

Madam Deputy Speaker, I have received many complaints, not just about this hospital, but also from many other hospitals. I would like to urge the Committee to join me in checking some of them. I will give the Committee a list because there are many such complaints and not just on this one for Ms. Assaf. I am glad to note that there is a recommendation to fine the hospital Kshs3 million because of this.

Kenyans are coming to us with statements and petitions because they feel that this House has been able to respond and is playing its part.

As I conclude, my earlier contention was that even as we deal with this, let it be done in accordance with our Standing Orders. Earlier on when I raised the matter when Sen. Madzayo was speaking, it was not because I do not agree with the issues, but because we must express these things according to the rules we have. Sen. Mwaruma will tell you how close I am to the people of the Coast, especially Taita Taveta. I have been at the forefront in fighting for them, including when we were discussing the allocation of revenue. I understand their issues. Our rules hold that when we make a Statement, we must be able to substantiate.

I want to thank the Committee on Health. I sympathize with the chairperson of the Committee of Lands, Sen. Mwangi. Today we were in the Liaison Committee and we noted that his Committee has 25 petitions, including the one on Lang'ata Royal Park. The next Committee with the closest, has five petitions. I think we will need to do something special to help Sen. Mwangi and his Committee expedite those petitions. Having to deal with 25 petitions within a 60- day time limit might need other committees to assist or for him to split his Committee. However, administratively we will need guidance on how to help him deal with all those petitions.

I want to congratulate him because despite being one of the oldest chairs, he is the most vigorous and vibrant of all the Committee Chairpersons in the Senate of the Republic of Kenya. Thank you, Sen. Mwangi and thank you, Health Committee.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you Senator. I am happy you are in the House Business Committee.

I will give a chance to two more so that we can move fast. However, please take one or two minutes.

Sen. (Dr.) Musuruve I am giving you two minutes only.

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker, for giving me this opportunity. It is important that the issues brought to this House by the Senators be expedited. Sometimes Senators bring Motions, Statements and Petitions to this House, but they are not worked on very fast.

I want to agree with Sen. Sakaja that Sen. Mwangi needs to be complimented for the work that he is doing. He has a lot of work on his desk. The issue of land is usually

very emotive. He is also supposed to handle the issue of Lang'ata and bring to the Floor of this House. However, there is need for him to be helped also so that he goes very fast.

I want to address this to Sen. Sakaja. I brought Statement or a Motion on issues of lecturers with disabilities in universities and university constituent colleges. They had a plea that they retire at 75 years as opposed to 70 years. I humbly request you to assure them that they will retire at age of 75 so that they know we are working for their interest.

Sen. Farhiya: Thank you, Madam Deputy Speaker. First of all, I also wish to send my condolences to the family. It is very painful to lose a family member when you were hoping that, that person was going to be saved. By the time somebody comes into a hospital at 3.00 a.m. it is a serious problem. Nobody wants to be on the road at that hour. For the hospital to delay her treatment and then she dies as a result of lack of attention, is very sad.

I also join my colleagues in congratulating Sen. Mugo for bringing this issue. I also thank the Senate Committee on Health. We have blasted the Committee on Health for so many things. However, on this one, they were spot on. I want to congratulate them for doing a good job until that matter was concluded in the manner it was concluded.

The corruption in this country is extending up to hospitals. Sometimes people are sent to go for unnecessary lab tests and X-rays. By the time you leave that hospital, the medical bill is in tune of millions of shillings even if you stayed for just two or three days. There is need to look at how private hospitals treat our patients and need for thorough investigations on that.

The Deputy Speaker (Sen. (Prof.) Kamar): I will allow a Member of the Committee, Sen. (Dr.) Ali Abdulahi.

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

The Deputy Speaker (Sen. (Prof.) Kamar): What is your intervention, Sen. Sakaja?

Sen. Sakaja: Yes, Madam, Deputy Speaker. I regret to move back, but you heard when Sen. (Dr.) Musuruve was making her contribution she alluded to the fact that there is some work I have not finished. I am extremely efficient. What she had raised was a Motion not a Statement to my Committee. I have counter-checked with my Committee clerk and it was dealt with by all Senators. I would like to invite her to raise the issue with my Committee and I will respond to it.

There was another one issue raised by Sen. Were, I can see she wants to raise it again. I will give her the response. She looks like she is pressing the intervention button. Her issue is on COTU. We have already sent out the information and they will get back to us. So, I do not want any indictment on my performance as the chairperson of the Committee on Labour.

Sen. (Dr.) Ali: Thank you, Madam Deputy Speaker. On the issue of the late Assaf, my condolences to the family. The Committee has done a very good job, but I want to point out one thing. When the late Ms. Assaf came to the hospital, the doctor who received her diagnosed her on the spot. We should congratulate that medical doctor for being present at that hour. He informed the cardiologist and the people who were concerned at the right time. Unfortunately, what happened is that the hospital management did not allow the doctors to perform their functions because they were waiting for money. That is the biggest problem and the worst thing.

The worst part was that the late had a golden card of NHIF and she was entitled to Kshs500,000 as a deposit at the beginning. They did not even bother to tell them whether they would use that card or not.

Hospitals are not using the facilities which they have. I have also been informed that another lady who is our Director of CPST, Prof. Nyokabi, her mother died when she was brought to MP Shah Hospital even before she was seen. They just told her: "If you do not have the money, go back" and the mother died.

Issues like these have to be taken very seriously. We have involved the Kenya Medical Practitioners and Dentists Union. We told them to redo what they did and consider this issue as very serious.

Hospitals management are messing the reputation of doctors who are very professional and doing their job. They are just looking for money. The Ministry of Health has also failed in bringing about the emergency resolutions, which will help the Committees do their work.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, we have finished the Statements under (c) we are going to the Statements under (d) which is pursuant to Standing Order No.51(1)(b). I will allow the Chairpersons of the Committees to read their Statements. If possible, we will skip comments for now so that we can finish the Statements within the next half an hour because we are beyond the Statement Hour.

Let us have the Chairperson, Standing Committee on Agriculture, Livestock and Fisheries.

Sen. (Dr.) Musuruve: On a point of Order.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. (Dr.) Musuruve, on which one now? Please, do not take us back. I thought we are already on Statements under Standing Order 51(1) (b).

Sen. (Dr.) Musuruve: Madam Deputy Speaker, just a clarification if you allow.

The Deputy Speaker (Sen. (Prof.) Kamar): What clarification? What is it on? We have already passed that.

Sen. (Dr.) Musuruve: I want to make a clarification so that Kenyans can know that I have not questioned or doubted Sen. Sakaja's efficiency. He was my Chair, and I know that he is efficient and illustrious. I know that he will speed up on the issue of disability that I have mentioned.

The Deputy Speaker (Sen. (Prof.) Kamar): We always know that you trust him.

ACTIVITIES OF THE COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

Sen. Ndwiga: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No. 51(1) (b) to make a Statement on the activities of the Standing Committee on Agriculture, Livestock and Fisheries for the period commencing 13th February to 31st July, 2020.

During the period under review, the Committee held a total of 24 sittings, considered four Bills, one Petition and nine Statements. The Committee also held two public hearing fora.

In respect of Bills, the following were considered-

- (a) The Fisheries Management and Development (Amendment) Bill (Senate Bills No.22 of 2019).
- (b) The Livestock and Livestock Products Marketing Board Bill (National Assembly Bill No.2 of 2019).
- (c) A legislative proposal: The Meat Control Bill, 2020.
- (d) The Draft Coffee Bill.

On the Fisheries Management and Development (Amendment) Bill (Senate Bills No.22 of 2019), the Committee held a public hearing forum, considered the submissions received from the public and tabled its report in the Senate.

With regard to The Livestock and livestock marketing products marketing Board Bill (National Assembly Bill No.2 of 2019), the Committee considered the Bill and received written submissions from the public. The Committee proposed a number amendment to the Bill and is scheduled to table its reports.

The Committee also considered a legislative proposal for the Meat Control Bill, 2020, proposed by Sen. Seneta and recommended that the Bill be published.

The draft Coffee Bill was also considered during the period under review. The Bill is sponsored by the Committee and seeks to provide for the regulation, development and promotion of the coffee industry. The Bill proposes to recognize the coffee industry by transitioning the regulatory and commercial roles currently undertaken by the Agriculture and Food Authority (AFA) to the Coffee Board of Kenya. The Committee is still in the process of considering the Bill and shall conclude its consideration within this month.

Regarding Statements, pursuant to Standing Order 48(1) eight Statements were referred to the Committee, considered and concluded during the period under review, notably, a Statement on the dismissal of tea pickers in Kerito and Kipkebe tea factories in Nyamira County sought by Sen. Omogeni, was redirected to the Standing Committee on Labour and Social Welfare as it concerned labour matters.

In addition, pursuant to Standing Order 47(1), Sen. Khaniri sought a Statement on food security in the country. A response to this Statement was received from the Ministry. Supplementary questions were raised and a response is expected from the Ministry in this regard.

The Committee is also considering Statements sought by Sen. Rose Nyamunga, on the state of Ahero and West Kano Irrigation Schemes, and Sen. Mary Seneta, on the efficacy, safety and affordability of livestock vaccines, pesticides and herbicides. Upon receipt of the responses, the Committee shall invite the Senators to a meeting with the Cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries and Cooperatives to consider the responses. This will happen on Wednesday, next week.

Madam Deputy Speaker, with regard to Petitions, the Committee considered one Petition seeking the recognition of graduates of the Range Management Course to treat livestock diseases and offer related extension services, which was committed to the Committee on 4th March, 2020. The Committee met the petitioners and stakeholders, considered the matter and is scheduled to table its report in the Senate.

