

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 16<sup>th</sup> September, 2021

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

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

### PRAYER

### PETITIONS

#### EXPUNGING OF OFFENDING PROVISIONS IN THE WATER SERVICES/WATER RESOURCES REGULATIONS, 2021

**The Speaker** (Hon. Lusaka): Hon. Senators, I hereby report to the Senate that a petition has been submitted through the Clerk by the Kenya Water and Sanitation Civil Society Network.

As you are aware, under Article 119(1) of the Constitution, and I quote:

“Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.”

Hon. Senators, the salient issues raised in the said Petition are:

(i) That, Article 43 (1) (d) of the Constitution of Kenya, 2010, guarantees every Kenyan the right to clean and safe water in adequate quantities. However, access to for most vulnerable citizens still remains unfulfilled.

In this case, a huge population of Kenyans access water from non-regulated service providers. In particular, a big part of the population in residential areas still depend on small-scale water service providers for water services.

(ii) That sustained access to water has been identified as an important non-pharmaceutical defense against the COVID-19 pandemic among other diseases. Lack of sufficient water put vulnerable population at risk of contracting the virus.

(iii) That vide Legal Notice No.168, the Cabinet Secretary (CS) for Water, Sanitation and Irrigation published the Water Resources Regulations, 2021, whose proposals provide significant changes in the obligations of water users, and thus increasing the nominal cost of abstraction of water from various sources.

The proposed charges in the said regulations will alter the cost of provision of water services by water service providers who will in turn pass the cost to the consumers;

(iv) That the regulations are not clear on water catchment management and conservation. Therefore, a provision should be made in the regulation for a percentage to be ploughed back to restoration of catchment areas.

(v) The net effect of implementation of regulations will be deepening a failure to observe, protect and fulfil the right to water as provided for in the Constitution.

(vi) That the proposed regulations pose the risk of reducing the resilience of the population against the current COVID-19 pandemic.

The Petitioners, therefore, pray that the Senate intervenes in the matter with a view to expunge the current charges and reinstate the charges as expressed in Part 2 of Schedule B in the impugned regulations.

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

I thank you

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Petition that has come through you.

Water is a constitutional right. Article 43 of the Constitution talks about provision of clean water. Even before the COVID-19 pandemic, the issue of water has been lacking in many parts of this country. For example, in Lang'ata where I stay, there is a big issue of water and residents are buying water.

It is unthinkable and not well-meaning for residents to buy water yet, it should be provided for by the Government. Therefore, the water agencies have to come out clearly and ensure that people have water.

Mr. Speaker, Sir, some schools in Nairobi and many parts of the country, for example, in Lugari, do not have water at all.

During the COVID-19 period, the issue of water is intense and needs to be looked into. This is because the remedy for COVID-19 is as simple as using water and soap which are affordable. This is because water is cheaper compared to sanitizers and other measures that prevent COVID-19. Therefore, the petitioners have done the right thing.

It is the onus of this House to ensure that this Petition is pursued up to the end so that water is provided to all citizens of this country.

I support the Petition.

**The Speaker** (Hon. Lusaka): Sen. (Prof.) Ekal.

**Sen. (Pro.) Ekal:** Thank you, Mr. Speaker, Sir, for giving me the chance to add my voice to this Petition. From the onset, I support the Petition because it is about water. Water is a liquid that keeps us all alive. About 70 per cent of our body mass is water. Therefore, it is one ingredient that should be available all the time to all people in this country. As my fellow Senator just said, it is a constitutional right that all citizens of this country must have clean and safe water to consume.

For those of us from drier regions, water is very rare. Our people and animals are thirsty. Many people in Turkana County have left Kenya to Uganda and Ethiopia in search of water and grass because there are no rains and people are in dire need of water. The Government must do something to alleviate the suffering our people.

I would say the same for the North Easter part of the country. The Government should avail vehicles that can ferry water to remote areas so that people can have water. The Government should also drill as many boreholes as possible in these areas, so that people have water.

Many people are living in dire need of water. It is even worse in towns with high population, especially during this time of COVID-19 pandemic. People need water for washing and cooking. It is a pity that there is no clean and safe water in this country.

When people used to say we will be buying oxygen and water, I could not believe it. However, in my lifetime, we have started buying water. At the moment, in many towns in this country, people are buying water. Those who are poor cannot afford it and they are forced to fetch dirty water from rivers. Dirty water is a major cause of diseases and other ailments. I plead with the Government to do all that it can to avail clean and safe water to its citizens because it is a constitutional right.

I support this Petition and hope that it is going to produce some fruit.

**The Speaker** (Hon. Lusaka): Finally, Sen. Cherargei.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. From the onset, I want to congratulate the Kenya Water and Sanitation Civil Society Network for having faith in this Senate and bringing this Petition. They want to expunge offending provisions in the Water Services Regulations (2021) and Water Resources Regulations (2021).

It is sad that we, as a country, should continue buying water. Under Article 43 of the Constitution, particularly Chapter Four on the Bill of Rights, access to clean and safe water is a basic human right. We have failed the nation. We have failed our people because access to water is a basic human right. Everywhere in this city and villages where we come from, the retailers of water provide more water than our ordinary water and sanitation companies that we have across our counties.

Mr. Speaker, Sir, it is very unfortunate that we are regulating the small scale water suppliers and kiosks that continue to provide this highly looked after commodity, especially this time we have the COVID-19 pandemic. As we push for vaccinations, our people majorly depend on water. This water is needed, especially for washing hands to keep the COVID-19 pandemic at bay.

Water should be accessible and affordable to all Kenyans. The Government must take its rightful position to make sure many Kenyans access clean and safe water. As I speak, in line with this Petition, we have many dams that had been earmarked to be funded and constructed by the Government like the Aror and Kimwarer dams that were scaled down. The construction reason of those dams was scaled down because of politics than what we were made to believe. We have even heard the Director of Public Prosecution (DPP) saying that he cannot charge anyone in the case of the Aror and Kimwarer dams because he knew that it was politics.

Keben Dam in Nandi County is worth Kshs7 billion. If it is constructed, it will solve 70 per cent of water problems in Nandi. Karimenu II, Thwake and many dams and boreholes in the North Eastern Region should assist our people to access clean and safe water. I was shocked when I saw the Governor of Isiolo, I do not know his name, busy attacking talking about relevancies, yet many people suffer from drought and famine. They cannot access water.

In as much as we lay blame with the national Government, what are the county governments doing in terms of drilling boreholes and making sure that there is accessibility to water, especially in areas that are facing drought at the moment? We find the Governor of Isiolo County discussing some political issue instead on concentrating on providing water.

Mr. Speaker, Sir, I hope the Community on Land, Environment and Natural Resources will invite us as they interrogate this Petition. As I talk, even the Itare Dam which is in Nakuru County has stalled. Almost all dams that were supposed to be constructed to ensure that we have clean and safe water stalled. We do not want to play

politics with our Government projects. I dare say that the Keben Dam project in Nandi County was given to Kisumu under the Sondu/Miriu projects. We were told that this was because of the 'handshake', yet our project had come earlier on.

We cannot allow this to go on. Even the dam in Bomet has stalled. How can we talk about access to clean piped water when the same Government under the Ministry of Water, Sanitation and Irrigation is not pushing for more funding for the completion of dams?

As I finish, I pity the people in Turkana and the North Eastern part of Kenya. They are facing drought because of our disorganization. If we were fair in this country, the Government should have ensured that we have a number of dams being constructed in North Eastern region and Turkana.

Boreholes in Laisamis have dried up yet the Cabinet Secretary (CS) of Finance comes from that region. I do not know his name. He is busy lecturing us about political formation yet he cannot allocate sufficient funds to that region and ensure that our people do not die because of drought and famine.

Mr. Speaker, Sir, I support this Petition. I hope that the Committee of this House will be listening to it, we will be part of it and have a conversation that will help us solve these issues of inaccessibility to clean and safe water.

**The Speaker** (Hon. Lusaka): I had said "finally," but I can see Sen. Faki.

**Sen. Faki:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. These regulations have not been officially gazetted. What was gazetted was a proposed regulation. Even the Petitioners say that the regulations are being proposed.

Mr. Speaker, Sir, Paragraph 9 says:

"Special attention is drawn to the Legal Notice No.168 in which the CS in charge of Water, Sanitation and Irrigation has published the proposed Water Resources Regulations (2021), whose proposal provides significant changes in the obligations of water users and particularly in increasing the nominal cost of obstruction of water from various sources."

Mr. Speaker, Sir, the regulations have not really been gazetted. The petitioners have an opportunity to make presentations as stakeholders in the water sector to have their input considered before the regulations are gazetted and laid before this House for scrutiny and approval.

In the event that they do not get that opportunity, when the regulations are laid before the House and committed to the Committee on Delegated Legislation, they can also make presentations before that Committee and they will be considered. Therefore, the regulations either annulled or returned back to the Ministry will have their input having been considered.

At this point in time, I do not want to preclude the Committee from considering them, but we will be considering regulations that have not been officially gazetted and laid before the House in accordance with Section 5 of the Statutory Instruments Act, 2013.

Thank you, Mr. Speaker, Sir.

**Sen. Shiyonga:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to support the Petition. I want to congratulate the petitioner for bringing this Petition before this House.

The Petition is relevant and timely because water is a basic need. Even here where we are seated in the Senate, we have water before us. That shows how important water is in our lives and for our daily needs.

When the petitioners says they lack access to clean and safer water, it is very true. Out of the 50 million Kenyans, between 17 million to 19 million people have no access to clean water, including people who live in the City of Nairobi. Many of these people are suffering because their daily needs are dependent on water.

I want to concur with the petitioners on their plea and plead with the Committee consider this matter seriously because water is life. Without it, we will all die. What is the point of having the Ministry of Water and Sanitation if the public lacks water? Let us do the right thing for the Kenyans. Let us uphold our mandate and our responsibility to give Kenyans their rights and what they deserve.

My colleagues have talked about the COVID-19 pandemic. One of the regulations and guidelines regarding COVID-19 is that we need to wash our hands. If we do not have water, what do we wash our hands with? If we do not have water, how do we eat? How do we live? How do we farm?

The Kenya Government mostly relies on agricultural food. Agriculture is all about water. I totally support the petitioner and I want to urge the Members of the Committee who this Petition will be under their scrutiny, to come up with lasting solution to this problem. They should summon the right people and solve this problem of water. Water is a basic need and we need water in Kenya.

We have semi-arid and arid areas in the country. We have programmes to supply water to those areas. Let those people who are responsible for water programmes make sure that there is supply of clean and safe water to Kenyans because that is their right.

Mr. Speaker, Sir, I support the Petition.

**Sen. (Eng.) Mahamud:** Thank you, Mr. Speaker, Sir, for the opportunity. The petitioner's main concerns to expunge offending provisions in the Water Service Regulations, 2021 and also the other regulations, 2021 and the Water Resources Regulations, 2030.

However, the underlying argument that they are bringing in is the access to water. Access to clean and safe water is a right. Sometime back we had said we will have clean water for all by the year 2000, but today less than 50 per cent of Kenyans have access to clean and safe water.

The reason for this is that we are not investing in water infrastructure. For example, the last major investment for Nairobi City County was Ndakaini Dam and this was in 1990s. If you look at Mombasa it was Mzima which was many years back and also Sabaki there is no major investment. The same applies in most parts of the country.

It is high time that provision of water is given serious concern by this Government. Water is a devolved function, but the Ministry of Water and Sanitation retains a lot of resources at the headquarters. The National Government must take it upon themselves to invest in major infrastructural water projects so that water is available.

Non-availability of water is a big issue because it leads to water shortages and interruption of water supply. Unless you have the commodity in place, the companies that are in place can do nothing. You cannot sell what is not there. In terms of provision of water and major infrastructural projects, water supply is not available in the country. This

investment must be done as a matter of priority more so at the national and county governments. This must be prioritized.

While the Committee is looking at this Petition, I think the issue of water supply, provision in this country and water sewerage services must be considered as a matter of high priority.

I thank you.

**The Speaker** (Hon. Lusaka): Hon. Senators, Standing Orders No.232(1) requires a Petition to be referred to the relevant standing Committee. In this case, I direct that the Petition be committed to the Standing Committee on Land, Environment and Natural Resources. In terms of Standing Order No.232(2) the Committee is required in not more than 60 calendar days from the time of reading the prayer to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

*(The Petition was committed to Standing Committee on  
Land, Environment and Natural Resources)*

I thank you.

The next Petition is by Sen. (Dr.) Musuruve.

UNFAIR DISMISSAL AND LACK OF COMPENSATION  
BY BROADWAYS BAKERY LIMITED

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me this chance to bring this Petition to the Floor of this House by one Daniel Matendechere to the republic of Kenya.

It reads as follows: -

“Petition to the Senate concerning unfair dismissal and lack of compensation by Broadways Bakery Limited.

I, the undersigned, Daniel Matendechere, a Kenyan citizen---

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

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

**Sen. (Dr.) Langat:** Mr. Speaker, Sir, I want to get clarification from the Senator in expression of her Petition. There are some words she has murmured that border between Cherargei. Could she clarify that so that we may get a gist of the meaning?

**The Speaker** (Hon. Lusaka): Senator, I am told you are murmuring. Can you pronounce the name?

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir. I am surprised that I am murmuring. Let me be audible.

Mr. Speaker, Sir, I rise on behalf of one Matendechere in the Republic of Kenya to give this Petition and all through the “I” connotes Daniel Matendechere, a citizen of this Republic.

Petition to the Senate concerning unfair dismissal and lack of compensation by Broadways Bakery Limited.

I, the undersigned Daniel Matendechere, a Kenyan citizen and resident of Kakamega County within the Republic of Kenya, ID No.24519785 hereby bring the following Petition to the Senate that on Thursday, April, 2018, 5.00 p.m. while on duty, I

was legally riding as a passenger in the company motor vehicle registration Number KCL 989S.

I was involved in a road accident along Sagana-Nyeri Highway in Makutano area. The accident left me with severe injuries that included blood loss as well as bone loss on the upper part of my leg. Upon public intervention I was rushed to Kerugoya County Hospital where I was admitted for four days.

At this facility I underwent a surgical procedure of large wounds. I was then transferred to Thika Level Five Hospital on 30<sup>th</sup> April, 2018, for treatment where I was again admitted for four days.

From there, my employer, Broadway Bakeries of contact-[broadway@africaonline.co.ke](mailto:broadway@africaonline.co.ke), 0720504309, P.O Box 25-01000, Thika, requested that I be transferred to Naidu Hospital on 4<sup>th</sup> May, 2018. While there, my wound was grafted with skin harvested from my abdominal region. I was admitted in the said hospital for three months and later discharged on 14<sup>th</sup> August, 2018, but I continued going for checkup for three weeks. On 29<sup>th</sup> December, 2018, my health deteriorated and I went to Kijabe AIC Mission Hospital where upon examination, the doctor recommended amputation of my leg below the knee.