Going forward, the Committee intends to carry out the following key activities during the next quarter:

- (a) publication of The Coffee Bill;

- (b) consideration and publication of Bills to amend The Crops Act, 2013 so as to unbundle the regulation and management of major crops that fall within the ambit of the Agriculture and Food Authority and establish stand-alone agencies for their regulation, with a bias towards grains;
- (c) consideration of The Crops (Tea Industry) Regulations, 2020 and The Crops (Sugar) (General) Regulations, 2020, jointly with the Sessional Committee on Delegated Legislation; and,
- (d) consideration of a complaint from small-scale tea farmers from Kapkoros Tea Factory on non-payment of bonuses.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. The next Statement is from the Chairperson of the Standing Committee on Devolution and Inter-Governmental Relations relating to the activities of the Committee.

ACTIVITIES OF THE COMMITTEE ON DEVOLUTION
AND INTERGOVERNMENTAL RELATIONS

The Chair of the Committee is absent. Therefore, we will move to the third one by the Chairperson of the Standing Committee on Finance and Budget.

(Statement deferred)

ACTIVITIES OF THE COMMITTEE ON
FINANCE AND BUDGET

The Chairperson of the Committee on Finance and Budget is also absent.

(Statement deferred)

Hon. Senators, we shall, therefore, move first to the Statement under Standing Order 47(1) from Sen. Nyamunga.

STATUS OF TEACHERS' MEDICAL COVER UNDER
AON MINET KENYA

Sen. Nyamunga: Madam Deputy Speaker, I rise pursuant to Standing Order No. 47(1) to make a Statement on an issue of general topic or concern, namely: The humiliation faced by teachers covered under AON Minet Kenya Medical Insurance Scheme.

Madam Deputy Speaker, the teachers of this country are a frustrated lot and they feel their lives are potentially endangered by the poor services being offered under the AON Minet Kenya medical insurance cover. 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 health care services. However, Kenyan teachers are reporting that the services offered by AON Minet are, not only poor in terms of quality, but also too restrictive to benefit them.

Madam Deputy Speaker, some of the issues raised by the teachers over the services they are offered include-

(1) Very low capitation on outpatient services, with some capped at as low as Kshs90, inclusive of doctors' consultations, tests and drugs;

(2) Restrictions on the hospitals they are allowed to visit for treatment, some of which are ill-equipped and lack qualified personnel;

(3) Delays in approvals, which sometimes can take up to one month. This is really absurd, considering that at times, it might be that the life of a teacher might be at stake;

(4) There have been instances where hospitals have turned away teachers insured by AON Minet because of the challenges they face while lodging claims with the company;

(5) Some health facilities, such as Bliss, operate only between 8.00 a.m. and 5.00 p.m., thus making it difficult for teachers who fall ill at night to get the help they need; and,

(6) On dental services, only tooth extraction is catered for by AON MINET. Other essential services like cleaning, refilling, root canal treatment and tooth replacement or dentures are not covered.

Madam Deputy Speaker, the decision to introduce a medical cover for teachers was very good because it was a step in the right direction. However, there appears to be glaring gaps and challenges that must be addressed by the employer immediately.

Considering that teachers play a crucial role in shaping the future generation of this country, it beats logic why they cannot get the best of health services available. If we cannot treat our teachers with dignity, then we have lost it as a country because when a teacher is frustrated, the trickle-down effect will definitely affect our children.

These same teachers are facing double deduction both for National Hospital Insurance Fund (NHIF) and AON MINET yet, despite the significant deduction on their pay slips, there are no commensurate services.

Madam Deputy Speaker, with the ongoing global COVID-19 pandemic and the imminent reopening of schools, it is prudent that the Teachers Service Commission (TSC) addresses some of these concerns raised by the teachers of this country. The fear of a second wave of the virus is real and our teachers need to feel safe.

Madam Deputy Speaker, it behooves any government to offer quality and affordable healthcare to her citizens. The President, through the Big Four Agenda, had a good intention of ensuring that health care was, not only made accessible, but also affordable and of the highest quality. It is my hope that the TSC will address these concerns of substandard services offered by AON MINET and will ensure that teachers' need for quality healthcare is treated with the importance it deserves.

I thank you, Madam Deputy Speaker.

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

Sen. Halake: Thank you, Madam Deputy Speaker, I rise to support the Statement by my sister, Sen. Nyamunga, on insurance cover for our teachers.

If there is one lot of people who have suffered, not just for insurance, but for everything is our teachers. The sad bit is that I have been working with teachers in Isiolo and I have seen how much suffering they go through. I do not know what will happen to

our children if the teachers, the people who are nurturing them, and educating them are so badly off.

Madam Deputy Speaker, be it statutory deductions, health insurance, salaries, something has to be done because these are the people nurtured us. We are here standing before you today because of the teachers that taught us. The judges, the President and everybody you can think of went through the hands of teachers. However, we are a society that does not respect, does not support and does not take care of its teachers. That puts the future of our children at stake. To hear that they have such a bad cover with AON MINET---

We are not here to make any case for any insurance company, or to spoil business for any company, but it is about time our teachers got the care they deserve. They cannot nurture our children if their health and the health of their families is in jeopardy, especially during this time. If their health is not taken care of, can you imagine what then can be spread to our own children? It is in our interest as parents and as citizens to make sure we look after our teachers. This is because the future of our children is mostly in the hands of our teachers.

Madam Deputy Speaker, when there were radio programmes for schools, our teachers were volunteering and working. For instance, Teacher Triza and others were volunteering. Many of them do so. They do not get any compensation, but they go an extra mile. What do they get? They do not even have a basic medical cover that would help them take care of themselves and their families.

Madam Deputy Speaker, I support and I hope the Committee will do justice to this and that this country starts to look at its key professionals, especially its teachers and give them the respect and the care they deserve.

I support.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. Sen. Seneta, kindly, proceed.

Sen. Seneta: Thank you, Madam Deputy Speaker, for giving me a chance to also add my voice on this important Statement by my sister, Sen. Rose Nyamunga.

Madam Deputy Speaker, one of the best things the Ministry of Education should ensure they have put in place is to make sure that our teachers will go back to the teaching stations or their schools well prepared and protected.

Madam Deputy Speaker, it is important that our teachers are insured, covered, so that at least when they attend to our children in the schools, they are safe and their families are also safe.

Madam Deputy Speaker, instead of the Ministry telling us that they are going to provide schools with desks and any other infrastructure, they how they will protect our children and teachers. If a teacher is handling over 50 students from different places and families, how safe will he be? What we need to do as a country is to make sure that proper measures are put in place to guarantee teachers and children safety in our learning institutions, especially this time of pandemic.

I am a teacher by profession. I know how squeezed classes are. Classrooms in our public schools are not spacious and not well ventilated. We make ensure the safety of teachers and students is guaranteed before the opening of these institutions.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. Because of time, I will leave it at that. I will use my discretion to support a request made by Sen. Halake that this goes to the Committee.

Sen. Nyamunga, after the request from your colleague, I agree that it can go to the Standing Committee on Education. I see the Members who are here are Members of the Standing Committee on Education. I hope you will interrogate it properly and give the teachers a good response.

The next Statement is Pursuant to Standing Order 48(1). The first Statement is from Sen. (Dr.) Mwaura. I cannot see him in the House.

OPERATIONALIZATION STATUS OF THE COUNSELLORS AND
PSYCHOLOGISTS ACT, 2014

(Statement Deferred)

WORK INJURY COMPENSATION AWARDED TO BORU HALAKHE
VIDE NAIROBI HIGH COURT PETITION NO.7 OF 2012

Sen. (Dr.) Ali: 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 regarding work injury compensation awarded to Boru Halakhe *vide* Nairobi High Court Petition No.7 of 2012; Boru Halakhe *versus* Attorney-General and others.

In the Statement, the Committee should -

(1) Explain why the Ministry of Defence has not paid compensation to Mr. Boru Halakhe in the above matter under work injury compensation has already determined *vide* certificate of order issued on 5th May 2016.

(2) State the action taken, if any, against the responsible officials in the Ministry of Defence for the continued delay in settling the matter despite the Attorney-General having on 15th July 2020 notified the Ministry of the judgement.

(3) State when the Ministry of Defence will compensate Mr. Halakhe in line with the Court decision.

Mr. Halakhe served in the military and he suffered. Since 2012 to date, he has not been able to get his money and he is in dire need of it.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Ali. Because of time, I want to commit this Statement to--

Sen. Halake: On a point of order, Madam Deputy Speaker. This person shares a name with me.

The Deputy Speaker (Sen. (Prof.) Kamar): That is a very persuasive way of wanting a chance. Let me allow Sen. Halake because this could be her brother.

Sen. Halake: Thank you very much, Madam Deputy Speaker. I appreciate you for giving me a chance to say something about this. He is not my brother, but he shares a name with me. I would like to contribute to this Statement.

Mr. Bonu Halakhe could be a Mr. Kinyanjui, Mr. Letodo or Mr. Oduor, but we find that when it comes to military and organizations like that, people are not being

compensated in good time. People have suffered, especially our retirees or people owed money by the KDF.

There is opaqueness, power play and power dynamics where the ordinary *mwananchi* or the person with less power does not get compensated. This House stands for Kenyans; it is a House of representation and oversight. We represent Mr. Halakhe, but we oversight the Ministry. Both are under our control.

As a House, we must ensure that justice is served because justice delayed is justice denied. Mr. Halakhe could be anybody, but the fact that he shares a name with me, thank you for letting me contribute to this.

I know I speak for many other people because every Kenyan, no matter what their name is, deserves justice. I hope that this will be expedited.

Thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. Halake. The Statement stands committed to the Standing Committee on National Security, Defence and Foreign Relations. The response should be done within 14 days.

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

COMPENSATION OF MR. PETER OTIENO BY
SAROVA HOTELS LTD

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding compensation of Mr. Peter Otieno by Sarova Hotels Limited.

In the Statement, the Committee should:

(1) Outline the measures Sarova Hotels Limited has put in place to ensure that their workers are provided with a safe, secure and conducive working environment.

(2) State the steps the company has taken to ensure that Mr. Peter Otieno who was injured while on duty and suffered permanent disability over 13 years ago is promptly compensated and his family needs are taken care of while he awaits the conclusion of the compensation process.

(3) Elucidate the psychosocial support the company provides to cushion Mr. Otieno and his family with respect to the mental anguish they have gone through as a result of the permanent disability and delayed justice.

(4) Explain the plans the company has to ensure that Mr. Otieno undergoes physiotherapy to avoid muscle disuse and that he is rehabilitated and enabled to engage in alternative income generating activities.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Musuruve. That is very straightforward. I can see Sen. (Dr.) Milgo wants one minute.

Sen. (Dr.) Milgo: Thank you, Madam Deputy Speaker, for giving me this chance to support the Statement by Sen. (Dr.) Musuruve.

The Statement will be committed to the Standing Committee on Labour and Social Welfare where I sit.

I heard her mention about lack of compensation to a person who worked in the military for many years. Earlier on, we looked at other people who worked for the military and had not been compensated. It is quite a challenge.

Mr. Otieno is immobilized, whereas, while working at Sarova Hotels Limited, he was strong and was able to feed his family. However, once he became disabled, he lost his job and he is not able to take care of his family and provide them with basic needs.

The issue of compensation is a challenge, especially when a person is separated from the institution and nobody bothers about it. There are many other people suffering in this country.

Since the Statement will be committed to the Standing Committee on Labour and Social Welfare, we will get to the root cause. Mr. Otieno's children are suffering. They are not getting basic needs, such as food, school fees, clothing and shelter. Mr. Otieno is suffering and he cannot even go to hospital because he has not money to pay for medical care. .

I want to assure Sen. (Dr.) Musuruve that my Committee will address this case of Mr. Otieno with the seriousness it deserves.

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

The previous Statement is obviously committed to the Standing Committee on Labour and Social Welfare.

The next Statement is to the Sanding Committee on Finance and Budget.

Sen. Farhiya.

PENDING BILLS AND PAYMENT TO SUPPLIERS BY
THE COUNTY GOVERNMENT OF WAJIR

Sen. Farhiya: Madam Deputy Speaker, I rise under Standing Order No.48 (1) to seek a Statement from the Committee on Finance and Budget regarding pending Bills and payment to suppliers by the County Government of Wajir.

In the Statement, the Committee should: -

(1) provide a record of the pending bills attributable to the county Government of Wajir;

(2) provide analysis of requisition for supplier's procurement made by the County Government of Wajir from the Controller of Budget for the 2018/2019 and 2019/2020 Financial Years; and

(3) Provide a record of all payments made to the suppliers through the Integrated Financial Management Information System (IFMIS) during the period in question.

The Controller of Budget should be requested to match the requisition with the payment and provide an analysis of the same.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. (Eng.) Mahamud, kindly proceed.

Sen. (Eng.) Mahamud: Madam Deputy Speaker, I thank Sen. Farhiya for requesting this Statement. The Senate is charged with the responsibility of protecting counties and their governments. The people we represent have an avenue through requests for Statements to make the Senate take action. County governments are unable

to close their pending bills because they choose to pay as they want and refuse to pay others.

I urge the Committee on Finance and Budget to consider this matter keenly so that county governments take their obligations seriously and pay their suppliers. Most of the suppliers to the county governments are small business men and women who are suffering.

This Statement should, therefore, be taken seriously.

I support.

The Deputy Speaker (Sen. (Prof.) Kamar): The Senator of Wajir County, Sen. (Dr.) Ali, kindly proceed.

Sen. (Dr.) Ali: Madam Deputy Speaker, Wajir County uses the money that is allocated to them wrongly. For instance, Wajir County used Kshs253 million to prepare for the COVID-19 pandemic which is close to 95 per cent of the money that is allocated to them.

By December 2019, the Wajir County Government had a pending bill of Kshs2.32 billion. However, the pending bills have mysteriously gone down to zero this year.

The small traders who supplied the Wajir County Government are crying right now, yet we are being told that the county does not have any pending bills.

The Wajir County Government is manipulating and playing around with the County Strategy Paper, which they sent to the Controller of Budget and the National Treasury. The pending bills for Wajir County from the 2019/2020 FY have been forwarded to the 2020/2021 Financial Year, yet they say that they do not have pending bills.

The Wajir County Government has been playing with the County Finance Strategy Paper and the Annual Development Plan (ADP). I urge the Committee on Finance and Budget to consider this Statement seriously and ensure that the Controller of Budget and the National Treasury investigate these issues, so that the people of Wajir County receive justice.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): The Senate Majority Leader, Sen. Poghisio, kindly proceed.

The Senate Majority Leader (Sen. Poghisio): Madam Deputy Speaker. I would like to support the Statement raised by Sen. Farhiya and ask that the Committee on Finance and Budget help us with at least one county.

If the Committee can conclusively deal with this Statement affecting Wajir County, it will be a good signal for the rest of the counties to know how important it is for them to care about pending bills.

There is a trend in the counties that is threatening the payment of pending bills. I find that governors who take up office, do not prioritize projects that were started by the governors who left office and so they do not want to pay the existing pending bills.

This Committee on Finance and Budget and the Controller of Budget should help us sort out that issue. If Wajir County is used as an example, it can be used as an example for the rest of the counties.

The Deputy Speaker (Sen. (Prof.) Kamar): The Statement by Sen. Farhiya now stands committed to the Standing Committee on Finance and Budget.

The last Statement is by Sen. Were.

STATE OF AFFAIRS AT THE BUSIA COUNTY REFERRAL HOSPITAL

Sen. Were: Madam Deputy Speaker, I rise under Standing Order No.48 (1) to seek a Statement from the Committee on Health on the state of affairs at the maternity wing of the Busia County Referral Hospital.

In the Statement, the Committee should -

(1) Explain the cause of the lack of medical equipment and medicine at the Busia County Referral Hospital, including the hospital's maternity wing.

(2) Explain why expectant mothers are forced to purchase delivery instruments and other personal effects that would ordinarily be provided by the hospital.

(3) Explain why patients share beds at the hospital including expectant mothers at the maternity wing.

(4) Provide a budget performance report for the 2019/2020 FY to date in relation to procurement or medical equipment, medicines and general supplies at the Busia County Referral Hospital.

(5) Elucidate on measures, if any, put in place by the hospital administration and the Busia County Government to address the shortage of equipment, general supplies and medicines at the said Busia County Referral Hospital.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): The Statement by Sen. Were is very straightforward. It stands committed to the Standing Committee on Health.

I know that we are way past the Statement Hour but I have discovered that there is one more Statement by Sen. Dullo.

CLASHES BETWEEN THE PEOPLE OF ISIOLO
AND GARISSA COUNTIES

Sen. Dullo: Madam Deputy Speaker, I rise under Standing Order No. 48(1) to seek a Statement from the Committee on National Security and Foreign Relations, regarding recent incidences of clashes between the people of Isiolo and Garissa counties.

On 25th September, 2020, gun men suspected to originate from the bordering Garissa County raided Rapso Village which is located in Kina, Isiolo County, shooting two herders dead and injuring two others.

Among the two that were shot dead included Mr. Golicha Hucha Galgalo and Jumale Ibrahim Sama. Two other people; Kiti and Wario Guracha were also injured in the incident. The border disputes have brought a lot of tension that remains high following the shooting.

Barely a month ago, a similar attack was reported in the area resulting to two fatalities. The committee is outraged by the high frequency of attacks, which have carried on for over 10 years and claimed many innocent lives.

Recent incidences of insecurity have in part been attributed to the selective disarmament of the National Police reservists in Isiolo County, that has left communities susceptible to attacks by gunmen from neighboring counties.

Notably, the National Police Reservists in the neighboring counties remain armed presenting a distinct vulnerability.

In the Statement, the Committee should ascertain what the National Government is doing about the boundary dispute between Isiolo and Garissa counties, particularly the areas of the Elgera and Koldesa. The border dispute between Isiolo and Garissa counties has remained unresolved, despite having engaged the Ministry of Interior and Coordination of National Government.

The Committee should also state what plans the national Government has regarding the national police reservists in Isiolo County, especially since national police reservists from neighboring counties remain armed.

Finally, urgently intervene in the conflict, as the situation is fluid.

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

Sen. Halake: Thank you, Madam Deputy Speaker. I rise to support my Senator, Sen. Dullo, for bringing this Statement to the national limelight at the Senate.

The issue of inter-community or inter-boundary conflict is becoming really bad. It is not just the border with Garissa, even at the border with Meru. As you know, Isiolo borders five counties. We are seeing rising cases of hostility between communities.

One of the things we are also seeing is that traditional peace building mechanisms are starting to fail. We are wondering why that is the case. I challenge the Cabinet Secretary, Interior and Coordination of National Government to step up and make sure that structures we have used traditionally between our neighbors are strengthened. It is not only that, but also, during disarmament, the reasons the communities are reluctant to give up arms is precisely this.

As herders, we cross the borders. Borders are imaginary and our animals are not aware of these borders. However, the fact that there is equal treatment with regard to disarmament is causing tension and hostility between communities that had robust traditional mechanisms for peace building.