Thereafter, I went for periodical checkup at the medical facility for six months. The accident left me with a physical disability that affected my mobility. This required that I use an artificial leg. With the help of my family and friends, I was able to raise the funds but my employer did not give any support. On 1<sup>st</sup> October, 2019, my employer, Broadways Company, reemployed me from transport section to wrapping section. With a freshly amputated and artificial leg, the change enhanced uncondusive environment for me to work because the section involved a lot of standing which inflicted a lot of pain on me.

The change of section was done in bad faith. While at the section, I was falsely accused of negligence of duty. I was served with a letter dated 5<sup>th</sup> October, 2020, from Bimal Shah, Company Director. On 16<sup>th</sup> November, 2020, I received a notice of termination and was later sacked after 14 days on 30<sup>th</sup> November, 2020, without compensation.

Upon my dismissal, I tirelessly made an effort to seek justice, but the management did not yield towards the same. After my termination, I engaged the National Council of Persons with Disabilities and they wrote to the two letters to the company. The reference numbers are-

- (a) 11<sup>th</sup> December, 2020, termination of employment of Daniel Matendechere Aura of NCPWD/P/527368.
- (b) On 19<sup>th</sup> January, 2021, reminder from the National Council of Persons with Disabilities.

They demanded to know why they had terminated my service without compensation.

The effort by the National Council of Persons with Disabilities to the company was futile and it never bore fruits. I was jobless and I could not afford to hire a lawyer. Therefore, any attempt on this case has never been mentioned in any court in Kenya.

My humble submission to my employer and my willingness to work was a sign of my cooperation to the company management for them to consider my compensation. However, to my rude shock, the Company Director, Mr. Bimal Shah, dismissed my request with a ridicule, '*enda kule nje, niko na pesa. Tutakutania huko.*' What else could

I do? I am a helpless poor Kenyan with disability and no job. I have made the best effort to have this matter addressed by the relevant authority of which all have proved unsuccessful. None of the issues in this Petition is pending in any court of law.

Wherefore, your humble petitioner prays that the Senate-

(1) By your able power and wisdom, compels Broadways Kenya to compensate me for the disability and unlawful termination.

Petition to the Senate by Daniel Matendechere concerning unfair dismissal and lack of compensation. Mr. Matendechere signed the Petition on 8<sup>th</sup> September, 2021. There are other people who have undersigned. We have Daniel Matendechere, Harrison Musonye, Rev. Kitanzi Eric and Rev. John Lugongo. They have included their identity card numbers. I have also countersigned because I am a Senator representing persons with disabilities in this Republic.

Mr. Speaker, Sir, I do not know if you will allow me to make my comments.

**The Speaker** (Hon. Lusaka): You cannot discuss the Petition. You have done your bit. Please, take your seat.

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

**Sen. (Prof.) Ekal:** Thank you, Mr. Speaker, Sir, for allowing me to comment on this Petition.

We need to appreciate the people who are disabled. A human being is not the body, but the brain. A disabled man cannot use certain parts of their bodies, but if their brains are okay, that means that they functional. Those people can go to school and even work. None of us asks to be disabled. A person can be disabled through an accident and there are those who are born disabled.

In a civilized society, it is imperative for all of us to make it possible for the disabled to live their lives comfortably. It is annoying to see that someone was dismissed from work because he became disabled. I expected the manager to make provisions for the man to continue working. He should have been put in a department where he can work.

How is a disabled man supposed to manage their lives? They are supposed to be supported by their community and society. Sacking them is inhuman. We do not expect that from citizens of this country. This country should be more civilized. We should accord the people who live with disabilities respect that they deserve as human beings. Places should be prepared for them to live and even be fed by the Government. People with disabilities are our citizens. People who get disabled through accidents should be facilitated by their employers in order for them to continue working.

I support this Petition. We do have people living with disabilities and we should do something to accommodate them.

**The Speaker** (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No. 232 (1), the Petition is committed to the Standing Committee on Labour and Social Welfare which is the relevant Standing Committee for its consideration.

*(The Petition was committed to the Standing Committee on Labour and Social Welfare)*



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

In considering the issues raised in the Petition, the Committee may undertake a comprehensive review of the laws pertaining to protection of workers in the private sector and propose suitable legislative proposals for consideration by the Senate.

I, thank you.

Next Order.

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

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

**Sen. Cheruiyot:** Mr. Speaker, Sir, I want to bring to your attention that our colleagues who are in Chamber via the online platform are complaining that they cannot hear what is going on in the Chamber. They need to be assisted.

**The Speaker** (Hon. Lusaka): Technical team, please work on that.

## PAPER LAID

### REPORT ON THE PERSONS WITH DISABILITIES AMENDMENT BILL (SENATE BILLS NO.29 OF 2021)

**Sen. Shiyonga:** Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, 16<sup>th</sup> September, 2021.

The Report of the Standing Committee on Labour and Social Welfare on the Persons with Disabilities Amendment Bill (Senate Bills No.29 of 2021).

*(Sen. Shiyonga laid the document on the Table)*

**The Speaker** (Hon. Lusaka): Next Order.

## STATEMENTS

### INCREASE IN FUEL PRICES IN THE COUNTRY

**Sen. (Eng.) Maina:** Thank you, Mr. Speaker, Sir. I rise to make a Statement regarding the matter that appeared yesterday in this House on the fuel crises we are facing in this country as Chairman of the Committee on Energy.

I am making this Statement on the substantial increase of fuel prices by the Energy and Petroleum Regulatory Authority (EPRA) recently. It is worth noting that the Cabinet Secretary in the Ministry made the Petroleum Levy Order, 2020, which was published in the *Kenya Gazette* on 10<sup>th</sup> July, 2020 and came into effect the same month.

The order sets out levies to be paid with respect to various petroleum fuels consumed in Kenya. These levies were to be paid into a fund created under the Act are to be used for the purpose set out in the Act. In addition, to serve as a stabilizing mechanism of local pump prices where the prices rise owing to various conditions.

This was after a lot of deliberations that we held with the Ministry regarding the issue of rising fuel prices.

**Sen. Cheruiyot:** On a point of order, Mr. Speaker, Sir. It is not my intention to interrupt my colleague, but it would be in order for him to inform us under which Standing Order he is raising the Statement. There is confusion. Is he responding to the Statement that was raised yesterday or making a personal Statement under Standing Order No.47 (1)? Let him inform us for the sake of clarity.

**The Speaker** (Hon. Lusaka): There is another point of order from Sen. Cherargei.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. You had directed that the CS of Energy and CS of Petroleum and Mining appear next week to answer comprehensively on the recent spike in fuel prices in Kenya. I thought that matter was settled there. We would have expected the Chairperson of the Committee on Energy to convene a meeting as agreed. You had directed that the Committee of the Whole should handle the matter on Tuesday.

I thought the issue could have been canvassed deeply and in a neater way on Tuesday. I appreciate the fact that the Chairperson has become efficient. As the one who raised the Statement, I would appreciate if we could have a thorough and deep conversation.

The issue of fuel is very emotive in this country. You have seen that some Kenyans have held public demonstrations---

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

**Sen. Cherargei:** Mr. Speaker, Sir, is the Chairperson of the Committee on Energy rising on a personal Statement under Standing Order No. 47(1) or 48(1) to respond to the Statement I had raised or what is it? Is he making a personal comment with your permission on Standing Order No. 1 under your discretion?

**The Speaker** (Hon. Lusaka): Sen. (Eng.) Maina, under what Standing Order are you making that Statement? I directed yesterday that we shall have you convene a meeting on Tuesday and the Whole House would attend. I hope you are not trying to preempt what will be discussed on Tuesday.

**Sen. (Eng.) Maina:** Mr. Speaker, Sir, nobody should have imagined that after your ruling yesterday somebody somewhere would go and connive a different act. The question as to whether the Statement I am reading will in any way impair your order does not arise as far as I am concerned. Your order is supreme. I am only giving this House some insight which will help on Tuesday when we meet.

**The Speaker** (Hon. Lusaka): Sen. (Eng.) Maina, I think there is no such procedure. I wish to guide you.

**Sen. (Eng.) Maina:** Mr. Speaker, Sir, I am standing under Standing Order No.1, where you have your own discretion that I can make some good comments and give some information to this House which will help them to be better prepared for Tuesday.

**The Speaker** (Hon. Lusaka): It is the Speaker to give you the discretion. I use my discretion Under Standing Order No. 1 to allow you to make the Statement, but please be brief.

**Sen. (Eng.) Maina:** Mr. Speaker, Sir, I must be clear that I am in no way trying to deviate from your ruling. It would be better to listen to this matter and keep politics aside for now. This Committee has worked tirelessly trying to curtail fuel increases.

From March to date, there has been no fuel increase because this Committee persistently kept telling the CS that Kenyans cannot afford any more increase in fuel prices.

I might also Table the Price Control Act which was signed by former President Kibaki in his regime. I brought this Act so that the House can see it. We can actualize it. It was about essential commodities such as maize, maize flour, wheat, wheat flour, rice, cooking fat, oil, sugar, kerosene, diesel and petrol.

In the year 2010 when I was in Parliament, I brought a personal Act that is existing. If this Government so wishes, it can invoke this Act which was signed by former President Kibaki.

These fuel prices have nothing to do with my Committee. We have gone hoarse trying to tell them that Kenyans cannot afford any increase in fuel prices. It is not only fuel prices. When you continue taxing a country---

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

**Sen. Cherargei:** Mr. Speaker, Sir, have you heard Sen. (Eng.) Maina - it should be expunged from the HANSARD - saying that the Statement does not concern his Committee.

Yesterday you ordered his Committee to handle the Statement. Who should handle the Statement? I think it should be expunged from record so that we do not mislead the public. Kenyans are watching. They will be worried when the Chair of the Committee on Energy, which is supposed to assist us on the issue of fuel prices, is telling the country that it is not the concern of his Committee. I request him to clarify because it is the work of his Committee.

**Sen. (Eng.) Maina:** Mr. Speaker, Sir, I have not envisaged or said that this Committee is not part of the problem that we are facing or that it will not handle the problem. No Member should imagine that.

Mr. Speaker, Sir, as I said, we have an Act. Therefore, I beseech this House to put pressure for this Act to be effected so that we save Kenyans from high prices.

I caution that if we continue to tax Kenyans, it will not yield any good results. It is like milking a cow which is already under-fed and finally when it dies, there is nothing to milk. That is the situation Kenyans are facing.

We will adjudicate on the issue of fuel prices on Tuesday. I urge Members to come with an open mind. Let us all join hands and see what we can do.

You must also remember that this House has no authority or powers to deal with taxation. That matters lies with Parliament.

**The Speaker** (Hon. Lusaka): Do you mean the National Assembly?

**Sen. (Eng.) Maina:** Yes, Mr. Speaker, Sir. I meant the National Assembly. You are always ahead.

**Sen. Olekina:** On a point of order, Sen. Olekina?

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

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I do not intend to disrupt my Chairman. However, he has brought an interesting perspective of the Price Control Act yet we know very well that the problem is with taxation. This is because the fuel lands here at Kshs60. Hypothetically, even if the fuel price was to land here with no cost, people will still pay Kshs70 or 75, which, about 80 per cent of that is taxes, Kshs12 is

margin for the oil marketers and then Kshs3.5 is the cost of transporting it through the pipeline.

Mr. Speaker, Sir, with your guidance, you can direct this House. This is because the distinguished Senator for Nyeri has brought an interesting perspective.

I have listened to him list down the essential commodities which include petrol and diesel. How do we deal with that issue? Do we pass certain legislations and put them in the shelves or implement them? What do we do?

There is also the argument of the Petroleum Levy Fund which is an issue because we do not have regulations.

What the Chairperson is saying is true. I am a Member of that Committee. We have held Energy and Petroleum Regulatory Authority (EPRA) from increasing the prices.

So, I seek your indulgence on this matter, particularly on the Act that the distinguished Senator is planning to table to this House. I heard him say that he will table the Price Control Act. How will that fit in?

This is a House of records. We need to understand that there are taxes which amount to around Kshs58. Do we waive all the taxes so that we can comply and make it easy of Kenyans? Do we have that power? If you direct us on that, it will help us.

**The Speaker** (Hon. Lusaka): I want us to wind-up because we have a whole session on Tuesday. Wind-up, Sen. (Eng.) Maina. Let us not hold brief for the Ministry. They will come to defend themselves.

**Sen. (Eng.) Maina:** Thank you, Mr. Speaker, Sir. I am winding-up. However, I hope that this House is now well informed. We now know that the Act is there. We should look into it to see how to help Kenyans. This Act was signed by *Mzee* Kibaki.

Our Committee has done a lot in trying to lower and stabilize the price of fuel. Once again, I must remind this House that taxation is a major issue as the CS keeps telling us. However, the powers are in the National Assembly.

So, you may coordinate with your colleague in the National Assembly and see how we can bring some parity. Otherwise, I feel for Kenyans not just for today, but I have felt for them all my life. That is why I brought this Act.

It was not easy. I faced a lot of pressure from the World Bank, International Monetary Fund (IMF) and other people within the Government, but I pushed and will table it here. Therefore, I wish to end there.

I beseech Members to come up with their wisdom on Tuesday and not rhetoric.

*(Laughter)*

DECISION BY NHIF TO DENY COVER TO COVID-19 PATIENTS  
ADMITTED IN NON-DESIGNATED HEALTH FACILITIES

**Sen. (Dr.) Langat:** Mr. Speaker, Sir, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Health regarding the crisis caused by the decision by the National Hospital Insurance Fund (NHIF) to deny cover to COVID-19 patients admitted in private hospitals in the country.

In the Statement, the Committee should-

(1) Explain the reasons for NHIF refusal to cover patients admitted to private hospitals with COVID-19 and yet the Fund continues to receive monthly contributions from such patients;

(2) State the recourse available for members and their beneficiaries in the event of death given that private hospitals usually refuse to release bodies of the deceased patients from nonpayment of enormous bills leading to untold psychological, economic and social suffering; and,

(3) Outline the measures the Ministry of Health has put in place, if any, to increase the capacity of public health facilities to cope with ever increasing number of COVID-19 patients.

**Sen. (Prof.) Ekal:** Thank you, Mr. Speaker, Sir, for giving me a chance to comment on this. This Statement is like the one we had about somebody that was disabled and pushed out of his work. When a person has COVID-19, it is like a death sentence. So, if NHIF cannot pay, especially if the people are contributing, it is like telling them to accept to die because there is no money.

In a civilized country like Kenya, people should be given immediate medication and asked to pay later. This is because COVID-19 is a death sentence. It is something that can kill a person if there no medication. I feel so bad to hear that people were pushed out of hospital because they cannot pay.