Recently, I witnessed something that really disturbed me when Members of Parliament went to resolve the issue were pelted with stones. This is disturbing in the sense that the people who came on the ground were chased away, which points to frustration.

The community is so frustrated that even people who have come to their aid are being chased away. This points to the fact that there is a lot of despair amongst communities on both sides. I urge communities to exercise restraint and go back to the traditional mechanisms of peace building and conflict resolution. As pastoralists, we are used to moving to different parts in search of pasture and water and we have always been kind to each other as communities.

These communities speak the same language, have lived together but have always had a way of dealing with their issues. However, we are seeing this giving way to a cycle of violence where one community retaliates as soon as the other community attacks.

The community I come from feels very aggrieved, and I am sure the other community also feels aggrieved. As leaders, it is about time we supported peace initiatives that rely on our traditional mechanisms. As leaders, we are talking to our communities and saying, 'please allow us to come to you.', since what we witnessed is not good and not the answer. You cannot fight violence with violence.

I support and look forward to us as leaders spearheading and ensuring the Government does its job to protect its citizens, but we also speak to our people to ensure that we come up with solutions drawn from our traditional mechanisms.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you Senator. That brings us to the end of our Statement Hour, which has taken one hour and ten minutes, because it was pushed to 3.45 p.m.

Hon. Senators, we now go to the Next Order.

BILLS

Second Reading

THE SECTIONAL PROPERTIES BILL (NATIONAL ASSEMBLY BILLS NO.23 OF 2019)

(Sen. M. Kang'ata on 8.9.2020)

(Resumption of debate interrupted on 8.9.2020)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, the Bill had just been read for two minutes by Sen. Kang'ata who is the mover. The mover has 58 minutes but because of interest by Members, I am sure he will use his discretion to reduce his contribution.

Sen. Kang'ata: Thank you, Madam Deputy Speaker. Allow me to speak on two main issues; issue number one will be the principles that underpin this new legislation. The second issue will be on specifics and finally, I will conclude.

Allow me to start with the principles. I will speak on the history of this law or rather, the principle of vertical ownership of property. I will also speak on the factors necessitating this kind of law, and then I will speak on the barriers before I go to the specifics.

Madam Deputy Speaker, allow me to start with the history of vertical ownership of property. In the recent years, there has been need to provide title deeds to small units owned by individuals above and under the surface because of several factors.

There is need for more intensive development on available land while ensuring security of tenure, which then prompts various jurisdictions to search for solutions. Registration of small units is difficult in many registrations due to several reasons, including planning regulations, which at times provide for minimum parcel sizes on the ground surface. Special legislation to facilitate registration of properties in strata is, therefore, necessary to facilitate registration of these units, particularly in high rise buildings.

We need to understand that Kenya has an area of about 582,000km². Also, we have a population of about 49 million as at 2019 Census. Kenya urban population is growing at the rate of about 5 per cent per annum due to rural urban migration and natural increase. Therefore, demand for housing needs in our urban areas will continue rising.

Cadastral activities in this country will focus more on urban areas and land information management systems. Therefore, developing countries like Kenya need to come up with provision of security of tenure, particularly, in informal and formal settlements.

Let me give a background of this law by citing the Sectional Properties Act of 1987, which was introduced to provide for the sub-division of buildings into units being owned by individual proprietors and common property to be owned by proprietors of those units as tenants in common and to provide for the use and management of the units and common property and for connected purposes.

Though the Act was given Presidential Assent in 1987, its commencement delayed all the way up to 1991 when the necessary regulations were gazetted.

The idea had been suggested way back in the 1960s, but due to a concerted effort by officials of the relevant Ministry and the Law Society of Kenya, it was only in the late 1980s that this law was formulated.

Madam Deputy Speaker, despite that, we have seen barriers to speeding up this process of persons taking advantage of sectional properties. There are several barriers, one being cultural factors. We all know that majority of Kenyans visualize the ownership of property through horizontal ownership of property. People want to own land that is adjacent to each other, as opposed to vertical ownership of property. Going forward, we hope that Kenyans will embrace the idea of owning property in a vertical manner, and therefore, enable us to ensure that this law is well utilized by Kenyans.

Madam Deputy Speaker, another area that has made this old law not practical is a poor legislative regime. It has problematic clauses. In particular, I will draw your attention to that law. I will highlight the various sections that are contained in that law. We have provisions relating to the survey procedure, survey for site and building location plan, survey for floor plans, drawing and presenting of sectional plans, site and building location plans, the floor plan, unity factors, and the registration process.

The main defect of this Act is that it is hinged on what we call the Registered Land Act (1963). In instances where a parcel is registered under the Registration of Titles Act, what we used to call the Torrens System, one needed to convert to the English system before a title was given to the individual owner of that land. I bring to the attention of this House that the Registered Lands Act was repealed in 2012 - if I am not wrong - we then enacted one all-encompassing land law on matters registration.

Before that, we used to have so many pieces of legislation dealing with land. We had the Registered Lands Act, the Registration of Titles Act, and the Indian Transfer and Properties Act. They were about five, if I am not wrong. I stand to be corrected.

In the year 2012, all those pieces of legislation were collated into two Acts; the Land Act (2012) and the Land Registration Act (2012). Those are the primary land laws that are currently regulating land ownership in Kenya.

Therefore, when we have a Sectional Properties Act, making reference to a law that no longer exists, from a legal point of view, that means that there is a huge lacuna. Therefore, we needed to come up with a Bill to remedy that. Otherwise, those who are still constructing buildings and giving out sectional properties are having that problem, now that the law that was hinged on that Sectional Properties law has now been repealed and is no longer in operation.

Madam Deputy Speaker, apart from that, there were other problems with that law, which I would also like to highlight. The issue was that the strata titles registration scheme was quite expensive and had many technical demands.

Thirdly, it was not flexible. Remember that the legislation benefits were with the areas with long leases from Government and land on freehold tenure. There were also problems with the fact that these strata title registration schemes were not only laborious, but also quite unclear. Therefore, you often found a situation where there were fights between people owning one building.

The first instinct was: Could we amend the problematic Acts in that 1987 law? It was realized to be impossible. They were too problematic, and therefore, the best case scenario would be to come up with a new Bill, which is this one, to ensure that we have a more concise and clear Bill. That is why the Government has brought this Bill in support of this new ownership of property by strata.

Madam Deputy Speaker, allow me to now go to the second limb, which is the specifics of this new law. This new law has Part 1 on the preliminaries, Part 2 on the preparation of sectional plans and units, Part 3 on the establishment of the corporation, Part 4 on the provisions relating to residential units and Part 5 on miscellaneous provisions.

Let me start with Part 1. Part 1 is mainly about definitions. In Section 1 there is a Short Title, the proposed Section 2 is on the application, and then Section 3 is about interpretation.

I bring your attention to the proposed Section 3 of this Bill. When you look at the definitions, they are hinged on the new Land Registration Act or the Land Act. Let me give an example. The cadastral map has the meaning assigned to it under the Land Registration Act (2012). Certificate of lease has the meaning assigned to it under the Land Act (2012).

Madam Deputy Speaker, the fact that the definitions are hinged on new existing laws is an improvement. In the same way, take the definition of the term "easement." It has the meaning assigned to it under the Land Act (2012). For me, this is progress. Therefore, I urge the hon. Senators to pass this Bill so that it takes into account the new laws on land.

Let me now go to Part 2 on the preparation and registration of sectional plans and units. The proposed Section 4 deals with issues like the subdivision of building into units. The proposed Section 5 deals with the registration of sectional plans. The proposed section 6 says that a certificate will be issued to indicate share in common property.

The proposed Section 7 is about incidental rights of owners of common property. The proposed Section 8 is on the liability of owner over unit and the proposed Section 9 is on the requirement of sectional plans.

The proposed Section 10 is on the boundaries of section units. The proposed Section 11 is on the certificates to accompany sectional plans. The proposed Section 12 is on the application of subdivision of a unit. Proposed Section 13 is on the conversion of units. The proposed Section 14 is on the easement registration in favour of the owner and easements against the owner. The proposed in Section 15 is on the easement or restriction existing without mention.

Madam Deputy Speaker, before I go to Part 3, let me explain to hon. Senators that these new provisions are important, in particular, the one relating to sub-division of buildings into units that is proposed, in Section 4 and the procedure for registration.

One, it has been simplified unlike the 1987 Act. It is now easier to register. The previous one entailed very active participation of an architect, the serialization of the plans through a certain serial number. This one is now easier because here a register has to be set out by the Government registering this kind of interest.

Under 6, the Registrar, having opened a register, will have to include in that register, the share in common property apportioned to the owner of that unit and also has to include the share in the common property owner title deed for sectional property, issued in respect to any unit here.

We all know one importance of having land registered is that, one can be able to transfer the interest or even go to a bank and obtain a loan.

Having clarified these methods of registration it will now be easier to sell or take a loan, for interested persons.

Allow me now to highlight Part 3 on the Establishment of corporations. Unlike conventional corporations, which are usually registered under the Company's Act, under this law the corporation will be registered with the Registrar who will be the one administering this law.

Most of us when they hear the word "corporation" what comes to our mind is when we go before the Registrar of Companies here at *Sheria* House, we reserve a name, pay the requisite fees, lodge the requisite documents that is; the Memorandum of Association and Articles of Association.

In short, unlike such kind of a corporation, this will be a special corporation that will be registered by a Registrar who will then issue a certificate of registration of that corporation. That corporation will include all persons who are the owners of the units in the parcel to which the sectional plan relates or who are entitled to the parcel when the sectional arrangement is terminated under this Act.

Madam Deputy Speaker, it shall have perpetual succession and a common seal and the corporation will be regulated in accordance to the rules of this Act.

The corporation will have the common characteristics of companies that is perpetual succession ability to sue or to be sued in its corporate name. I refer to proposed Section 18 of this Bill. I also look at proposed Section 19 - Liability in Tort.

I will also look at proposed Section 20; the duties of the corporation. To carry out duties imposed by its bylaws, to insure buildings against risks like fire, to pay premiums concerning that insurance and other duties which are provided in this law.

I also now highlight provisions in the proposed Section 21 of this Bill, which is that the corporation shall have all powers that are reasonably necessary to enable it to carry out the duties imposed on it by this Act and other bylaws. However, the corporation shall not have power to carry out any trading activities.

This is important because it distinguishes a corporation registered under this Bill and other forms of corporations whose main duty is to carry out trading activities.

Proposed Section 23 on registration of transfer of common property is important. We have the voting rights under Section 24. Voting where the owner is incapable. We have a board of management, how to convene meetings under Section 27 and AGMs.

Once this Bill becomes law, it will be mandatory for the board to convene an AGM every year.

We also have bylaws of the corporation and also enforcement of the bylaws and administrative expenses. We have recovery of costs under Section 34. We have rights like how one can request information under Section 36. We have handing over of documents in Section 37. Section 38 is about the insurance. Section 39 is about copies of insurance policies being given to the owners. Section 40 is on exclusive use of areas. Section 41 is on covenant benefiting parcels and procedure for granting restrictive covenant under Section 42.

Allow me to highlight provisions related to units, which is under Section 43 where, for instance, a developer shall not sell or agree to sell a unit unless the developer has delivered to the purchaser a copy of the purchase agreement, the bylaws, the management agreement.

Let us also look at the proposed Section 44 about the management agreement. Section 45 is about renting of units. Then we have miscellaneous provisions that is Part 5, which will deal with how to terminate a sectional property, the effect of termination of sectional property, the sale of sectional property. It will also deal with the dissolution of a corporation; assessment and taxation, the liability of corporation, the right of entry and, also service of documents and notices.

It also deals with change of address for service, fees for documents. It has a section dealing with offences and the penalty, that is proposed Section 57. Allow me to read it because this is a new area that has been added.

It says that a person who fails to comply with Section 13(1) or 43 is guilty of an offence and shall be liable on conviction to a fine not exceeding Kshs20 million or imprisonment of one year.

When you read the proposed Section 13, it deals with conversion to units. That is, if a building contains premises that are rented for residential or commercial purposes to a tenant who is not party to a purchase agreement and not included in a sectional plan, the owner of the premises or a person acting on his behalf, shall not sell those premises as residential or commercial units, until a sectional plan that includes those premises that is registered at a registry.

Essentially, it means that if you have a building where already there are tenants who are not party to a purchase agreement and they are not in the sectional plan, the owner cannot sell those premises.

I think this clause is intended to protect existing arrangements outside sectional properties regime.

Madam Deputy Speaker, also the proposed Clause 59 deals with the Cabinet Secretary being given the power to make regulations. To me, that is progressive. That does not mean this Bill is perfect. I invite my colleagues to give ideas on how to improve on it, particularly, based on their personal experiences in sectional properties regime.

Personally, I have an office and I have seen the problems those of us who are in that building are facing. One is the issue of slow conveyancing process. You buy a property today and it takes almost three years for you to be able to have your interest registered in the lands registry.

Maybe we need to add in the clause, timelines within which an owner should convey a sectional property to a tenant. I have been in that building for almost two years

and the proprietor has never found it useful to give my sectional property. I do not know the reason but I am trying to imagine several Senators may have experienced the same problem and, therefore, we may need to add a provision here establishing timelines. If they can do that to a lawyer, I would imagine how they are oppressing the common *mwananchi*.

There are reasons they may not be in a hurry to register. This is because once you become a registered owner and then you have some rights, you can enforce them. My agreement with the proprietor strictly speaking, has technical problems because there is breach of agreement.

One of the areas we can improve this law is to enact timelines within which a security should be perfected under the Sectional Properties Act. Secondly, is to perfect the rights of tenants for shared facilities. There are usually shared facilities in a sectional property. We have the lift, kitchen and toilets.

Often, one will find that there are conflicts. It is not even clear who one complains to. The company, which the corporation registered under this entity often, does not have an office within the premises. There are no full disclosures as to who the directors of that company are.

At times, they do not give an account collectively for common use such as service charges. Therefore, those areas need to be clarified by this Bill. I urge my colleagues who have experiences in sectional properties to enrich the Bill so that we can improve on it.

I conclude that we need to process this Bill a little bit faster because the Government wants to assent to it so that the problems currently in the market are remedied and redressed. Kenya has to remain a hub of investment. The only way out to ensure Kenya leverages as a good investment hub is to have laws that are adequate, that protect and incentivize investors to come to this country.

Madam Deputy Speaker, this is one of the most important Bills when it comes to ownership of property in urban areas. It should be in place. We all know that Nairobi is now one of the most expensive addresses for a good reason and we need to celebrate that on one hand.

Of course, there are demerits in the sense that high rental charges may push out more and more people into the informal sector. On the other hand, it may show a vibrant property market. This Bill is one of the catalysts to that good property market.

Take for example, addresses such as Upper Hill, the Central Business District (CBD), Westlands and Kilimani. We need to encourage our people to own properties vertically. If you go to a place such as Kilimani we need to be happy that people are demolishing masonettes and small buildings and putting up flats. That is not a negative thing. Some people complain that the serenity of their places is being destroyed and traffic being increased. If we do not do that, we will be creating more and more slums.

Imagine a building housing 500 families. If that flat was not there, those 500 families would most likely be owning land in a horizontal manner. What are we doing? We are just increasing and making Nairobi to develop horizontally as opposed to vertical development.

The modern way of urban living is for people to live in high-rise buildings. When I go to places such as Kilimani and see those tall buildings, to me, that is development. There is no other law that would protect owners and tenants of those high-rise buildings than this law, which is being proposed by the Government.

Let me also disclose an interest. In my other life, I do conveyancing. One feels very good when a client instructs them to be the lawyer conveyancing a whole building alone. One will be looking at 80 potential clients, each paying some fees.

If this law passes, lawyers will also benefit because there is a lull in that property market. Once the law is there, people will now invest more in high-rise buildings because they know that they will attract clients.

I know of many people from outside Kenya who have come to this country and are not putting up more high-rise buildings. I encourage counties that adjoin Nairobi, such as Machakos, Kiambu and Murang'a to embrace this concept and enact similar laws in their respective county assemblies, which are attractive to investors who want to put up high-rise buildings.

The other day a friend of mine who is an American told me she wants to buy property in Thogoto Kiambu. She has Ksh120million. She was told by Kiambu County that it was not possible since the zoning in Thogoto area does not allow putting up high-rise buildings. That to me is a shame. Kiambu County needs to come up with better zoning policies that encourage investors to put up buildings so that more and more people can live vertically as opposed to horizontally.

Particularly now that the Jubilee Government headed by His Excellency Uhuru Kenyatta is busy building up roads; opening up Nairobi and the adjoining counties. We all know H.E the President is in France. He has gone to look for money so that we can build superhighways.

I have been reliably informed, that Ngong Road has been upgraded. Currently, the road from the Jomo Kenyatta International Airport going all the way to Westlands is going to have an overpass. We all know that the money that will come is going to improve the infrastructure on the Waiyaki Way, Westlands and other adjoining areas.

All these infrastructural programs will continue making Nairobi more and more modern. More and more people will flock to Nairobi. The more they do so, the more we do not want them to go to low income regions. We want them to go to formal areas and stay in high-rise buildings. We want to educate our people not to think that once they get little money, they should go looking for small land and put up small houses. They should instead own an apartment. That way, their cost goes down.

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

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

Madam Temporary Speaker, if you were to go to Kamulu, own a small piece of land and then put up a house, what does that mean? The Government will come looking for you to give you water and electricity. That will be so expensive. You are alone down there in the bush. However, assuming you came to Kilimani and bought an apartment, it means that 200 people or 300 families are being supplied with electricity or water at a very cheaper rate in comparison to that one person in Kamulu, who is in a remote place. When you are in one apartment, it will be very easy for the Government to offer services at a cheaper cost.

Madam Temporary Speaker, we are not in this world for 200 or 150 years. We are only here for a short-term. People must get out of that notion of owning privately secured land somewhere alone. They need to start embracing the idea of living in apartments,

which is what is being underpinned by this Bill. That way, you not only provide services at a cheaper rate as a Government, but also security. Your own security is better guaranteed when you live with many people in one space.

Madam Temporary Speaker, there are more synergies that leverage once people start living in one high-rise building or one concentrated place as opposed to people who are very dispersed. Even building roads will become cheaper as opposed to one road leading to a place, which is 500 kilometres away from Nairobi.

Please, Kenyans out there who are watching me, let us embrace the concept called ownership of property by strata or vertical ownership of property. That is the philosophy underpinning this Bill.

I beg to move and urge my sister, Sen. Petronilla Were, to second this important Bill.

Sen. Were: Thank you, Madam Temporary Speaker, I second this Bill; the Sectional Properties Bill, brought here by the National Assembly.

I would like to start by thanking Sen. Kang'ata for that detailed analysis of the Bill. He has gone through all the sections and parts of the Bill. I will not do that.

He has also explained to us the history of land laws and pointed out the gaps that have been in existing laws. The Sectional Properties Bill seeks to fill that gap considering contemporary trends. We are now fighting for space in the air because down here, the space is scarce. We all know that land, as a factor of production, will never increase. Therefore, instead of fighting down here, we start looking for space up there. That is what this law is about; the vertical ownership of property.