Mr. Speaker, Sir, relatives of that person will be in total shock, especially because many of our people are poor. When they go to hospitals, they expect that the NHIF will help them, only to be told that they have to produce the money. Surely, were will people get such money?

Also, there is a provision in hospitals that says that whenever somebody dies, their bodies cannot be released for burial unless the relatives pay money to get them out. How do you hold a dead person, especially one that died of the COVID-19, just because people cannot pay? Is there not a way that people could be held responsible and given the body of their dead person to go and bury? It is so inhumane that somebody is dead and then the body is held because you can pay. What kind of humanity is that?

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Next Statement by Sen. Omanga. I do not see her. It is deferred.

#### ALLEGED SHOOTING AND DEATH OF MR. ALEX MACHARIA

*(Statement deferred)*

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Lelegwe.

#### UNFAIR TREATMENT OF MEMBERS OF THE SAMBURU COMMUNITY LIVING IN LAIKIPIA

**Sen. (Dr.) Lelegwe:** Mr. Speaker, Sir, I rise, pursuant to Standing Order 48 (1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the unfair treatment of members of the Samburu Community

living in Laikipia and the malicious killing of their livestock by security forces in the ongoing security operation in Laikipia County.

In the Statement, the Committee should-

(1) Outline the measures the Ministry of Interior and Coordination of National Government has put in place, if any, to establish *bona fide* land owners who hail from other communities, including the Samburu, with a view to shielding them from unfair eviction and victimization in the ongoing security operation in Laikipia County.

(2) Investigate reports that security personnel were involved in the killing of 37 head of cattle, and injury of five others, belonging to Mr. Leshalote, a resident and land owner in Laikipia County for the last 35 years on 9<sup>th</sup> September, 2021. This incident was reported in Rumuruti Police Station under OB 40/13/09/2021.

(3) Investigate the killing of more than 5,000 livestock belonging to the Samburu Community by security forces between 2016 to date.

(4) State the measures the Ministry has put in place to compensate Mr. Leshalote and all other victims, whose animals have been killed by security agencies in the pretext of evicting illegal herders in Laikipia.

(5) State the measures put in place to compel the Ministry of Interior and Coordination of National Government and the Inspector-General of Police to stop the killing of livestock in Laikipia.

(6) Explain measures put in place by the Government in providing water, pasture and allocating alternative grazing land for the pastoralists who have been affected by the current drought situation in Laikipia, including being allowed to graze at the Agricultural Development Corporation (ADC) Mutara Ranch, Laikipia County.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Olekina.

**Sen. Olekina:** Mr. Speaker, Sir, thank you for allowing me to make some very brief, but sensitive comments on this matter of Laikipia. We know what is currently happening on the ground. There is a lot of conflict. Ever since I was growing up, there were very serious conflicts in that area and the Government has never won when it uses a gun to try to bring sanity on the ground. To date, the Government has never won the conflict in the Suguta Valley.

I think a month ago, I brought in a Statement to the same Committee on National Security, Defence and Foreign Relations on the issue of Laikipia. Today, my colleague, Sen. (Dr.) Lelegwe from Samburu, whose people are being affected, has brought a similar Statement. Last year, I brought a statement specifically relating to the issue of cows being killed. This House has got to take a very serious approach to dealing with the issue of conflict in Laikipia.

I was saddened last week when I heard a few Members of Parliament (MPs) going out there calling for the arrest of Sen. Olekina because he said that what is happening in Laikipia is evil. The Maasai are not the only people in Laikipia. We have Maasais, Samburus, Kikuyus, Kisiis, Kalenjins, Pokots; literally the 44 ethnic groups that live in Kenya, including the white settlers.

Mr. Speaker, Sir, the action of the current Government, particularly the Ministry of Interior and Coordination of National Government makes those settlers look more like philanthropists. When you go back into the history of Laikipia, when they came, back in 1904, our people were moved to the reserve in the southern part. The few people who

remained on the borderline, what we call Laikipia, including even the family of the former Speaker, Hon. Ole Kaparo, ended up living in the area. Some decided to become part of the settlers.

I was really in pain last week when I heard the former Speaker saying that people should not be discussing what is happening in Laikipia, when our own families are there. When I was a boy, I used to live in Rumuruti. We have families in Laikipia. I am not saying that all of us are saints, because some of us decided to grab so much land.

Some people there, including the former Speaker, Hon. Ole Kaparo, own over 100,000 acres of land. That person will not feel the pain of a poor person who has their cows and all they want is pasture. When the Pokot come there, the only thing that they know is to get their cows to feed on grass.

Mr. Speaker, Sir, what we are doing to pastoralists in this country is evil. I think that it is about time that we should start seeing the problem that our people are facing and we diligently and maturely resolve their problems. If we continue being afraid of what the British or the colonial masters, who were there before and grabbed all the land will say, our people will continue suffering.

We are in this House, which I call the House of union, to unite the entire country. When Sen. Olekina speaks here, it is because he feels pain because not only is a Maasai child is being beaten on the streets, but also a Kikuyu or Rendile child.

Mr. Speaker Sir, I really beseech you. We continue coming here to issue Statements, and yet the Committee on National Security, Defence and Foreign Relations is not doing anything. It is not doing an iota of a thing.

*(Applause)*

It is about time that we divorce interests and think about the future of this nation. This nation will not develop if we do not become our brother's keepers. We are not our brother's keepers here. We are our interest keepers. That is what we are.

What is happening in Laikipia could easily spread to other parts of this country. Land is a very emotive matter. When we talk about cows being killed, this is what made me who I am. My parents sold cows. They kept cows to take me to school. The same goes for about 90 per cent of people who are in this House today.

When I look around, I see my friend, Sen. (Eng.) Mahamud. He is a pastoralist. They have cows and camels. That is what they depend on.

If we are guided by interests and we forget the real interest of our people, if everything becomes about money and interest then there is no point of us being here and lying to Kenyans that we are here to represent their interests.

Mr. Speaker, Sir, I hope that this time with this Statement that has been raised by my colleague, Sen. Lelegwe, action will be taken by this House. Kenyans have come to perceive the Senate as the House of reason; the Senate as the House that saves this country during crisis. Last year, our marks were all the way up there because we were able to divide resources evenly around this country. However, now when we have a crisis that deals with humanity, the life of those people in Laikipia County--- They do not have land to grow crops.

How do you feel when your neighbour has got 300,000 acres of land and you have nothing? It is ridiculous. We need to start thinking like that farmer who has got the

best seed and wants to share that seed with the neighbour when the neighbour does not have good seed because if that neighbour does not get that good seed because of pollination, even his own crop which is number one will rot.

What is happening in this country this time around must come to an end. The time that the good Lord has given us to be in this world, we must be here and we must be counted as the House that came in and solved the problem in Laikipia.

Those who remain on the border and those who encroach in that area should be given their title deeds. It appears it is only the likes of Kuki Gallmann, the rich or the royal families in the United Kingdom who are given land and when anyone talks about land in Laikipia they become a target. What does that make this country? It makes the Government more colonial the former colonial masters who maintained all that land.

Mr. Speaker, Sir, when you submit this Statement to the Committee on National Security, Defence and Foreign Relations just like the way we cried about the issue of fuel prices in this country, let us not just leave this matter to the Committee on National Security, Defence and Foreign Relations. For once let us make it a full House committee so that when we leave here, the people who elect us to this House and expect us to represent them, can see that we are doing something.

I support the Statement fully and I hope that this time, this Senate will be able to bring the change.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir, for this opportunity. I want to support this Statement by our colleague, Sen. Lelegwe. There comes a time when as a House and as a legislature we must divorce ourselves from all interests, all politics, all affiliations that we may have and just do the right thing.

This is one such instance where as a House we are being invited to solve a crisis that has persisted for so many years yet by God's design this matter has come before this House this afternoon. When I saw the pictures of what our colleague is referring to, innocent cattle that have been burnt beyond recognition; some have been shot, what does that make me feel as a leader?

When we came into this House, standing next to where you are seated right now, we took an oath of office and said we are going to protect and defend our Constitution. Under the Bill of rights, under national values in Cap.10 of our Constitution, the rule of law is properly defined and what we are supposed to do in such instances.

I am afraid that it has reached a point in this country where there are certain people, Cabinet Secretaries, the Inspector-General of Police, who as long as they are known to be pursuing certain partisan political interests, then they are considered to be above the law; that they can never be questioned by anyone.

That is the unfortunate tragedy that I want to call upon this House to rise above those petty partisan politics for the interest of the rule of law in this country.

Mr. Speaker, Sir, we are shuttling down a very dangerous trajectory. You may sit here and think that those people can just randomly shoot cattle, but they cannot shoot you. I want to tell this House that to these people some of us do not have any value, forget about those cows. They look at you and they can easily kill you. It is really unfortunate.

I understand where Sen. Olekina is coming from when he says some of us no longer have faith in some Committees of this House. I mentioned this yesterday and I will repeat it today that as a House we must rise above partisan politics. We must toe-the-line.



Even if some of us sit in some of the lounges of these Cabinet Secretaries seeking for favours here and there, we must separate that when it comes to the work of this House.

How comes so many weeks after these pastoralists have been killed, people have been displaced, that Committee has not found time to deal with the issue? A few weeks ago, the Committee on Security of the National Assembly spent a whole four hours on national television discussing the security of the Deputy President as if that is something that is important.

If you found that to be important, surely why can you not find time to appear before Parliament and discuss the lives of these pastoralists that are being killed? We must be serious. We must rise as leaders and do that which is right for this country.

I want the Inspector-General of Police to sit before this House so that I can ask him, what is his understanding of Article 245? I am sorry to say this, but approved him. Mr. Mutyambai is behaving like a puppet on a string. All he does is just to follow around the Cabinet Secretary for Interior and Coordination of National Government. In fact, when he appeared before Parliament he was not even the one answering questions.

If that Committee of the National Assembly had intelligent people, the one question they should have asked is that constitutionally Article 205 states that the IG of Police is supposed to exercise independent command of the police. The only relation he has with the CS for Interior and Coordination of National Government is to write to him and that instruction must be in writing and only on matters of policy. It cannot be about directing how he does his job.

Therefore, we need to be told who gave this command for:

1. People to burn cattle.
2. People to kill these animals
3. People to kill other human beings.

These excesses of the Executive have got into these people's heads such that they no longer have even regard for Parliament. They said that, that is an operation zone that even Parliament cannot go there. Have you ever heard of something like that? I am sure even Sen. Orenge who has been in this House longer than all of us in his entire life has never heard anything of the sort that the police can tell Parliament not to feature in any particular place.

Even in war, there are rules of war. These are not the kind of hearings that I want to be done here. All of us should troop to Laikipia and have a sitting there so that those people can speak and share their challenges with us.

In any case, this good salary that you are paid; these nice suits that you are wearing are paid for by taxpayers, those people of Laikipia. So, what is so difficult in us going to that particular part of the country and listening to their problems?

Mr. Speaker, Sir, I want to plead with you that at least grant us an opportunity because just saying casually that this matter is referred to the Committee on National Security, Defence and Foreign Relations, all of us know what will happen. We have seen those things; they have appeared before us and that matter is swiftly swept under the carpet.

This is the danger of going to bed with the Executive. When the CS for Interior appeared before the National Assembly Committee, at the same time it was being reported that a Member of this House was collecting signatures to invite him. He said: "Security has nothing to do with the Senate, those are idlers". He said it on record; go to

the HANSARD of the National Assembly. He said they have no business with this House. This is because he knows in any case when they appear before us, we are struggling for photo opportunities with them. Can we be serious as a House?

I want to plead for the life of us, for the time that is left, the 10 months, let us do justice and be the House that for once and for all resolves this issue of Laikipia so that we will be remembered as an institution that---

**Sen. Linturi:** On a point of information, Mr. Speaker, Sir.

**Sen. Cheruiyot:** I do not mind to be informed by Sen. Linturi:

**Sen. Linturi:** Mr. Speaker, Sir, I have listened to my good brother Sen. Cheruiyot and I can see his body demeanor, very passionate about the issues in Laikipia just like anybody else that has spoken here. What I want to inform him is that, first I must confess that I am a Member of the Committee on National Security, Defence and Foreign Relations.

Most of the Committees of Parliament are impotent. We are not doing anything in those Committees. We were supposed to meet the security leadership teams in this country yesterday and today. Committees schedule meetings just for the chairpersons to postpone them without consultations. We do not know the deals that are being cut behind the scenes, and some of us are left waiting. We must be serious with what we want to do, as a Parliament. The oversight authority of this House has been taken from us and that could be as a result of having leaders who were nominated by the Executive. There is a reason we have to ask ourselves if we are serving the interest of Kenyans. I feel that we are not doing so.

The Committee on National Security, Defence and Foreign Relations has a trip to the United States of America. Last time, the leadership of this House approved the travel of the some Members of that Committee to the United States of America, and you have approved another trip. There has been no consultation. That Committee has had no leadership since the departure of Sen. Haji. You need to give us direction.

**Sen. Cheruiyot:** Mr. Speaker, Sir, you have heard that. I earlier raised an issue regarding that particular Committee. Those are the matters that I wanted brought to your attention. The Committee is globetrotting, yet it cannot find time to solve issues in Laikipia.

I saw Sen. Wamatangi and the Senate Deputy Majority Leader, Sen. Dullo, bring out a list, trying to manage Committees. Instead of doing that, they should manage the Committee on National Security, Defence and Foreign Relations. That is the Committee that they should be dealing with. They should not amend the other Committees.

The Committee on National Security, Defence and Foreign Relations has not had a leader since the departure of our colleague. As a measure of concern, you should cancel their trip to the United States of America and ask them to go to Laikipia. In any case, Texas is more or less similar to Laikipia. People should learn their lessons.

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

**The Speaker** (Hon. Lusaka): Order, Sen. Cheruiyot.

**Sen. Cheruiyot:** Mr. Speaker, Sir, why is the Senate Deputy Majority Leader interrupting me?

**The Speaker** (Hon. Lusaka): Is there a point of order?

**Sen. Dullo:** Yes, Mr. Speaker, Sir.

*(Sen. Murkomen spoke off record)*

**Sen. Cheruiyot:** Does she want to say that she is not in charge? We left her in charge. Who did she surrender the leadership to?

**The Speaker** (Hon. Lusaka): Do not speak for her.

**Sen. Dullo:** Mr. Speaker, Sir, is Sen. Cheruiyot in order to stand on the Floor of this House and say that Sen. Dullo and Sen. Wamatangi are micromanaging the Committee list, yet this list was developed by the leadership of this House? The list was then taken to the Committee of the House and they approved it. That list was later tabled in this House.