Madam Temporary Speaker, the Sectional Properties Bill seeks also to regulate the building industry, especially in this era of apartments or what we used to call flats, both at the national and the county level. This Bill is timely. It is being proposed when there is a lot of rural-urban migration. This Bill, once enacted, will not only apply in Nairobi, Mombasa or Kisumu, but also in our counties. Devolution has brought development. More people are moving to our counties as well. Therefore, there will be a lot of pressure on housing needs. This vertical ownership of property will come in handy.

Madam Temporary Speaker, it is important that we develop a legal framework that will regulate or guide this industry. There has always been the question: If you own a unit in a block of flats, in whose name will the title of that land be? This Bill allows ownership of that unit. As the owner of that unit, you are registered and a certificate issued. That certificate will indicate your share in the common areas of that property. This will reduce a lot of conflicts that we have experienced as we continue to live in these vertical properties or apartments.

Madam Temporary Speaker, the Bill has also explained the role of the county government, especially in the registration and management of sectional properties that are near each other. If you have visited Kilimani or Pipeline in Eastlands, we have many of these vertical units next to each. The management companies only deal with their block of apartments. However, there is no order and relationship between one apartment block and the next apartment block. Therefore, this law has now mandated the governments, both at the county and the national level, to also regulate the relationship between the various neighbouring buildings in this process. There has been a lacuna.

Madam Temporary Speaker, right now, we are dealing with management companies that are independent and unregulated. In most cases, they are fleecing Kenyans in the name of managing those units for the owners.

Madam Temporary Speaker, Part 3 of this Bill talks about a setup of a corporation. This corporation will be recognized in law. It will be a corporation that will sue or be sued and continue to be accountable to the unit owners. Since it is recognized by law, it will also be accountable to bodies of oversight like Parliament and county assemblies. The corporation will handle not only the administration and management of the units, but also contributions of the unit owners or the tenants.

Madam Temporary Speaker, this legal framework is timely. It will reduce a lot of the fraud and conflicts that we see in this area, especially in the purchase of units. There has been a lot of fraud, especially those who buy units off-plan. You find that what you paid for in the off-plan is not what you will eventually get once the building is done. This Bill provides a platform of recourse in case such an event occurs. It will also make sure that even the developers are accountable to the Government and the potential buyers of these units.

Madam Temporary Speaker, with those few remarks, I also call upon Senators, especially those with experiences in this area, to propose amendments like the ones we have already provided here. We will be moving them as a Senate. However, we also want Members of the Senate to propose amendments to this Bill. It is a Bill responding to contemporary trends and we all need to have an input in it.

With those few remarks, I second.

(Question proposed)

The Temporary Speaker (Sen. Nyamunga): Sen. (Dr.) Musuruve, kindly, proceed.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker, for giving me this opportunity to give my contributions to the Sectional Properties Bill (National Assembly Bills No.23 of 2019).

I want to thank Sen. Kang'ata for bringing this Bill to the Floor of this House. When this Bill becomes law, it will be very good for this country. The President has always been talking about housing issues and acting to ensure that it becomes a reality.

This blends well with the nation's agenda of having affordable houses for everyone. It is very expensive for the common *mwana* to afford housing in Nairobi and other towns. However, when The Sectional Properties Bill (National Assembly Bills No.23 Of 2019) becomes law, it will be affordable for Kenyans.

According to this Bill, an owner of a building with more than two units can apply to have sectional property. When that is done, it becomes a new property that is registered with the Ministry of Lands and Physical Planning.

In this case, it becomes easy for a property owner to decide that he or she is going to have a sectional property for one of the units, sell it and have value for money. One can also decide to use the sectional property unit as collateral in the bank to borrow money to invest and reinvest. When it becomes law, it will be very good.

I am happy because this Bill has gone through public participation and submissions have been done. Since submissions have been made, amendments are accepted by Kenyans.

Madam Temporary Speaker, even though amendments are there, I want to speak on the issue of leasing. The law speaks to the issue of leased property and freehold property. When it comes to leasing, it states clearly that sectional property can be done for a building that has 21 years to go. However, I want to suggest that it should not be less than 21 years to go.

For example, supposing a parent is advanced in age and he or she has property that he wants to subdivide or bequeath his children, it becomes tricky if the parent is 80 years old and the property has ten years left. Therefore, there is need for a provision to ensure that such cases are handled.

When it comes to sectional property, it should not have a time limit, until the expiry of 10 years and all that. That is because when the lease is over and the building is in Nairobi or any other county, and the owner has been paying the county money, such as city rates or land rates, then the property should just be registered even if it has two or one years to go. After all, the owner will have complied.

I see quite a number of benefits in this Sectional Properties Bill. First, I see the economies of scale. When it comes to issues like water, it will be cheaper when you are applying for water. It will be cheaper when it comes to electricity.

It will be cheaper when maintaining security in that building as opposed to when you are paying security for your apartment. When the apartment is demarcated into units, it means that the unit owners will pay security cheaply. It will also be cheaper when it comes to garbage.

When it comes to infrastructure, for example, if roads are to be built, it will be cheaper. Cleaning the compound will also be cheaper because people will be contributing small amounts until they are able to raise all the money.

This Bill speaks on current issues, with regard to responding to global market needs and that of Kenyans. When you go to other countries, for example, in New York, you will find that people are living in apartments.

This Bill will simplify the registration of units, so that one becomes the owner of a building. When one becomes the owner of a building, he or she will be liable to the unit under him or her.

According to this Bill, conferring rights to unit owners guarantees the right to property. One knows that you are guaranteed ownership of the unit and no one will take it away.

When this Bill becomes law, it will be a boom to investors and people who want to invest in housing. When the surveyors are brought on board, they will ensure that if you have a unit, it is well registered with the Lands Registrar. When it is registered with the Lands Registrar, one will have basic provisions like water, sewer and passageways.

This Bill comes in handy to correct a typographical error and underline it with constitutional government structures. It also brings an enabling environment for people to desire to own properties, because they will be affordable.

Land in towns and its environs is very expensive. For example, an eighth of an acre costs from Kshs3 million up to Kshs10 million. Investors who have an eighth of an

acre and put up two or three units, will have value for money. One can decide to pick one unit and use it as collateral or sell one unit and the others will remain his or hers.

We need to support this Bill and ensure that it becomes law. When it becomes law, it brings affordable housing to Kenyans. Kenyans are suffering when it comes to housing in big towns like Nairobi. Whether we like it or not, even if we create an enabling environment in rural areas, people will still go to Nairobi, Kisumu, Kakamega, Eldoret, and Mombasa.

We need to ensure that we expedite this issue, so that we have affordable housing for Kenyans and encourage them to get into housing. There was need for proponents of this Bill to come up with mortgaging issues and speak to it to allow Kenyans to ventilate and get to own properties.

Three-quarters of Kenyans do not own property. We have to see how to encourage Kenyans to own property. We have to see how to encourage women and men in the slums to have properties. This Bill should speak on vulnerability issues, for example, persons with disabilities who would like to have properties. How can we bring them on board as we bring fellow Kenyans on board?

I support this Bill. I believe that my fellow Senators will support Sen. Kang'ata and the National Assembly, and expedite it so that it becomes law.

Thank you, Madam Temporary Speaker.

Sen. (Dr.) Zani: Madam Temporary Speaker, I stand to support The Sectional Properties Bill (National Assembly Bills No.23 Of 2019). I would like to begin by talking about unplanned development in many areas in Kenya, especially in sprawling towns where you will find many buildings coming up without plan. There is usually a plan in most cases, only that it is not implemented. As a result of unplanned development, over time there will be lack of order and you will find the houses put up anyhow. Houses without proper planning are put up facing different directions without any specific order.

Sometime back, I was involved in the digital planning for Mariakani Town in Kilifi County. One of the things we started with was developing a digital plan so as to see how the actual planning could be done. We segmented different areas for different use such as industrial, cemetery, commercial, residential and many others. Many plans are existent but have not been put in place.

This Bill will bring some level of organization. With many units within an area, there is likely to be order if there is a Bill that guides development. This Bill delved deep to look into the overall overarching issues, such as having a corporation and board to ensure that the Sectional Properties Bill is adhered to. The Bill also highlights how a unit should be acquired or disposed of. The Bill intends to bring order. Kenya, being a middle income country, there are many people who are interested in housing, but some cannot afford due to the high costs involved. However, when we have the sort of units proposed in this Bill, it will bring down the cost of housing.

As the Members who spoke before me said, many Kenyans have had the misfortune of being caught up in own-plans arrangements because they do not have the legal protection that this Bill offers. Kenyans do not have the level of corporation or board that will be put in place, and that has left many people exposed. This is an extensive Bill that deals with many other administrative issues that have to do with administrative expenses, recovery of money, investments, requirements of sectional plans, liability, duties of the corporation, duties of the board, renting of the units, leasing

and giving up of the units, termination of sectional properties, sale of sectional properties, assessment and taxation, liability of the corporation, offence and penalties.

The Bill provides for a division of building into units to be owned by individual proprietors. By doing that, the use and management of the units and common property for connected purposes is entrenched and put into place. The various definitions have been given clearly.

Some of the clauses in this Bill are very definite in involving certain key players in housing. For instance, Clause 4(2) states that: -

‘A surveyor shall not prepare a sectional plan unless he is presented with proof of ownership of the parcel or unit to which the sectional plan shall apply’

That Clause is meant to ensure that we do not have ambiguity on who is or not part of the plan. The Bill proposes that registration, title and the unit being registered should be issued under the Land Registration Act. This will reduce ambiguity around who owns what, where, how and since when. That clarification is important so that people can follow though at any one particular time about what specifically is happening.

Clause 9 is clear on how every plan presented for registration will be handled. Requirements of the sectional plans are clear on how they will be managed, including the description, heading of the plan, geo-referencing of the plans and many more. Clause 9 addresses a number of issues that we currently face.

We have situations where title deeds have been given to other people because there is no geo-referencing. However, with GPS and other types of new technology, you can apportion documentation to a specific area directly. That way, it is very easy to avoid any sort of confusion about which specific land or area somebody is referring to.

The Bill states that specific particulars need to be included, such as drawings illustrating the units and identification of the units by numbers and other symbols to ensure organization. The user of the unit will have to be indicated as well as any other particulars described in the regulations. All these things have to be contained at the level of registration. I am confident that these regulations will, to a large extent, give confidence to Kenyans who will want to be unit owners within the sectional plans and housing.

Clause 9(2) states that: -

‘The Registrar shall, within twenty-one days from the day a sectional plan is registered, submit to the county government of the area in which the parcel is located, a copy of the registered sectional plan.’

That provision in the Bill is important so that sequencing and co-ordination between the national Government and county governments is clear.

Clause 11 states that: -

‘(1) Every plan presented for registration as a sectional plan shall be endorsed by—

- (a) a surveyor stating that the structure shown on the plan is within the external surface boundaries of the parcel which is the subject of the plan, and if gutterings project beyond those external boundaries, that an appropriate easement has been granted as an appurtenance of the parcel; and

- (b) a certificate from the county government stating that the proposed division of the structure as illustrated on the plan has been approved by the county government.’

I see synchrony all across the Bill to ensure that there is order. The most exciting part of this Bill is the establishment of a corporation. As I was reading the Bill, I kept wondering how the corporation would fit into it all, but I now see how it will work.

Part III of the Bill is on the establishment of a corporation and a board, which will come later on. The proposed corporation will be the apex body for the establishment of this law. The proposed corporation has been given a lot of responsibilities with specific duties.

Clause 17(2) states that: -

‘The Registrar shall issue a certificate of registration of the corporation.’

The bringing to birth of the corporation is going to be well entrenched because it had to be registered. The persons who will make up the corporation have also been clearly listed in Clause 17(3), ensuring that there is inclusivity. There is usually fear and confusion when people do not understand what is going on. Many Kenyans would like to know everything about a project before committing to any form of arrangement and housing.

The Bill addresses questions such as whose housing, when they were started, what the purpose is and where the money goes to. The proposed corporation will have to answer those pertinent questions that relate to the owners of the units to which the sectional plan relates, and who are entitled to the parcel when the sectional arrangement is terminated.

Most of the time, when things are being put together, it is very easy to forget about the dissolution of those structures when things go wrong, and that is the strongest element of this Bill. Most of the time, we have individuals without the force required. If you go behind most of the off-plan development that have failed in most cases, you will discover that it was run by a family, a group of friends or associates to keep mutating in terms of ownership and who belongs where.

When affected individuals want to make a follow up on off-plan development, they are usually told that they dealt with a different organization and given hope that they are now dealing with a different new organization in place. Such instances cause a lot of disorganization and pain when people have invested money on off plan arrangements.

Many Kenyans have lost a lot of money to off plan arrangement that have failed to take place. Some of the off plan arrangements that take off normally do not finish within a particular time span that the development should have been concluded and handed over. For example, an off plan investor could be told that the project could be ready within a year, but if a project delays, one is unable to occupy the premises if it is not ready. Sometimes, even after one year, the off plan project will not have taken off and there is no recourse for such developers. When there is a legal entity such as this corporation, which will be tasked with dealing with all these issues, it will help many Kenyans. Subject to this Act, the corporation shall carry out all duties imposed on it by the bylaws that are going to be given.

Madam Temporary Speaker, it is also going to make resolutions on all proprietors, otherwise resolve, insure and keep insured buildings and other improvements

on the parcel against fire; effect such other insurance as is required by law and pay the premiums in respect of any policies and insurance affected.

All these have to do with the protection of those who are going to engage and have units. This is so that they feel confident that they can own these units and exercise their rights on them on the basis of law. This is going to create a lot of order, especially in terms of being able to order properties within this country.

Madam Temporary Speaker, various clauses strengthen the role of the corporation. It is a legal entity and, therefore, most of the provisions that have been given are on the basis of it being a corporation. I do not want to go into them into details because these are quite standard across most legislations.

At Clause 28, a board shall every year convene an annual general meeting of the owners. The board again will have specific responsibilities of being able to run on a day to day basis on most of the specifications. Within the board, various committees also have been put into place to look at the various issues that would come up from time to time that are very critical.

Madam Temporary Speaker, as I move towards the end, Part 4 is also very critical. It relates to the provisions on the units. Specifically, it speaks to the developer and the standards that are expected. A developer shall not sell or agree to sell a unit or proposed unit, unless the developer has delivered to a purchaser some specific items and documents that will also be legal documents that they can defend themselves with.

These include a purchase agreement, the proposed bylaws, the management agreement or proposed management agreement. If it is either the finalized agreement or the proposed version because it will be in stages. First, it is the proposed version and following the actual version of what is meant to be given. The sectional plan or any proposed sectional plan will be part of what will be given by the specific developer as part of the agreements, as they move towards concluding the sale.

Madam Temporary Speaker, Clause 45 is very key. An owner of a unit shall not rent his unit until he has given notice to the corporation. Again, the role of the corporation comes in and the rental arrangement that need to be put into place. There is sort of control as we see, for example, in many houses about the design, how it should be and how I should look like. Who should live in there? Should it be a family house? Can it be rented house and that sort of thing needs to be put into place.

The owner of a unit shall give an undertaking to the corporation to be liable for any damage caused by the tenant. There are very clear provisions put into place ensure that the management of the sectional properties is going to be in order.

Madam Temporary Speaker, I support this Bill. It will bring a lot of order to the housing sector, even now as we move on in terms of even growth of the country. We are moving towards 50 million people. They have to be sheltered, fed and find work. This is a right direction to go. This Bill will enhance that in a long way. It will create the order that is so desired within this particular sector.

Madam Temporary Speaker, I support.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator. Can the Mover be now called to reply?

Sen. Kang'ata, proceed.

Sen. Kang'ata: Thank you, Madam Temporary Speaker. Let me first take this opportunity to thank my colleagues who have contributed to this Bill. I thank every

contributor. I took notes and heard you very well, loud and clear. I wish to thank my colleague who seconded this Bill.

There are areas that we may need to improve on. We will get that opportunity once we go to the Third Reading. We will make those appropriate amendments.

Madam Temporary Speaker, I am happy, as colleagues have said, that Kenyans may now start embracing this Bill. The phenomenon of owning property in strata or vertically is kicking up, and it will be embedded by this law. This is just the beginning. As a Government, we want to ensure that all laws that were enacted prior to the new Constitution, which are now superfluous, have been amended and repealed to reflect the reality of a new constitutional order.

We all know that once the new Constitution was enacted, several pieces of legislation were enacted by the new Parliament. Most of those pieces of legislations need to be tidied up. Therefore, this Bill is part of that effort.

Madam Temporary Speaker, somebody whispered to me when I sat down about what the intention of this Bill is. Does it want to affect or impact zoning? Strictly speaking, no, it does not. This is not a law on zoning. However, clearly, there is a connection between sectional properties and zoning. I want persuade that person who whispered to me that in Nairobi City, we have places that have been zoned for industries, for example, Baba Dogo and Industrial Area. We also have places that have been zoned for residential purposes, for example, Karen and other regions.

Some of these zoning practices are no longer tenable under a new urbanized society that we are living. I gave an example and reiterate it. Take like Kilimani which has always been zoned as a place for residential dwelling for single purpose. However, with the current drift where the Government wants to encourage more people to live in apartments, it is the rational use of squeezed land in urban areas. We need to undo those zoning policies.

Madam Temporary Speaker, of course, the Nairobi City County Government has a major role in zoning. Therefore, maybe that should be addressed at that level. However, now that we are passing this Bill, and I urge my colleagues to pass it, I urge every person in this Senate to support efforts to redevelop some of our estates in our major areas in the cities.

We have redevelopment plans in Mombasa and Nairobi. As you are aware, there is upgrade of Pumwani, Ngara Estate and several other places. This is because the future of this country belongs in the skies, that is, ownership of property vertically and not horizontally. Therefore, this Bill once enacted will go a very good way towards addressing the problem of housing in this society in Kenya. Therefore, it will take into account all those issues that have been raised by my colleagues.

Madam Temporary Speaker, with those so many remarks, I beg to reply.

I request that the putting of the question be deferred until the day we will get quorum.

The Temporary Speaker (Sen. Nyamunga): Hon. Senator, I have gotten your request, but we want to have it listed for tomorrow, so that we can put the question tomorrow.

(Putting of the question on the Bill deferred)

Next Order.

Second Reading

THE COMMUNITY HEALTH SERVICES BILL
(SENATE BILLS NO. 5 OF 2020)

(Sen. (Dr.) Zani on 4.8.2020)
(Resumption of debate interrupted on 4.8.2020)

The Temporary Speaker (Sen. Nyamunga): This Bill had already been moved, seconded and the question proposed. So, it is open to debate.

Sen. Were, proceed.

Sen. Were: Madam Temporary Speaker, thank you for the opportunity to contribute to the Community Health Services Bill ably sponsored by Sen. (Dr.) Zani. This Bill is crucial especially in this time of Agenda Four. One of the items on the Agenda Four by His Excellency the President is the universal healthcare, which is at its piloting stage. The report of that pilot indicated that Universal Health Coverage (UHC) is going to be implemented at the primary healthcare level.