**Sen. Cheruiyot:** Mr. Speaker, Sir, I said that Sen. Dullo brought a list yesterday with the intention of amending the membership of the Committee. She cannot deny that. I have asked her not to waste her energy managing Committees that are working. The Committee that needs to be disbanded and sent home is the Committee on National Security, Defence and Foreign Relations.

I can read the mood of the House. I can quickly bring up a Motion that we disband that Committee before we finish discussing this Statement. No Member in this House has faith in that Committee. I can even add a second part to the Motion that 'stop them from globetrotting to the United States of America before they give attention to Laikipia.'

**The Speaker** (Hon. Lusaka): Order, Senators. Let me make this clear.

*(Sen. Cheruiyot remained standing in his place)*

Sen. Cheruiyot, take your seat.

Hon. Senators, as a Speaker, I have tried my level best to resist micromanaging Committees. I do not want to do that. I have given the Committees a leeway. When you bring names for approval for any trip, my assumption is that the decision has been reached by reasonable people, the distinguished Senators.

I always believe that you consult before you reach certain agreements. I do not want to add, remove or micromanage the Committees. My assumption is that anything that comes before me has been thoroughly thought about and the Members are going to do business on behalf of the Senate. Do not drag me into this. I do not want to go that direction.

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

**The Speaker** (Hon. Lusaka): Sen. Wamatangi, what is your point of order?

**Sen. Wamatangi:** Mr. Speaker, Sir, I appreciate the discussion that is going on. I want to acknowledge that the matter that has been brought here by Sen. (Dr.) Lelegwe, Senator for Samburu County, is a very important Statement. It is a matter of national importance. I do agree that no Kenyan life should be taken for granted. Those are pertinent issues.

We do have a Standing Order that addresses the issue of irrelevance. With your indulgence, can you guide the House for us not to introduce matters outside what is in the debate, that could either be a Petition or a Statement? Most of us are resisting to speak other things because we want Sen. (Dr.) Lelegwe to achieve what he wants with this Statement.

If we continue with this flow, we will end up with a political and personalized discussion. People will even start calling each other names. The discussion has now degenerated into relationships in the Committees. Once we are done with the Committee on National Security, Defence and Foreign Relations, someone will come up with another Committee.

We will move the Motion on the Membership of the Committees and any Member who has an issue can raise it then. We have consulted widely. As the leadership and the Members of this House, we want the Business of this House to continue.

Allow me to remind Sen. Cheruiyot that he is a Commissioner. He should be one of the people setting the standards very high in this House for the Business of this House to be respected. Can he be relevant?

*(Sen. Cheruiyot spoke off record)*

**The Speaker** (Hon. Lusaka): Order, Sen. Cheruiyot.

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

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

**Sen. Outa**: Mr. Speaker, Sir, is Sen. Cheruiyot in order---

Mr. Speaker, Sir, can you hear me?

**The Speaker** (Hon. Lusaka): We can hear you.

**Sen. Outa**: Mr. Speaker, Sir, is Sen. Cheruiyot in order to claim that the Committee has never been in Laikipia, yet the entire Committee was in Laikipia?

*(Sen. Outa's video was off)*

**The Speaker** (Hon. Lusaka): We cannot see you? Can you put on your video?

**Sen. Outa**: He is bringing politics in the security of this nation. He should talk of something else. He should not talk about the Committee on National Security, Defence and Foreign Relations---

**The Speaker** (Hon. Lusaka): Sen. Outa, put on your video.

**Sen. Outa**: He should not bring politics in the House. Instead, he should allow the Statements to come before the Committee as per the Standing Orders. If he wants to do politics, then we are ready to do politics with him.

**The Speaker** (Hon. Lusaka): Sen. Outa, put on your video.

**Sen. Outa**: Mr. Speaker, Sir, my video is on.

*(Sen. Outa switched on his video)*

**The Speaker** (Hon. Lusaka): Okay, we can see you now.  
Proceed.

**Sen. Outa**: Mr. Speaker, Sir, we do not want to bring politics in the matter of security. The Committee on National Security, Defence and Foreign Relations was in Laikipia on Monday.

We had three meetings in different areas. We met with the public and got a hearing from them, and we are resolving their problems.

Somebody wants to bring politics that the Committee is sleeping on the job and travelling all over the world, yet we are doing our work. We responded according to the Statement brought to the House by the Senator of Laikipia.

What is he telling Kenyans about other Committees? He is also in another Committee. When they want to point a finger on how we deal with our Committee, then we will be ready to point fingers at their Committee. He cannot go that direction. We need to be sober and allow the security team to do their job.

What we have gathered is enough. He should await the report from this Committee in due time, but not bring politics in the matter of security.

**The Speaker** (Hon. Lusaka): Order Senators. I am aware that the Committee went to Laikipia--- What is the information Sen.(Dr.) Lelegwe?

**Sen. (Dr.) Lelegwe:** Thank you, Mr. Speaker, Sir. I want inform the Chair of the Committee who visited Laikipia to solve issues of farmers and pastoralists who are grazing in Laikipia County. Yes, last week, they were on the ground and did some meetings.

However, they did not meet all the pastoralists. They only met with a few members of the community. The livestock farmers whose livestock were killed by the security forces were not given a chance by the Committee. I suspect it will table a report that is biased---

**The Speaker** (Hon. Lusaka): Order, Sen. (Dr.) Lelegwe. Do not anticipate a report. First of all, you said they did not go there. Now, it is turning out that they went. Distinguished Senators, let us be honourable and respect our Committees. The moment you start casting aspersions on any Committee, it is going to spread to other Committees. It will be impossible for any Committee to operate.

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I am a Member of the Committee on National Security, Defence and Foreign Relations. It will be unfair if I do not say something here. On the prompting by the Senator of Laikipia last week, a Statement was brought here. Based on what he brought before the Senate, you referred the matter to us.

On Monday, we went there to deal with the matter he raised. We went to the areas he mentioned in this Statement. Our colleague is raising another matter. We will deal with this again because we went there specifically on the matters raised by Sen. Kinyua. In fact, we found many things happening in that place.

This is also a very serious matter. It is the other side of it because it was the farmers on that side, and now it is the pastoralists on this side. Let us be objective and not condemn the Committee.

Much as maybe Committees in this House are not working as people are saying, for this matter, we were there and did a good job and a report is coming. Now, I see the Committee is being disbanded by the Chair, where I am being removed. I will come to that later, but I think we did a good job.

Whatever we did should not be contradictory to what we are doing now. When I heard this, I saw the other side of it. Initially, pastoralists from Baringo were being accused of stealing animals and killing farmers. On the other side, pastoralists are being fought by farmers and evicted from their land. As a House, we need to balance without taking sides. It is not an issue of one community against another.

The Committee should also not be unduly condemned. It would be unfair if I sit here and watch because my good friends, Sen. Wetangula and Sen. Outa, are not here. I

have been in many Committees, including this one. I think the changes we are trying to make in the Committee will make it worse anyway. For now, I think we are okay.

**Sen. Shiyonga:** I wish to echo the sentiments of Sen. (Eng.) Mahamud. This is a different Statement from the one that Sen. Kinyua brought. The Committee members are handing the issues as they come. If they have already handled the issue in Laikipia and another Statement has been brought today, let them also arrange and deal with it accordingly.

Let us not point fingers, dismantle each other or wash dirty linen in public. People are listening to us and we know how we handle our issues according to the Standing Orders.

I know that we are politicians who can talk for our people. It can help to solve the issues in the Committees if we tame ourselves to the point where we can handle our issues in a more respectful way.

**The Senate Minority Leader** (Sen. Orengo): Thank you, Mr. Speaker, Sir, for giving me this chance. I think the issues being raised by the Senator of Samburu are very serious. I am very much concerned that instead of discussing the issue, we are discussing the Committee. This is a great disservice to the people of Laikipia.

In fact, the problem in Laikipia is so serious that I would have thought that given this opportunity, we would not be talking about ourselves. We should be talking about what is taking place in Laikipia.

*(Applause)*

The problem is so serious because it is not happening for the first time. It has been persistent to the extent that the Committee and the Senate as a whole should determine the root causes of the problems in Laikipia.

This is my problem, which, in fact, I think it is the entire triangle. There is a great provision in the Constitution – and this I am talking to the security forces - that in carrying out their activities, they must do it in accordance with the Bill of Rights. The police and security have no basis for violating the Bill of Rights on the basis of carrying out a security operation.

That is the time when a good government is distinguished from a bad one. Even in war, it should be respecting human rights. I am so scared that in carrying out this security operation, property is still being destroyed. Is that compliance with the Constitution? People and animals are being killed.

This problem in Laikipia is not about the Senate because we know where those responsibilities lie. A Committee of this Senate and the Senate cannot carry out a war or go there to fight in defense of the Nation. There are proper institutions that are answerable. I am seeking an answer because the problem of Laikipia is not coming up today.

If in this crescent of Baringo, Samburu and Laikipia over the years--- It is not a matter of this thing happening this month or for the last two months. For the last 20 years, the problems have persisted in Laikipia. Are we using the appropriate tools? Sometimes guns do not work. You can go there with tanks and guns. Even the Americans with best war machines in the world have known that and left Afghanistan.

I advise the Government that in carrying out the security operation in Laikipia, they must talk to the people there, find out and make them players in trying to resolve

that problem. They should resolve it once and for all. If we cannot resolve an internal security situation, what about if we are under attack from our neighbours?

One of the things we must look into is the Government to be accountable for what is happening in Laikipia. There is always a convenience, as they have said in Laikipia, that it is politicians who are causing the problem. That is an excuse. It could be the administration. Why always politicians? No single politician has been arrested and convicted for carrying out those activities in Laikipia.

*(Applause)*

We are always available for arrest when they want to arrest politicians. In Laikipia, they have said many times. Even this time, they are saying that it is the politicians.

It is not the politicians, but real security situation. There are international best practices models to deal with this kind of security situation and the kinds of instruments and tools to use. Therefore, I hope that the Senate will look at where the responsibilities lie. My position is that the Government of the day must be accountable to the people.

How would poor Sen. Outa resolve the problem in Laikipia?

*(Laughter)*

If Senators cannot get their allowances together, how will he resolve the problem in Laikipia? You are asking for the impossible. It is the institutions in place that must be brought to book by the Senate. There is never a war situation where elected leaders cannot go. In Iraq and Afghanistan, we have seen legislators going to the warfront together with journalists.

For example, Sen. Coons was sent by President Biden to monitor the situation in Tigray, but here we are barring politicians. How can we ensure the country that the security forces are being accountable to the people of Kenya if we are not allowed to go there? We can observe the protocols as we always do.

I plead with this Senate. Sen. Cheruiyot, you are bringing valid points, but it might make us forget. In fact, somebody sent me a message as you were speaking that it looks like it is us who are beginning to blame ourselves for something that does not belong here. It only belongs here on the basis that we should bring those people to account.

Mr. Speaker, Sir, on the situation in Laikipia, I hope that you will not back down. If these people are required to come here, let us make a decision in full House with all the CSs and the Inspector-General. If they cannot come, we will draw conclusions.

They should be prepared to run this nation in accordance with the Constitution, which says how it should be run and that CSs are accountable to us. They can be summoned anytime. Therefore, any CS that does not want to come to the Senate is in violation of the Constitution of the Republic of Kenya and they should not tell the people of Kenya how Kenya should be ruled. They should take lessons or be taken to the many places we go to.

When we see good things happening in other places, we send statements congratulating them. However, we do not want to apply the same standards in the country.

Lastly, this country is at a critical stage. I know that politics is always attractive. However, if it does not have rules, even if you have a Messi in the team, and there are five balls, he has not learnt how to play a football match using five balls. There must be only one ball.

In this 10 months, we can destroy or change a lot of things. If we are for destruction, woe unto us. I am asking those who are wielding executive power to think and reflect seriously. You can bring down a house in 10 minutes, but building it will take 100 years. Therefore, let us listen to all of us. We are all Kenyans. Let us apply the rules of the game.

Mr. Speaker, Sir, I plead with you that what Sen. (Dr.) Lelegwe has brought before the House should be dealt with urgently. The CS should come here earliest the middle of next week. The Committee will bring its report, so that we can deal with the same issues on debate after the CSs come here to tell us what they are doing in Laikipia.

If need be, you can think about another visit to Laikipia, by not only the Committee on National Security and Foreign Relations, but whoever the House thinks should be there. I remember one time when we had a sitting in Uasin Gishu County, the people there were happy that a full platoon of Senators were there trying to deal with their problem on the maize issue. It was not just a Committee, but many Members who were ready and willing. If all of you are ready and willing to go to Laikipia, so be it.

**Sen. Kavindu Muthama:** Mr. Speaker, Sir, I thank the Senator for Laikipia for this important Statement. We must be sensitive to what is happening to the people in Laikipia. We need to protect their lives and those of their livestock.

This conflict is a result of land issues. That is why people are having insecurity issues. This is not only happening in Laikipia. In Machakos County, there is an issue with the Portland people who had leased land. After leasing it, they took a loan and now the title deed of the land has been given to a bank, which now wants to sell it. The indigenous people have nowhere to go and are facing the same issues as the people in Laikipia.

This issue of Laikipia and any other area in the country must be solved once and for all. The Government must see what they must do. How can people live in fear in their own country and have sleepless nights, not knowing what time bandits will come to chase them out of their houses? I congratulate the Senator.

Therefore, the Committee concerned, the Senate as a whole and the Government of Kenya, must take action and resolve all these land issues once and for all, for example, in Portland, in Machakos, Turkana and Laikipia.

I support.

**The Speaker** (Hon. Lusaka): Sen. (Prof.) Ekal.

**Sen. (Prof.) Ekal:** Thank you, Mr. Speaker, Sir. As far as the issue of Laikipia is concerned, the Committee is doing its best. I want to explain the fact that a third of this county is occupied by pastoralists. Pastoralists are livestock farmers. That is their livelihood. Therefore, pastoralists have a lot of respect for their animals. They are ready to defend those animals with their lives. In Laikipia County, people have fenced their land and there are many pastoralists.



Every time Sen. Olekina speaks about Laikipia matters, he is fond of talking about the Maasai and Samburu, but he forgets that the Turkana people live there too. They keep livestock and are also treated like other communities by the Government.

Mr. Speaker, Sir, last time 3,000 cattle were killed. Some Turkana people were killed and they had a number of cattle. As I speak, Mr. Joseph Ing'olanyi was killed and he is a Turkana. Ing'olanyi is a Turkana name. Turkana cattle and people were also gunned down and killed. This is a problem that affects us all, as pastoralists, not only particular communities as alleged by Sen. Olekina. It is not only the Samburus and Pokots who were affected, but even Turkanas were killed and lost their animals.

I strongly condemn what the military is doing in Laikipia County. They are killing our animals. Cattle are so dear to Samburus, Turkanas and Maasais. Therefore, for the military to kill 5,000 cattle is not right. It is very painful to pastoralists.