This Bill has come at the right time to help the President actualise universal healthcare as one of his legacy items. At the primary healthcare level, we have different hospitals. We have Level 1 hospitals, which are dispensaries, and Level 2 hospitals, which are health centres. However, before we reach these health institutions, there is what we call the household or the community level. This is where this Bill is going to apply and we have no regulator mechanism. This is where the rubber meets the road because that is where the patient comes from.

Madam Temporary Speaker, for a long time, we have had community health workers unregulated. The most famous have been the traditional birth attendants that have been our form. When you talk about community health, they are the first point of call; it is the picture that comes to mind. They have operated for many years without any framework. However, with devolution and health being completely devolved, it is necessary that we come up with a law that guides the management of that group of people.

Other than just traditional birth attendants, there are several Non-Governmental Organization (NGOs) at the community level that operate and offer household attention to Kenyans. In my county of birth, Busia County, we have an NGO called Rural Education and Poverty Eradication (REPE). As an organization, for many years, it has used community health workers without even a proper name for them.

Madam Temporary Speaker, the Director of REPE, Ms. Mary Makokha, has groups of people especially women and young people who are assigned particular households, where we have challenges of nutrition or even HIV/AIDS. They remind those patients when they are supposed to take their drugs and check on the kind of food they are supposed to eat. For a long time, that has not been guided, regulated or funded either by the national Government or, since devolution, the county government.

This Bill has come in handy to provide a framework for the delivery of community health services, promote access to healthcare services at the community level and provide capacity building for what we are calling the community health workforce.

Madam Temporary Speaker, as I have indicated, when this Bill becomes law, it will apply at the household level, where the actual patient lives. It is going to check also on how these patients live, eat, sleep, get water and how clean the water is. Who checks on that water? That is where all these illnesses come from. These are illnesses that for a long time kill our people, especially children under five years. They are illnesses like diarrhoea that are sanitation-based.

When we have this law and the workforce recognised and compensated by the county government as this Bill suggests, then we shall have some order and commitment. It is not just commitment, but also recognition of this workforce.

Madam Temporary Speaker, there have been questions on whether they should be called workers or volunteers. This is mainly because county governments do not want to pay them a salary. Once they are called workers, then they begin to enjoy that which comes with somebody being called a worker. They will talk about pension, leave and medical cover. However, it is important that we put aside those kinds of arguments and focus on the key objective of having these healthcare workers recognised, regulated and funded.

As it is now, counties are already engaging these community healthcare volunteers. As the county governments engage them, they are subjected to a lot of exploitation because there is no law that is guiding this process or regulating the county governments on how they should deal with these volunteers. Some of them do not have any form of training. These laws require that there is some basic nurse aid training, even as they engage the households at the community level.

Madam Temporary Speaker, with those few remarks, I congratulate the sponsor of this Bill, Sen. (Dr.) Zani, who is always visionary on these issues. She has come up with several earthmoving laws in this Senate. I thank her.

Thank you.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator. Sen. Pareno, proceed.

Sen. Pareno: Madam Temporary Speaker, thank you for giving me this opportunity to also contribute to this very important Bill. I thank my Secretary General (SG), Sen. (Dr.) Zani, for always being in the forefront to fight for justice down there in the villages.

The introduction to this Bill talks about the strategy for community health that was done from 2014 to 2019, which tends to provide of community health services. However, it fell short of giving proper guidelines on how these services are going to be done. This Bill comes in handy to fill in the gaps, so that we can realise this strategy.

Madam Temporary Speaker, a strategy without how to implement it will be nothing. That is why from 2014 to 2019, there has not been any much implementation because there was no roadmap. I thank Sen. (Dr.) Zani for coming up with it. This Bill comes in and gives a roadmap or clear plan of action as far as this community health strategy was concerned.

I am happy that this Bill talks about the role of county governments. At all times, we keep saying that health is devolved, but there is nothing much that is happening down

there to ensure it is properly done. After devolving, are the services there? We end up having strikes and a lot of problems all over. It was a disaster the other day when the Council of Governors (CoG) purported to give an order to shut down all the facilities when we do not even have the facilities in the first place, then you are shutting down the little that is there. This Bill gives a role to the county governments in the provision of community health services.

Madam Temporary Speaker, it also goes ahead to talk about resource mobilization. This is because even with that strategy, it did not provide as to how we were going to have the resources to perform these health services.

It also goes ahead to talk about how to finance the whole service. This is good and it now makes it clear how we are going to have those resources mobilised and finances to support this system that is already in place.

Madam Temporary Speaker, it is interesting. We have systems in place, but we do not have support for these systems. The health workers and volunteers are there. They keep volunteering, but we have taken so long to even realise that they need to be just appreciated for the services that they give. For how long are they going to volunteer? They cannot be volunteers forever.

We must find a way of having a volunteer promoted to the next level and given capacity. At the end of the day, you volunteer as a health worker and tomorrow, because you have been capacitated, you are able to move to the next level and provide service as others come up as volunteers.

Madam Temporary Speaker, I happy with this Bill. It goes ahead to give a framework as to how the structure looks like and how we are going to have these volunteers. I even see a provision where it says that the volunteers should be picked in a public *baraza*.

I had a complainant from my village telling me that volunteers are being taken, but people have taken their relatives, wives and sisters. You end up not providing the service that you are supposed to do or at least being fair to the community. People have been volunteering. Maybe your sister or brother has not been volunteering, but because you are the one picking people, you pick your sister and wife and take them there.

Madam Temporary Speaker, this provision of a framework to pick these volunteers in public *barazas*, where the public are the ones that pick them is a good one. The how and how we do it is now provided. The framework and who qualifies is now provided. How we build capacity of those that are there so that they move to the next level is provided. Therefore, we will be able to deliver health service to the community.

This one also goes ahead to ensure that there is accessibility to our health services. Most of the times you would get a person who is sick. You are not able to assess immediately how this person should be treated. This capacity building to ensure that these volunteers know the first signs of whatever they are supposed to handle is good enough. The effect of this Bill is that it will be possible for our people to access service quickly because the volunteers know how to detect what they are supposed to do.

Madam Temporary Speaker, there is also the coordination of the implementation between the county government and national Government. Most of the time we lack services because we are conflicted. The county government is supposed to do this and the national Government is supposed to do this. At the end of the day, you do not know who is doing what. They are unable to do it because of that conflict.

This Bill gives a framework that comes down to coordinate the implementation of the policies and standards, so that we have a similar policy for all of us. We have the right service for all of us, and therefore, able to give these services.

It is proposing standards, policy, upgrading of these volunteers and a fund, so that our volunteers can be funded or even appreciated to move from one place to another. That leads to quick intervention.

Clause 5 of the Bill sets out the role of the national Government, which will include formulating in collaboration with the county governments, the policies on the delivery of the community service. Therefore, we will not have issues not being addressed because both of them are able to coordinate.

The facilitation to access information will empower these volunteers. The information will be readily available. Probably, it will even be easier in some sort of brochure and down there, it can be accessed in *barazas*. They will be able to deliver.

Madam Temporary Speaker, I support the picking of these volunteers in *barazas* because it will address nepotism issues. Our MCAs and chiefs are known of monopolizing everything to the detriment of the same community that they are supposed to serve. This will come to an end with this kind of framework. At least, we will have accountability in the process; who picked what? Who went for what training? Who is in charge of what? They will be accountable to what we are doing.

I support this Bill and thank Sen. (Dr.) Zani for coming up with it.

The Temporary Speaker (Sen. Nyamunga): Sen. (Dr.) Musuruve, proceed.

Sen. (Dr.) Musuruve: Madam Temporary Speaker, thank you for giving me this opportunity to support this important Bill by Sen. (Dr.) Zani. Kenya as a country is among the state parties that signed the Abuja Declaration. It was very clear that all the state parties that signed and ratified the convention agreed to set aside 15 per cent of their national annual revenue to health. This Bill is timely and will assist us to actualise the Abuja Declaration.

With regard to other international declarations, in 1978, Kenya signed the Alma-Ata Declaration, which gave the mandate of healthcare to the common man. Health service was not only left to individual responsibility, but also collective responsibility.

When this Bill is enacted into law, it will obligate the national Government to implement the Abuja Declaration. When Kenya signed it, it is bound by international law. Therefore, the national Government will work with the county governments to provide health services to our people. As the Senate, one of our greatest mandates is to ensure service delivery to the counties.

This Bill provides a framework for collaboration. At the top, the national Government is involved in terms of policy formulation and technical assistance. All these will cascade to the county governments. Once this Bill becomes law, we will not have issues of disparity in terms of healthcare. There are some counties where you will find having ambulances and maternity wings that are full-fledged. However, in some counties, patients are sharing beds. I am also aware in Pumwani Maternity Hospital patients are sharing beds. When this Bill becomes law, county governments will commit some resources to the health sector.

Madam Temporary Speaker, this Bill involves the Ministry of Health, which is cognizant of the importance of community health workers. Community health workers do a lot at county levels. Unfortunately, they are not recognized. They are not paid and just

do it voluntarily. They are known in the villages. For instance, if a woman is in labour and about to give birth, there is a community health worker who will be called instantly to assist her to deliver.

The Temporary Speaker (Sen. Nyamunga): Hon. Senator, you will have a balance of 15 minutes when the debate on this Bill resumes.

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the Senate. The House, therefore, stands adjourned until tomorrow, Thursday, 1st October, 2020, at 2.30 p.m.

The Senate rose at 6.30 p.m.