The same thing happened in Uganda when Turkanas went to Uganda to look for grass and water. Their cattle were stolen by Ugandans and they had to go for them, but the Ugandan army took those cows. To date, we do not know what happened to our animals. The Uganda Government is not helping us to get our animals back.

Mr. Speaker, Sir, these kinds of things should not be happening in Kenya. It is sad that our Government is killing our animals. If anything, arrest the perpetrators of skirmishes rather than killing them and their animals.

Most of ranches in Laikipia are fenced. As far as we concerned, if we see grass on the other side of the fence and our cows are starving, we drive our animals there. We will break the fence and graze our cattle there irrespective of what will happen to us. This is something that other communities do not understand.

The reason we have Maasai names all over the country is because they were looking for grass and water for their animals. Naivasha, Nakuru, and Nairobi are all Maasai names, but they did not own land there because they were looking for grass and water.

In the same way, we are still looking for grass and water. When a *mzungu* has put up a fence and there is grass on the other side, it is very likely that I will break that fence and get my cattle to graze. It is just a simple thing like that.

Mr. Speaker, Sir, to solve this problem, the fences have to be removed or the Government will have to avail water and grass for pastoralists. Otherwise, there will always be these problems. People are always going to break the fences and get their cattle in there.

We need to talk to the people of Laikipia County, who have ranches, to open up the land so that our people can graze there. Perhaps, we can find a way to grow grass, so that our cattle can feed without breaking people's fences. Otherwise, this problem will continue forever.

Mr. Speaker, Sir, it is unbelievable that our military personnel are killing our people. South Sudanese invade our country with big guns and our military looks helpless. How is it that they are now killing innocent pastoralists in Laikipia County? It is out of order. You do not expect them to fire at pastoralists and kill their animals.

Every time they kill animals, they create poverty because those people depend on those animals to live. When you kill them, you are leaving poor people behind. As somebody said here, the Government needs to find a way to avail grass and water for the cattle of these people, so that they do not have to break fences to get grass.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Murkomen, I had given you a chance.

**Sen. Murkomen:** Mr. Speaker, Sir, when Sen. Kinyua came with a Statement about the situation in Laikipia County a week ago, my understanding was that he came on behalf of all the people who live there. He brought a Statement on behalf of the rich, the poor, the famers, pastoralists and people from all communities. When we spoke on the Floor of this House, we spoke on behalf of all communities that live in Laikipia.

It is very sad that the security operation is now done in a manner that wants to divide the people of Laikipia. In fact, I dare say, like Sen. Orengo said, that we are not the problem. We are being pigeon-holed to various communities, so that we come back to the Floor of this House and say that we speak for the farmers, the pastoralists, or this and that community. We speak here on behalf of all the people of Laikipia County. We speak here on behalf of the people of the Kerio Valley Triangle who are suffering.

*(Applause)*

It is not the responsibility of Sen. (Dr.) Lelegwe and Sen. Kinyua who have brought Statements for the Government to provide security in Laikipia. As Sen. Orengo said, we are here to ensure that we hold the Government to account. We will not accept.

Mr. Speaker, Sir, I beg that our colleagues, the people of Laikipia and the people of Kenya, do not fall into this trap where they are told that their problems are as a result of a man because they are Samburu, Turkana, Kisii, Kalenjin or Kikuyu. The problem in Laikipia County is security. It is not the tribe of the people who are inhabiting Laikipia County.

What is happening in Laikipia County is not unique to Laikipia alone, and I said it here two weeks ago. You were the District Commissioner (DC) of Marakwet and you dealt with that issue almost 20 years ago. Even before you became the DC of Marakwet, it was already there for another 20 years.

The problem in Kerio Valley is a persistent problem that was there when President Jomo Kenyatta was the President. If you read the history of the Ngoroko, you will know that this cattle rustling problem has been bedeviling the people of Kerio Valley, from West Pokot, Turkana, Elgeyo-Marakwet, Baringo and Samburu. That whole belt of the Kerio Valley Region has faced this problem for more than 50 years.

Mr. Speaker, Sir, the discussion we should be having here is about lasting solutions in Laikipia County. I met a Member of Parliament (MP) of the National Assembly who told me that his community was being targeted. I told him that his community is being targeted because he only heard about this problem today.

We went to Laikipia with the Deputy President, the Cabinet Secretary (CS) for Interior and Coordination of National Government and the County Commissioner in 2017. We were in a big meeting where we launched the National Police Reservists (NPR) in Laikipia, all the way to Turkana through Baringo and West Pokot. We gave people in all these areas NPR officers to supplement that work that the police were doing.

Mr. Speaker, Sir, we did that because we were using a method that was applied from the days of Presidents Jomo Kenyatta, Moi, Kibaki and Uhuru. Suddenly, in the second term of President Uhuru Kenyatta, some other officers decided that they were

going to remove all the local security that understand the terrain and were working with the police officers in that area, and left the people to be exposed.

The problem is not the livestock; it is not the community to judge the problem. The problem in Laikipia County is the Government's inability to provide security for people in Laikipia, Baringo, Elgeyo-Marakwet, Turkana, West Pokot and Baringo counties to live in peace. If you go to Baringo County, it is not only the Tugen who are there. There are various first clans of the Tugen community in Baringo, but there are also Pokots, Njemps, Kikuyus and people from all tribes in Baringo.

The same applies to Elgeyo-Marakwet County. Therefore, you cannot now pigeon-hole this issue to this community versus the other one.

I think that there is a hand within the current administration that wants to use the Laikipia situation to divide people into communities, so that Sen. (Dr.) Lelegwe here will come and disagree with Sen. Kinyua, fight each other and say that it is the pastoralists versus the farmers, and so forth. This Statement from Sen. (Dr.) Lelegwe is timely and speaks to the issues without dichotomizing 'us versus them.'

Sen. (Dr.) Lelegwe is asking very important questions. Why would security organs kill livestock? Why would they destroy property? I thought they went there to protect the property. I thought they went there to restore unity and peace among communities and look for criminals.

How come every time there is a cattle rustling problem in any part of this country, there is nobody who has been arrested and charged in a court of law? Even in the Laikipia situation, how come up to now, nobody has been taken to court? Forget about the question of rushing to politicians; where are the real perpetrators that are holding the guns and destroying and killing people? They do not need to have a tribal tag. They are bandits and must be dealt with as bandits, not because they come from community X or Y.

Mr. Speaker, Sir, Sen. (Dr.) Lelegwe is also asking another important question. What is going to happen to competition between pastoralists looking for grass and water and those who are farmers, who were established and growing their crops and protecting their grass, so that they can feed their livestock or sell the grass? What is going to happen? What is the Government policy on this issue?

Sen. (Dr.) Lelegwe is also asking: you have a Government that supposedly has 15,000 acres, which is supposed to be land for ADC Mutara Ranch. The CS for Interior and Coordination of National Government said that this property is owned by the Deputy President of the Republic of Kenya, hon. (Dr.) William Ruto. The Deputy President of the Republic of Kenya has said: "I do not own that property of ADC Mutara Ranch." The Deputy President even went ahead and said that if you find any 15,000 acres of land in Laikipia of Mutara Ranch that supposedly belongs to him, donate it to pastoralists to go and graze their livestock.

I want the Senate Committee on National Security, Defence and Foreign Relations to invite the CS for Interior and Coordination of National Government, Dr. Matiang'i to come here and we officially donate that land. There is no need for verification.

A Cabinet Secretary cannot just walk here and speak. The CS knows very well that there is 15,000 acres of land lying idle, that is neither owned by ADC nor the Deputy President. Why can we not publicly donate this property to pastoralists, so that they can

live in harmony, graze their livestock there and avoid this situation where there is competition between pastoralists and farmers?

It is for that reason that we are saying on the Floor of this House that the people of Laikipia deserve peace; we deserve peace in Kerio Valley.

*[Mr. Speaker (Hon. Lusaka) left the Chair]*

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

Madam Deputy Speaker, today we are burying a young man from Tot area. Almost every week, we have been burying two or three people. This is an issue that bothers all of us. I want to request that the Committee on National Security, Defence and Foreign Relations becomes a little bit serious.

I heard Sen. Outa saying ‘we are not this, we are not that.’ I think we are just basically chastising and encouraging our Committee. We are trying to tell the Committee that they must live up to the expectations. How comes---

**Sen. Linturi:** On a point of information, Madam Deputy Speaker. I agree that this Committee must become more serious. Sen. Murkomen, for your information, on Wednesday, 15<sup>th</sup> at 8.00 a.m., we had asked the CS for Interior and Coordination of National Government, CS for Land and CS for ASALs to appear before the Committee to answer to matters that relate to the conflicts in those areas, and issues to do with boundary conflicts.

Personally, I believe that Parliament is supreme. Parliament is a serious institution, and once one is summoned by Parliament, then they must leave other duties and come to answer before the House on any matter that they have been asked to.

When we asked those Cabinet Secretaries to appear before the Committee on National Security, Defence and Foreign Relations, this is the response that came from the CS for Interior and Coordination of National Government--- I think he is so overwhelmed and obsessed with power that is short-lived, that will not go beyond 10 months. The letter that came from him and signed by a Mr. Osiya, because he is so ‘big’ that he cannot sign a letter to the Committee, reads as follows: -

“The Cabinet Secretary, Ministry of Interior and Coordination of National Government is not in a position to honour the invitation due to exigencies of duty.”

For avoidance of doubt and more clarity, when we asked these Cabinet Secretaries to appear, the CS for Interior and Coordination of National Government, through a Mr. Osiya, in a letter dated 14<sup>th</sup> September - the meeting was supposed to have been yesterday to discuss these issues - wrote to the Committee and said: -

“The Cabinet Secretary, Ministry of Interior and Coordination of National Government is not in a position to honor the invitation due to exigencies of duty. You are, therefore, requested to postpone the meeting to a later date.”

Madam Deputy Speaker, this letter is not courteous. If anybody has any respect and without contempt of Parliament, he would have tried to explain by himself why he was not able to attend. He would even have further written and said, ‘I propose that I appear before the Committee on this date.’ The matters that we were asking him to

appear to answer on, are issues related to security, loss of lives and protection of property.

We need to be serious on these issues. I agree that even if this whole House takes up this matter--- I said this before and I am not afraid of repeating myself; that Committee has no capacity to deal with this matter because even when the postponement was done, there was no consultation between the Members of the Committee because some of us would have opposed.

Thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): That was very long information.

**Sen. Murkomen:** Madam Deputy Speaker, just to conclude, my take on this Statement is that as a Senate and the Committee, we must be able to achieve two things. One, restoration of peace in Laikipia, but in a manner that does not divide the Laikipia people between ‘us versus them;’ whether it is pastoralists, farmers, this community or the other.

Madam Deputy Speaker, you know very well that even people from your own community live in Laikipia. Laikipia is a cosmopolitan area, just like many parts of Rift Valley. We must achieve unity of purpose in Laikipia without dichotomizing the fight as ‘us versus them.’

Two, we must achieve justice. The criminals must be arrested. The Government cannot legitimize extrajudicial killings. As Sen. Orengo said, we cannot fight a good war by violating Chapter 4 of the Constitution, the Bill of Rights. We must do it in a manner that is in accordance with the Constitution. Therefore, in cases of extrajudicial killings, where people are being killed on sight, the perpetrators should be arrested. Of course, some of them are armed and dangerous and so, you can understand if equal force is applied, and they die. However, the effort must be to bring them to justice.

Three, livestock are not criminals. Therefore, killing livestock is actually establishing a very terrible order in our country. This is a shortcut where the security are saying, ‘let us kill all the livestock.’ Therefore, there will be no competition for pasture and water. This is a shortcut for security agents. We must also protect the property of those who live in Laikipia, unlike this indiscriminate destruction of property. If we achieve that, as a Senate, we will go far.

I was elected in this House in 2013 and have attended three security meetings on cattle rustling, every year. There were times when we could attend those meetings for four consecutive months. This is not a matter of ‘us versus them’. We do not have ODM, Jubilee or UDA when it comes to this. This issue should unite this House and this country for us to find a lasting solution.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. The next Senator is Sen. Cherargei. I thought I saw him speaking.

*(A Member spoke off record)*

Okay. Can we hear from Sen. Cherargei?

**Sen. Cherargei:** Madam Deputy Speaker, you should award me for being active in the House.

I have a few comments. I agree with my colleagues. It is unfortunate that we are discussing this. Last week, the House pronounced itself on this issue. I thank Sen. (Dr.)

Lelegwe for bringing this issue to the attention of the House. We had one perspective last week, but we now have a second perspective. It is unfortunate that the security apparatus in this country are confusing criminal elements for killing cows and livestock. Killing more than 5,000 cows is unfortunate. These cases have been reported to the police.

I do agree that the issues in Laikipia are not about the use of force, guns and deployment of military. That is part of the solution, but the underlying issue that we are facing in Laikipia is more or less the ownership and possession of land within Laikipia. It is possible that the Government wants to play soft diplomacy with the foreigners who own the ranches. It is good for them to invest in our country because they give us revenue, but that should not be done at the expense of the people who live in Laikipia. The people who live in Laikipia must have land for pasture and a place to live.

This Senate should push for restoration of peace, then, try to understand the underlying issues. Sen. Olekina has taken us through the expansive issues that affect the people of Laikipia. My family members, just like your family, also live in Laikipia. We should look at how we can ensure that there is peace in Laikipia.

I want to remind the senior Government officials who are in charge of security, such as the Cabinet Secretary for the Ministry of Interior and Coordination of National Government, the Inspector General and many others that Article 153(3) of the Constitution states that-

‘A Cabinet Secretary shall attend before a committee of the National Assembly, or the Senate, when required by the committee, and answer any question concerning a matter for which the Cabinet Secretary is responsible.’

The violation of this is a contempt towards this House. Yesterday, you pronounced that the Cabinet Secretaries in charge of the Ministry of Energy and the Ministry of Petroleum and Mining should appear before the Senate next week on Tuesday. Why can the Cabinet Secretary for the Ministry of Interior and Coordination of National Government not brief the nation?

I was collecting signatures to have a special sitting on a matter that was of national importance and the Cabinet Secretary in charge of the Ministry of Interior and Coordination of National Government decided to invite himself to Parliament and did a lifestyle audit on some of the senior leaders in this Republic. The person who purportedly owns ADC Mutara Ranch has said that if the ranch, indeed, belongs to him then, it should be given to the pastoralists.

Article 226 of the Constitution states that even if you leave office, you are still culpable of the things that you did while in a particular office. A former Cabinet Secretary and an ex-National Olympics Committee of Kenya official were convicted by the court today because of the Rio 2016 Olympics scandal. Abuse of office is failure to follow the laws that have been provided.

I request that Dr. Matiang’i, the Cabinet Secretary for Interior and Coordination of National Government, the Inspector General and the other senior security officers and the Cabinet Secretary in charge of the Ministry of Lands and Physical Planning appear before this House, as a Committee of the Whole. That meeting should either take place on Wednesday or Thursday. I am sure that Kenyans will not be disappointed by the Senate.

The Committee on National Security, Defence and Foreign Relations should not worry. They do have a heavy schedule, but we are trying to lighten their burden.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. We will listen to Sen. (Eng.) Mahamud.

**Sen. (Eng.) Mahamud:** Thank you, Madam Deputy Speaker. The Statement by Sen. (Dr.) Lelegwe is a serious matter. The issues mentioned here are supposedly committed by the security forces, who are supposed to provide security to the people of Kenya.

As a result of the question raised by our colleague from Laikipia County, the Members of the Committee on National Security, Defence and Foreign Relations and I went to Laikipia on Monday. *Wananchi* told us that they were being attacked by people from Baringo County. The police were all over the place and there was some semblance of security in that place. However, the people said that the Laikipia Nature Conservancy is a den of problems. They said that nobody can go to that conservancy, and that it has so many animals owned by influential people in this country. They said that stolen animals are in that conservancy, which is protected by the military. The stories were very disturbing though I was happy that there was some semblance of security. People had gone back to their homes and the schools were reopening.

Surprisingly, on the other side of the county, the police are now profiling the pastoralists and trying to kill their animals. This question is not about the *wananchi* fighting. It is about the police fighting *wananchi* and killing their animals. This is unacceptable. We are not going to pit Kenyans against Kenyans. The Government should provide security to Kenyans. They must deal with this matter.

Laikipia borders four counties namely, Isiolo, Baringo, Nyandarua and Samburu. I am sure that they have a discussion on how they can live together. We must come up with a way to revert the conservancies owned by the *wazungus* to Kenyans when their leases end. There must be-

**Sen. Olekina:** A point of order, Madam Deputy Speaker.

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

**Sen. Olekina:** I am sorry, Madam Deputy Speaker. It is actually a point of information.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Does he want to be informed?

**Sen. Olekina:** Madam Deputy Speaker, that is what I want to ask my brother.

**Sen. (Eng.) Mahamud:** It is okay, Madam Deputy Speaker.

**Sen. Olekina:** Madam Deputy Speaker, the leases lapsed, but were renewed without considering the interest of the indigenous people. If you go back to history, you will learn that those leases were signed in 1904. We ask very pertinent questions.

Now we ask a very pertinent question: Why is it that when this list was made, the original inhabitants of the land were not considered for even a portion?

Madam Deputy Speaker, this is what pains me.

**Sen. (Eng.) Mahamud:** Madam Deputy Speaker, when the Committee was on site we said we would make a report and also invite the Ministry of Interior and Coordination of National Government here to go through this.

From what is coming from the Members now, we would like to do what we did with the Committee on Energy yesterday. The Ministry should be invited to a Committee of the Whole to take us through this. We can have both questions from Sen. (Dr.)

Lelegwe and Sen. Kinyua and those raised here canvassed properly, so that we deal with this matter in a very serious manner.

I will inform my colleague, Sen. Dullo, who is in that Committee. We are the only two here, but we will inform the Chair, so that the matter is resolved. I think you can direct that we have these people here early next week, so that we can look at the matter in a very serious manner.

**The Deputy Speaker** (Sen. (Prof.) Kamar): I think being a Member of the Committee he has given us a bit of direction. I expect the next contributions to be very brief. Note that Members of the Committee are ready to deal with the matter alongside the other one.

**Sen. Wario:** Asante Bi. Naibu Spika, kwa kunipatia nafasi hii. Kwa kweli, Taarifa hii imetoka wakati mwafaka kabisa. Wakati huu ni wakati wa kiangazi kikuu ambapo wafugaji wanapata shida na mifugo yao.

Hali ilivyo huko Laikipia ni ya kutatanisha zaidi. Maofisa wa polisi ambao wako upande huo wamefanya hali hiyo kuwa ngumu zaidi kuliko kurahisishia watu wa Laikipia kwa sababu wakati ng'ombe 1,000 wanauawa na askari wa Kenya, hiyo ni hali ngumu. Hali ya wafugaji wakati huu ni ngumu.

Ng'ombe 5,000 ni kama Kshs200 milioni ambazo zimepotea. Hiyo ni pesa nyingi sana kwa wafugaji hasa wakati huu wa kiangazi. Mimi sijui askari wa Kenya wamefundishwa vipi. Wangesaidia wafugaji wakati huu lakini si kuua ng'ombe.

Upande wa Tana River hali ni ngumu zaidi na hali kama ya Laikipia inawakumba wafugaji. Kiangazi ni kikali na malisho ni haba. Hata mahali pa kupata maji hasa upande wa Galana-Kulalu ambapo mradi wa Serikali unafanyika, ng'ombe wanashindwa kuufikia Mto wa Sabaki. Haki haipatikani kwa sababu kuna mradi wa Serikali unaofanyika upande huo.

Hali ni kama ile ya Laikipia kwa sababu mifugo hawapati mahali pa malisho. Kupata maji pia ni vigumu kwa sababu kuna mradi wa Serikali kuhusu usalama wa lishe lakini ni ukora mtupu. Hii ni kwa sababu tukisema ni usalama wa lishe na hakuna kitu kinafanyika na watu hawawezi kuufikia mto kunywesha ng'ombe wao maji, basi itakuwa unamaliza watu na kutatanisha hali hiyo zaidi.

Wakati huu tunataka Waziri hasa afike hapa kwa Seneti. Ninaunga mkono wenzangu waliotangulia. Aje atueleze ni kipi kinachofanyika huko Laikipia. Katika arifa hiyo atueleze watu wa Tana River wanaweza kuufikia Mto Sabaki wapate maji yao na ya mifugo. Hatuwezi kupeleka mradi wa Serikali mahali ili watu wanaolisha upande huo wapate shida.

Hivi majuzi Rais wa Kenya alitangaza hicho kiangazi cha Tana River kama janga la Kitaifa. Kama hali hiyo itakuwa hivyo, basi watu waruhusiwe kuingia katika Mbuga ya Tsavo Mashariki, walishe mifugo kwa sababu kuna nyasi upande huo. Ng'ombe wa watu wanaoishi upande huo hawana lishe.

Ninaunga mkono.

**Sen. (Dr.) Milgo:** Thank you, Madam Deputy Speaker, for giving me this chance to support the Statement by Sen. (Dr.) Lelegwe. This is a very serious matter that should be addressed as a matter of urgency. Recently, the President of the Republic of Kenya declared drought as a national disaster. Our worry was in the pastoral areas, where shortage of water and pasture was going to kill livestock.



It is unfortunate to hear that security officers are killing cows instead of protecting people. That is destroying the livelihood of those pastoralists. We have had pastoralist regions such as the North Rift, Kerio Valley, Baringo and others suffering from these conflicts. This has gone on year in, year out. We are speaking to it today and if no strategy is undertaken, we shall be speaking about it until it is put to rest.

For the last several years, we have heard about these conflicts taking place and nobody ever solves the problem. It escalates when we near the elections period. We do not know whether people are using this to settle scores with their opponents or just by sheer chance.

I think the National Land Commission (NLC) is also to blame because when we have chunks and chunks of land--- I heard the Senator of Turkana saying that, normally, the pastoralists find that there are people who have fenced off large chunks of land, which have a lot of pasture. For that matter, cows cannot be allowed to die when somebody is leaving idle land where there is pasture. I heard about the 15,000 acres as being an ADC farm.

I think instead of wasting a lot of money in Galana-Kulalu Irrigation Scheme, which has never produced any food since inception, those areas should grow pasture for pastoralists. We could now be distributing the grass. In addition, we should have the National Drought Management Authority going out to drill water for these pastoralists, so that we do not have that conflict as a result of looking for pasture and water.

The Ministry of Interior and Coordination of National Government should come out clean and explain to this House why instead of the security forces protecting lives and property, they went ahead to destroy property and cause more conflict. I think by so doing, that conflict is not going to end in the near future.

Yesterday, we were talking about petroleum, which was so much of a challenge and is affecting the livelihoods of our people. This is another matter that should be brought to the Committee of the whole House, so that we can speak to it.

We should also have the Ministry of Lands and Physical Planning to speak to this. They should tell us what is happening to chunks and chunks of land that are held in that area, while pastoralists are being pushed until eventually, they have nowhere to keep their herds.

Madam Deputy Speaker, I hope that a lasting solution will be found once and for all.

I support.

**The Deputy Speaker** (Sen. (Prof.) Kamar): We have Bomet and Bomet. We can have Sen. Sakaja in-between the two Senators from Bomet. He will take three minutes. He is always to the point.

**Sen. Sakaja:** Madam Deputy Speaker, I will not take long. We might have a Bomet overdose and the people of Bomet will be shocked.

I just want to say a few things. First, I send my serious and deep condolences to the people who have lost their lives and property during this time in Laikipia.

We have cyclic problems in the country. Albert Einstein said that trying to do the same thing, the same way and expecting different results, is the height of insanity. In the last Parliament, when I chaired the Committee on National Cohesion and Equal Opportunities, we went to Baragoi, Maralal, Lokwal and Nakuse in Turkana on the same exact issues.

When I heard the Senator for Tana River speak, I remembered going to Tana River. It is painful that they are talking about drought, yet there is River Tana, which is flowing and we have been unable to take advantage of.

If you go to Kipini, there are gushes of millions of litres of that river flowing into the ocean, yet people are dying of hunger. There is something wrong with us. It cannot be 10 and more years, yet every year, we talk about drought in the country. Therefore, something must be done.

I was following the proceedings and it is unfortunate how we allowed this to degenerate into lambasting the Committee on National Security and Foreign Relations. I chaired that Committee for two years, and I know that its work is not easy. Every Member in this House is able in any Committee. There is no Committee that has less able Members. We need to support them in the work they are doing. If we belittle each other, the people of the county where the Chair comes from are listening. Are we trying to tell them that their Senator is useless? It is unfair. We need to have a habit of having frequent *Kamukunjis*. We can discuss some things internally and not in front of people.

Sen. (Eng.) Mahamud has told us what they tried to do before and the angle that has come out today. Livestock is property. There is a big and dangerous issue, which is coming out and Sen. (Dr.) Lelegwe has brought it out. When there is a section of people in the country who feel that their lives, livelihoods and way of living is seen to be below par from other people's ways of living, then we are courting disaster. A section of Kenyans feel that because they are livestock farmers, the Government does not care for them.

In the same way we have seen coffee and maize farmers being given subsidies, seeds and fertilizer, livestock farmers must also be given water and grass. They are Kenyans as everybody else. A first class country can never have a second class citizen. That is an angle we need to look at seriously.

Finally, nothing in this House is done in vain. We must have confidence in the actions of our Committees and this House. I am glad that it has been said in a very resolute manner that the CS must come. This House just talks about issues and they are swept under the carpet.

Madam Deputy Speaker, I have just come back from Korogocho. I was with a person that Sen. Olekina will be interested in; the President of Toronto Raptors, Masai Ujiri. We were launching some basketball court.

After that, I decided to take a walk in Kariobangi and Korogocho. The *Wananchi* told me that they have faith in me and the Senate to address the issue of *mafuta*. If the public has such confidence in us, we cannot be the ones exuding inferiority complex in our capacity. We must sort out the issue of fuel and that of Laikipia. We must believe in ourselves, as a House, before expecting Kenyans to believe in us. We should not let any individual, institution or Ministry to tell us any less than what Articles 95 and 96 of the Constitution tell us in terms of our role.

I support the Statement.

**Sen. (Dr.) Langat:** Thank you, Madam Deputy Speaker, for giving me this opportunity to make my contribution to this important Statement from the Senator for Laikipia County. This is the right House to do this.

**The Deputy Speaker** (Sen. (Prof.) Kamar): You are now addressing the one from the Senator of Samburu.

**Sen. (Dr.) Langat:** Madam Deputy Speaker, I am addressing you.

This is the right House to address this particular issue. The way this thing is happening, unless we handle it with a lot of care, it can degenerate to ethnic clashes. This is because Laikipia is fully a cosmopolitan county. If the Government does not handle this issue seriously, it can lead to more problems.

As Sen. Olekina said, the Government has failed to address the actual problem that is causing these other issues. The Government is providing painkillers and massaging the issue by creating conflict between the crops and livestock farmers. This will not bring solutions. Killing 5,000 livestock will not bring a solution to the problem. We must stand as the Senate to make sure that the Government compensates those particular farmers.

*(Applause)*

That is an immediate solution to that problem. However, the long-lasting solution is that the Government must address the land issues and the historical injustices that have affected that particular place for a long time. How could a Government renew the leasing agreements without involving the locals?

I have heard that in Kericho and Bomet, the same Government has renewed the leasing agreements that were done in the 19<sup>th</sup> century without contacting the locals. The owners of tea plantations have renewed the lease agreement again without involving the locals. Now, the locals are suffering. They do not have land, yet that was their original land. Therefore, I agree with Sen. Olekina that the land issue must be addressed.

Madam Deputy Speaker, the owners of ranches in Laikipia have fenced their land with electricity. Without counting 5,000 cattle that have suffered through the heinous works of the police, their cattle have been dying because wild animals have been attacking them and no compensation has taken place.

They are also killed by electrocution and the owners of the ranches never compensate them. Therefore, they must be compensated and historical land injustices addressed effectively by the Government.

Another issue is that there is lack of water in those places. The Government must provide water, so that lack of it does not become a source of conflict.

Lastly, those ranches have been profiled to belong to some people. In fact, I am happy with what the Deputy President said; that if people think he has a ranch there, it should be given to the locals. It is wrong for the CS for Interior and Coordination of National Government to profile people based on the property they have without using proper information.

Therefore, I propose that the whole House faces the CS for Interior and Coordination of National Government, so that he effectively answers the questions from all of us concerning those issues affecting the people in Laikipia. Otherwise, we are not happy because the situation is degenerating to ethnic conflicts, which we want to avoid at all cost.

I congratulate the Senator for Samburu for bringing this important Statement. I have seen that security personnel are sidelining some communities. When they go there, instead of providing security, they kill the animals and it makes the situation worse. Therefore, it is important that we have the Committee of the Whole, so that the CS for

Interior and Coordination of National Government comes here and settles this matter once and for all.

I will repeat what I said last week that the CS is fast in sending the security personnel to funerals, instead of sending them to such sensitive areas. In fact, the proactive measures are not there. They just wait until things become worse and then they react.

When we were attending the funeral of the late Sen. Prengei, we were surprised, while we were in the middle of the service, to see four lorries with the General Service Unit (GSU) being dropped in a place where there was no insecurity. Everybody was peaceful; people were mourning and all of a sudden, they sent those particular people, instead of sending them to Laikipia. People were mourning then, all of a sudden, they sent those people instead of sending them to Laikipia. I tend to think that the Cabinet Secretary (CS) is not addressing this issue effectively and he should come and answer loud questions in this House.

Madam Deputy Speaker, I support this Statement. The CS must come here.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. (Eng.) Hargura.

**Sen. (Eng.) Hargura:** Thank you, Madam Deputy Speaker, for giving me this opportunity to support this Statement by Sen. (Dr.) Lelegwe on the unfair treatment of members of the Samburu community living in Laikipia and the malicious killing of their livestock.

One problem I have seen with us, Kenyans, is that we conveniently want to forget history and start as if things happened yesterday. These are historical issues. In fact, the better part of last evening and this morning, I was in a meeting trying to handle some issue on historical land injustices, which communities are submitting to the National Land Commission (NLC). This is the case that we have been having.

It is a historical fact that these were pastoralist areas. When the colonialists came with their mentality that land does not belong to anybody, what they call *terra nullius*, they came in, took the land, and displaced these pastoralists. The pastoral way of life is something that was despised very much by the colonialists.

Madam Deputy Speaker, I can remember the case of Marsabit. When they came to Marsabit mountains, they found the Rendile herders there with their camels. They thought that, that it was a backward way of using the land. They chased them out and brought in farmers from even outside this country and settled them there. Those are the kind of injustices we have now.

To this case of Laikipia, the way livestock keepers normally live is you leave the better part of your land for livestock grazing during the dry season, the fall back areas. Laikipia happened to be the fallback area of the Samburu. You do not always occupy your land. The problem with the non-pastoralists is that for you to call land yours, you must be settled there with your hut. It is not that way.

You have to divide your land. There are areas where you come to when the drought is biting and fall back there. Laikipia looks like it was a fallback area. Unfortunately, you will find that when the colonialists came, they divided the land. They preferred an agricultural way of life to pastoralism.

Madam Deputy Speaker, now, it has even gone further. Wildlife conservation is preferred to livestock keeping. If you fly over that area, large tracts of land are just

fenced. The only thing you see there is the fence and nothing else. There is a little wildlife roaming in the area.

This time round, if there was proper understanding, there should have been a way of allowing these pastoralists to graze in these conservancies during the dry season. It does not always occur, it is only during the dry season. There should be mechanism that recognizes that these people were here before.

Even they grabbed their land, they should assist them during the dry season. They should not fence their land, putting up an electric fence and then keep a few elephants there for tourists to see, while the owners of that land are dying next to it with their animals. That is what is happening now.

Madam Deputy Speaker, it has reached a point where it is Kenyans who are being forced against each other. The pastoralists come and the only land they find is the land where other Kenyans are farming. That is where the conflict is coming from. These pastoralists were deflected from their lands through large tracts of land being grabbed by colonialists, having the lease extended, then it is said that that it is private land.

You have to start from somewhere. Where was that land before it became private? It belonged to a community and that community is still alive and is still practicing pastoralism. That is why you will always find those pastoralists there during the dry season. It is because a pastoralist cannot watch his animal die where there is grass across the fence. That is what we are experiencing.

The Government needs to treat this in a very holistic manner. The conservationists need to open up their conservancies to the original owners of that land, so that they can graze during the dry season. We do not want to carry the land or occupy it the way they are occupying for nothing. They should allow grazing during the dry season. I am sure that they sometimes allow the communities to graze in Government parks when the drought is biting. When it rains, they retreat and go back to their areas, and the grass in the conservancy area will generate again.

Madam Deputy Speaker, I think that the Government and the CS need to totally address this issue, so that we do not ignore facts and use force to deny people their rights, without giving alternatives and understanding that these people have to be allowed to graze. That is what we do.

I am from Marsabit and during the dry season, our animals are in Samburu because their environment is better than ours. We cross into Samburu, graze there and go back. It is the same thing. When it is dry in Samburu and they have cattle, they move into Laikipia. For us, we have camels, goats and sheep. We move into Samburu because their weather is better than ours. There must be that understanding.

Otherwise, I support the Statement. The Government has to be practical. This story has to be taken into account. These are parts of the historical land injustices that we are addressing. They have to be addressed and no lives need to be lost when there is enough land.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. (Prof.) Ongeru is online, then I will come to Sen. Malalah.

Sen. (Prof.) Ongeru, we cannot hear you.

Sen. Malalah can you make your contribution because we want to wind up. When Sen. (Prof.) Ongeru comes in, we will take him.

**Sen. Malalah:** Thank you, Madam Deputy Speaker. I stand to support the Statement by Sen. (Dr.) Lelegwe on the issue of insecurity in Laikipia County. This is a matter of national importance, and therefore, we must take keen interest in this matter as the Senate. As the peoples' representatives, we must make sure that we handle this matter to a logical conclusion.

As we speak, there are several families that have been displaced and lost their loved ones. There are several farmers and pastoralists who have lost their animals. Therefore, it is important for us to deal with this matter with the seriousness it deserves.

I want to join my colleagues in saying that we need to call the relevant officers who are handling this matter. The CS for Interior and Coordination of National Government must appear before this House, and not just before the Committee on National Security, Defence and Foreign Relations. This is a matter of national importance. I suggest that this matter be handled in a Committee of the whole House.

Madam Deputy Speaker, it is sad that the very people who are supposed to protect that livestock and people of Laikipia are the ones who are tormenting and killing the same animals. We need to bring those officers to book, and they need to be accountable for their actions. This is the only way that we are going to stop this menace.

Since 2016, the Pokots, Samburus, and Maasais have lost almost 5,000 livestock. This is unacceptable. As Sen. Sakaja has said, livestock is property, and every citizen in this country has the right to have their property secured by the Government.

I have seen efforts by the national Government to ensure that they implement the security policies in Laikipia. The other day, I think on 9<sup>th</sup> September, through a gazette notice, they gazetted a new sub county. That is a good step, because a sub-county means that we shall have better services and functions of the national Government nearer the people of Laikipia.

However, will we be reactionary on every problem that we have as a country?

It means that next time when we have a problem in Kakamega County, then Matiang'i will run there with a sub-county and give the people of Kakamega. It means that next year when people in Siaya County will be fighting over resources like fish then the Siaya people will be given a sub-county. We need to stop being reactionary on issues.

Madam Deputy Speaker, I was listening pensively to the CS, Interior, Mr. Matiang'i. He was trying to put the blame on politicians. I want to ask Matiang'i to stop putting blame on people who are not the cause of this thing. Let him concentrate on his work. On the issue of him standing in any function and wanting to demean politicians, I want to remind him that politicians are elected leaders. We are leaders elected by our people to represent them and therefore, he does not have the monopoly of demeaning us in public functions. It is very serious.

The other day I saw him addressing people in Laikipia saying: "*Kuna watu washenzi hapa wanajifanya wanasisia kwa sababu wana incite watu.*" Matiang'i listen to us: We are elected leaders. Address us with the respect we deserve because we represent our people. We have the right to talk to our people.

Today, Sen. Lelegwe has brought to the Senate an issue affecting his people. So, why should you then go to a public function and try and demean the very person who is trying to help his people? Therefore, the recent political arrests are not giving us a solution to this matter.

I want to call upon the relevant agencies, the prosecutory organs of this Republic of Kenya to delve deep into this issue and stop hiding behind politicians. We have been elected by our people. For what reason would Sen. Olekina want to kill his people or the livestock of Narok?

Sen. Olekina has got the interest of the people of Narok at heart. For what interest would Sen. Orenge be having to disadvantage the people of Siaya? For what interest would Sen. Malala be having to kill and torment his people.

Therefore, it is important for the Government to know that when you are doing a political arrest you are not sorting out the problem and you are not uprooting the very cause of the problem. Therefore, it is important and I still insist that the National Intelligence Service has failed us because up to now we are not even sure of what is causing the skirmishes in Laikipia. We do not know if it is the 2022 elections or if it is the problem of the rich versus the poor. I have been told that there is a very sharp rift between the White settlers and the pastoralists.

We need to address these issues. Let the National Intelligence tell us the root cause before we start running around, arresting politicians, creating sub-counties, making public pronouncements that are not helping us sort out this matter.

Lastly, I want to take this opportunity to thank the Senator who brought this Statement. Sen. Lelegwe you have the interests of your people at heart. I want to tell the people of Laikipia and Samburu today that you have a person who cares for you, who thinks about you and who has the best interests for your community at heart. Therefore, Sen. Lelegwe, you have shown us the way; we shall also stand behind you and insist that this matter must be sorted out once and for all.

Thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Finally, Sen. Kinyua, online.

**Sen. Kinyua:** Madam Deputy Speaker, I want to add my voice to---

**The Deputy Speaker** (Sen. (Prof.) Kamar): We want to see your face.

**Sen. Kinyua:** Madam Deputy Speaker, my network is bad. If I put on the video I will lose the network.

Kindly allow me to continue.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Do the video, we see your face and then you can switch it off.

**Sen. Kinyua:** Madam Deputy Speaker, I am in Rumuruti where that issue happened. First, I want to thank the Security Committee because they visited Laikipia and they went to Olmorani and a place called Maungwashe---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Kinyua, Members want to see your face. Just put on the camera.

**Sen. Kinyua:** Madam Deputy Speaker, my camera is on.

**The Deputy Speaker** (Sen. (Prof.) Kamar): How comes we are not seeing you?

**Sen. Kinyua:** I do not know what is wrong with it because my camera is on. I have put it on.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Our rules are that we must see you so that we know where you are.

**Sen. Kinyua:** I am saying I am in Rumuruti and my camera is on.

**The Deputy Speaker** (Sen. (Prof.) Kamar): There are so many places in Rumuruti. We want to know exactly where you are; whether you are seated or you are on a camel back or something.

**Sen. Kinyua:** No. I am not on a camel back. I am in a place called Marula where this thing happened and my camera is on.

**The Deputy Speaker** (Sen. (Prof.) Kamar): We cannot see you and we cannot pick your camera. I am already seeing points of orders on how you are communicating to us. So will leave it, you wait for what we are about to decide then you can be able to come and contribute.

**Sen. Kinyua:** Madam Deputy Speaker, I just wanted to say that the Committee of Security came to Laikipia---

**The Deputy Speaker** (Sen. (Prof.) Kamar): No. Sen. Kinyua, we cannot see you.

Hon. Members, we have listened to a good number of Members because this was a very important Statement and the Statement stands committed to the standing Committee on National Security, Defence and Foreign Relations. We are also aware that the same Committee has been to the same area following the Statement that came from Kinyua.

I would like therefore to rule as follows: That the Committee takes this new Statement and adds to the previous Statement so that we are able to get something more comprehensive. I would like to give the Committee up to Thursday, then on Thursday the interactive session as requested by all Members, between the House and the security agents should be done.

So, as a Committee you have between now and Wednesday and then on Thursday, let us have a full House session with the security teams. It is so ordered.

Thank you.

**The Senate Minority Leader** (Sen. Orengo): On a point of order, Madam Deputy Speaker. Since we continue to have problems summoning Cabinet Secretaries to sessions and we have been told that this very Committee was unsuccessful in getting the CS to attend, for purposes of this matter, can a summons be sent the CS instead of an invitation? This is to ensure that we do not just propose a meeting for Thursday and we are not sure that they will come. In the circumstance in which there has been no compliance, I think it is important that they are actually summoned to appear. Otherwise, this matter may drag on for another month or so.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. That is well noted. There is another point of order from Sen. Olekina.

**Sen. Olekina:** Madam Deputy Speaker, I also wanted to put in my "two cents worth" on this matter and particularly on the issue of summoning. Now that we know practically as per the rules in our Standing Orders that we have to give seven days' notice to be able to summon anyone to appear before the House, could I suggest that you give directions and summons be sent for the Cabinet Secretary in charge of Interior and all the other security operatives and the others who were requested by this House to appear before this House on a full House committee on Friday because by then we will have been able to comply with the law? If you count seven days, even if it is served tomorrow that will be Friday.

**Sen. (Eng.) Mahamud:** Madam Deputy Speaker, I was going to take the same line as my colleague. From the Chair, can you instruct that the security team led by the



Cabinet Secretary in charge of the Ministry of Interior and Coordination of National Government appear before the whole House on Thursday? The matter is very serious and we can look at how the seven days period can be waived.

It is important that the instruction comes from the Chair. Instead of waiting for the Committee on National Security, Defence and Foreign Relations to invite him and summon him on a matter as serious as this, the Chair should direct them to come. That direction should then be followed by a letter from the Clerk's office. As a Committee, we will see what we can do between then and now.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, summons are very clear in our Standing Orders. We know how emotive this discussion was. It almost divided us. We do not want to break any of that. If you will accept, let us invite them to come on Thursday. If they fail to come, we will do the summons.

Alternatively, if we are going to do the summons, then it will have to be on Friday.

**Sen. Sakaja:** Madam Deputy Speaker, what you saying is true. According to our Standing Orders, summons are issued when a cabinet secretary fails to appear more than twice on a certain matter.

Instead of using that word, you can direct that the Cabinet Secretary appears on a particular date. That will not be summon but it will be a direction from your Chair which must be followed. I know that many are hesitant to have in their records that they were issued with summons if they have been appearing before the Committees. You can give direction that the Cabinet Secretary and the Inspector General must appear before the Committee on a particular date and that will serve the same purpose.

**Sen. Olekina:** Madam Deputy Speaker, we were earlier informed by a Member of the Committee on National Security, Defence and Foreign Relations, Sen. Linturi, that the Cabinet Secretary has refused to appear before their Committee. On other matters, he read a letter that was written by a staffer, that the Cabinet Secretary was busy with other matters. This issue is clear. We have been referred back to Article 153 of the Constitution. We should issue the summons and have them appear here for us to deal with that matter. Kenyans will only believe that we are dealing with the matter when they appear here.

Madam Deputy Speaker, you should issue those summons from your seat. You are very powerful. We should resolve the issues affecting Kenyans.

**Sen. Dullo:** Madam Deputy Speaker, this matter is very sensitive but the issues of summons are clear in our Standing Orders. I support the position given by Sen. Sakaja. You should give directive to the Cabinet Secretary to appear before the Committee.

**The Senate Minority Leader** (Sen. Orengo): Madam Deputy Speaker, a directive is not a constitutional instrument. It is just you speaking from the Chair. It can apply to the Members. Out there, you are to either send invitations or summons. I am talking about summons because there is an invitation that has not been complied with on the same issue. They have said that because of exigencies of duty--- Sen. Linturi was here and he is a Member of the Committee.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Senator, let us get information from--

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**The Senate Minority Leader** (Sen. Orengo): Madam Deputy Speaker, what would happen if we are to be in war? By the time you invite him twice for him to refuse

then you summon him, the matter would have lapsed and life would have moved on. We must create circumstances where the Senate can intervene at the right time.

If we do not deal with this matter within the next seven days, then we are better off dealing with it as an ordinary business without expressing any urgency. I feel that we are becoming toothless. Summoning a cabinet secretary now looks like a difficult thing to do. I have never seen a situation where we have had a whole debate of how helpless we are with some Members saying that we are useless. Parliament must have full authority on this matter.

Sen. (Dr.) Lelegwe, the Statement could not wait for another week. It had to come now unless you want Parliament to be a talking shop. This matter is so serious. The Cabinet Secretary has been invited but he has said that he has exigencies of duties so he will come on unspecified day. You should put your foot down. If he does not appear, it will not be our problem but his problem because we will know how to deal with it. I know the courts were sometimes hesitant to punish cabinet secretaries for noncompliance but they are now doing it.

Non-compliance with summons is a constitutional violation because it is a right that flows from the law. It can be a basis for taking action under the Constitution.

**Sen. (Eng.) Mahamud:** On a point of information, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Please accept information from Sen. (Eng.) Mahamud.

**Sen. (Eng.) Mahamud:** Madam Deputy Speaker, what Sen. Linturi referred to was not on this matter. The Cabinet Secretary was invited for a meeting of joint sitting of the Committee on National Security, Defence and Foreign Relations and Committee on Justice, Legal Affairs and Human Rights to discuss boundaries matters. It is not true that he declined to come to discuss this matter. As serious as it is, it was not on the same matter.

However, I share the same view with Sen. Sakaja. Direction from the Chair is very strong.

**The Deputy Speaker** (Sen. (Prof.) Kamar): I said that the difference is one day. I wanted to know if the Committee and the Members will be available on Friday for the summons. We know how our Fridays are. It is likely that most of us will not be available on Friday because we do travel on that day.

What I gave earlier was also direction. We will invite the Cabinet Secretary and he can come or not come. That will help us not to go beyond Thursday. We want a day when all the Members are available. We will handle it from there. That does not reduce the powers of the Committee or that of the House.

I still persuade with you to accept my earlier ruling to direct the Cabinet Secretary to appear on Thursday. Alternatively, we can move to the next week.

**Sen. Olekina:** Madam Deputy Speaker, my only challenge with the direction is that if we invite the Cabinet Secretary and the security apparatus and they fail to appear on Thursday, it means that for us to summon and to compel his appearance, we have to give him seven days' notice. That means that he can only appear next week on Friday or the other week.

Let us divorce our interest from the interest of the people. We might have an interest with the Ministry of Interior and Coordination of National Government or the security apparatus in this country but we are dealing with the issue of people whose

livelihood is being affected. Let us not dillydally on this matter. Let us proceed and issue summons. Let us deal with it because it is of national security.

If the President can declare the drought issue in Laikipia and countrywide as a national disaster, our cows are being killed, people are living without--- there are people who cannot go to school. We want sanity.

**The Deputy Speaker** (Sen.(Prof.) Kamar): Sen. Olekina---

**Sen. Olekina:** I plead with you that instead of dillydallying let us move ahead and issue summons. Let him appear on Friday. We will come here because we are elected to represent the people. What business will we have going to the grassroots if we cannot deal with a matter of national concern?

I plead with you that instead of wasting time, let us issue the summons because invitations will not be honored.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Honorable Senators, the issue was whether we should summon him to come on Friday and the question was whether Members will be here. We are debating because Friday becomes tricky for most Members and we do not want to fail the same public by not appearing on Friday. Fridays have been a disaster for our Committees.

Do we do that or invite him directly to come on the Thursday and then deal with it if he does not come? I can see the consensus is that--- I had already directed. Please let us stick to that. Let us invite him on Thursday.

*(An Honourable Member spoke off record)*

In your own words, whether I direct or summon, somebody who has the intention of not coming will not come. Can we allow---

**Sen. (Eng.) Mahamud:** Madam Deputy Speaker, it matters who gives that directive. This House directing that the CS appears on Thursday before a Committee of the Whole is different from the Chair of a Committee issuing an invitation. It has happened before. We have a precedence. You can remember the day some Senators had been arrested. The Cabinet Secretary of Interior and Coordination of the National Government, Hon.(Dr.) Matiang'i was here.

*(An Honourable Member spoke off record)*

Instruction from the Chair is weightier than from a Committee.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Let us release that instruction from the Speaker's hand that the Security apparatus appear on Thursday and deal with it at that time. It shall be at 10. 00a.m before the Committee of the Whole House.

The next Statement is pursuant to Standing order 52(1). The Senate Majority Leader to issue a Statement on the business of the Senate for the week commencing Tuesday 21<sup>st</sup> September, 2021. Proceed Deputy Majority Leader.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY 21<sup>ST</sup> SEPTEMBER, 2021

**Sen. Dullo:** Thank you, Madam Deputy Speaker. Pursuant to Standing Order 52(1), I hereby present to the Senate the business of the Senate for the week commencing Tuesday 21<sup>st</sup> September, 2021.

Before I proceed, allow me to take this opportunity to than all Honourable Senators for passing five Bills yesterday, Wednesday, 15<sup>th</sup> September, 2021 which are now being prepared for transmission to the National Assembly. The are-

- i) The County Governments Grants Bill (Senate Bills No. 35 of 2021)
- ii) The Mental Health (Amendment) Bill (Senate Bills No. 28 of 2020)
- iii) The Basic Education Bill (Senate Bills No. 4 of 2021) \
- iv) The County Licensing (Uniform Procedures) Bill (Senate Bills No. 32 of 2020)
- v) The Salaries and Remuneration Commission (Amendment) Bill (Senate Bills No. 31 of 2020)

The in-tray of the Senate is still full. There are now nine Bills at the Committee of the Whole stage and 22 at the Second Reading. These Bills are allocated slots in the weekly program of Senate Business that is circulated every Friday.

I urge respective Movers to be on the lookout so as to know when the Bills are scheduled on the Order Paper and to be available in the Senate for debate for the Bills. Standing Committees to which Bills are referred are encouraged to expedite consideration and Table the reports thereon.

Committee Chairpersons and individual Senators proposing amendments are likewise encouraged to be available in the Chamber to move the same at the Committee of the Whole stage.

Madam Deputy Speaker, on Tuesday 21<sup>st</sup> September, 2021, the Senate Business Committee (SBC) will meet to consider and approve the business of the week. On that day, subject to approval by the Committee, the Senate will consider Bills at the Second Reading stage, Bills at the Committee of the Whole stage and Motions and Reports filed by Select Committees.

On Wednesday, 22<sup>nd</sup> September, 2021 and Thursday, 23<sup>rd</sup> September, 2021, the Senate will priorities business that will not have been concluded on Tuesday 21<sup>st</sup> and Wednesday, 22<sup>nd</sup> September, 2021 respectively and any other business scheduled by the SBC including Petitions and Statements.

As indicated at Order No.9, 10 and 11 in today's Order Paper, there are Motions for reconstitution of Membership of Select Committees. Without preempting debate on the substantive Motions, the proposed changes are aimed at enhancing efficiency and effectiveness in Committee business. I urge Honourable Senators to consider that when making their contribution since a large percentage of our work is done in committees.

Madam Deputy Speaker, I thank you and hereby lay the Statement on the Table of the Senate.

*(Sen. Dullo laid the document on the Table)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Next Order.

## MOTIONS

APPROVAL OF SEN. JOHN NDERITU KINYUA TO  
SERVE IN THE SPEAKER'S PANEL

**The Deputy Speaker** (Sen. (Prof.) Kamar): Proceed, Deputy Senate Majority Leader.

**Sen. Dullo:** Thank you, Madam Deputy Speaker, I Move the Motion- THAT, pursuant to Standing Order No.17, the Senate approves the nomination of Sen. John Nderitu Kinyua MP as a member of the Speaker's Panel and further to be elected to preside over the Senate in the absence of the Speaker and the Deputy Speaker, pursuant to Article 107(1) c of the Constitution and Standing Order No. 15 of the Senate.

I do not have to delve so much into this matter. We are replacing Sen.(Dr.) Mwaura who is not in the Chamber because of the matter that transpired. So as to have somebody to sit on his behalf, the House decided to elect Sen. Kinyua to take over that position to enable the House with its proceed with its business without any challenges.

I Move and request the Senate Minority Leader (Sen. Orengo) to Second.

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

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

**The Senate Minority Leader** (Sen. Orengo): Madam Deputy Speaker, for the reasons that have been explained by the Deputy Majority Leader, I second.

**Sen. (Eng.) Mahamud:** We are discussing a very substantive matter of rearranging of Committees here and Speaker's Panel and the House has no quorum. It should not be proper to discuss matters this serious at this time.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Dullo, proceed.

**Sen. Dullo:** Madam Temporary Speaker, I am not disputing the position raised by Sen. (Eng.) Mahamud. I am sure there are some Members who could be online. We can allow the Motion to proceed, but we push the debate. It is by acclamation, but I am requesting putting of the question to be done the next day of the sitting.

I thank you.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, the most important thing we should do is just to determine whether we have quorum or not. This is not an issue for debate. We can do that in the meantime. Do we have the Whips here? We can check online.

There is quorum so we can continue. I do not see any interest.

*(Question proposed)*

**The Temporary Speaker** (Sen. Nyamunga): This does not concern the counties so I will put the question.

*(Question put and agreed to)*

Next Order. Senate Majority Leader, proceed.

APPROVAL OF SENATORS TO SERVE IN THE  
COMMITTEE ON POWERS AND PRIVILEGES

**Sen. Dullo:** Thank you, Madam Temporary Speaker. I beg to the following Motion-

THAT, NOTWITHSTANDING the resolution of the Senate made on 14<sup>th</sup> February, 2018, and 24<sup>th</sup> June, 2020, on the approval of Senators to serve in the Committee of Powers and Privileges, and pursuant to Section 15 (1) (b) (ii), of the Parliamentary Powers and Privileges Act, and Standing Order 189, the Senate approves the following Senators nominated to serve in the Committee of Powers and Privileges-

1. Sen. (Canon) Naomi Waqo, MP to replace Sen. (Dr.) Alice Milgo, MP;
2. Sen. Christine Zawadi Gona, MP to replace Sen. Kipchumba Murkomen, EGH, MP; and
3. Sen. Abdulkadir Mohamed Haji, MP to replace Sen. Kimani Wamatangi, MP.

Madam Temporary Speaker, without spending a lot of time, I have explained in the Senate Majority Leader's Statement, the reason is very clear. I move the Motion and I request Sen. Orengo to second. I thank you.

**The Senate Minority Leader** (Sen. Orengo): Madam Temporary Speaker, again for the reasons stated, I do second the Motion.

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

*(Question proposed)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I do not see any interest. So, I will go ahead and put the question.

*(Question put and negated)*

**The Temporary Speaker** (Sen. Nyamunga): Next Order.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, let us have some order.

The Senate Majority Leader, proceed. Sen. Orengo, what is it?

**The Senate Minority Leader** (Sen. Orengo): Madam Temporary Speaker, I can hear what Sen. Cherargei is saying. He has come here with a hatchet. I think to be realistic, during the day I was not quite satisfied that we are all reading from the same script on the question of the reconstitution of these committees.

Therefore, instead of just proceeding and knowing the likely outcome, I stand under Standing Order No. 105 (1) and move that Order Nos.10 and 11 debate to be deferred on those two orders. If that happens, I would suggest that before we bring the

two Motions to the House we have a *Kamkunji* the earliest part of next week. This is so that there is general agreement.

Madam Temporary Speaker, my position normally is that the constitution of Committees is a mandate of the House. If the House is not in agreement then it cannot be called a Committee of the House. I do move and ask for a volunteer to second.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I understand the request by the Senate Minority Leader but according to Standing Order No. 105, the adjournment of debate should be made after the Motion has been read and seconded. Thereafter we can.

**The Senate Minority Leader** (Sen. Orenge): Madam Temporary Speaker, it will be really an exercise in futility if the Senate Majority Leader would move, somebody seconds then in the next Order we follow up. I ask you then to use Standing Order No. 1 to defer debate on those two orders. This is so that we come for a *Kamukunji* on Tuesday to resolve this issue.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, whichever way, it was still going to bring us to the same. I would use my discretion to defer Order Nos. 10 and 11 for next time they are listed.

APPROVAL OF SEN. SAMSON ONGERI TO SERVE IN THE  
SESSIONAL COMMITTEE ON DELEGATED LEGISLATION

THAT, NOTWITHSTANDING, the resolution of the Senate made on 30<sup>th</sup> March, 2021 on the approval of Senators to serve in the Sessional Committee on Delegated Legislation, and pursuant to Standing Orders 189 and 219, the Senate approves the nomination of Sen. (Prof.) Samson Ongeru, EGH, MP to replace Sen. Erick Okong'o Mogeni, SC, MP as a Member of the Sessional Committee on Delegated Legislation.

*(Motion deferred)*

RECONSTITUTION OF STANDING COMMITTEES

THAT, NOTWITHSTANDING, the resolutions of the Senate made on 14<sup>th</sup> December, 2017; 14<sup>th</sup> February, 2018; 21<sup>st</sup> February, 2018; 21<sup>st</sup> November, 2018; 20<sup>th</sup> March, 2019; 19<sup>th</sup> June, 2019; 28<sup>th</sup> April, 2020; and 24<sup>th</sup> June, 2020 on the approval of Senators to serve in various Standing Committees of the Senate, and pursuant to Standing Orders 189, 218, and the Second Schedule to the Standing Orders, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows –

- (i) **Committee on Agriculture, Livestock and Fisheries**
1. Sen. (Prof.) Margaret Kamar, EGH, MP to replace Sen. (Eng.) Ephraim Mwangi Maina, MP;
  2. Sen. Haji Abdul Mohammed, MP to replace Sen. (Dr.) Mbito Michael Maling'a, MP;

3. Sen. (Dr.) Gertrude Musuruve Inimah, MP to replace Sen. Boy Issa Juma, MP; and
4. Sen. Agnes Kavindu Muthama, MP to serve as a Member.

**(ii) Committee on Devolution and Intergovernmental Relations**

1. Sen. Njeru Ndwiga, EGH, MP to replace Sen. Aaron Cheruiyot, MP.
2. Sen. Samson Cherargey, MP to serve as a Member;
3. Sen. Irungu Kang'ata, MP to serve a Member; and
4. Sen. Agnes Kavindu, MP to serve as a Member.

**(iii) Committee on Education**

1. Sen. Naomi Shiyonga Masitsa, MP to replace Sen. (Dr.) Gertrude Musuruve Inimah, MP; and
2. Sen. Boy Issa Juma, MP to replace Sen. (Prof.) Imana Malachi Charles Ekal, MP.

**(iv) Committee on Energy**

1. Sen. Susan Kihika, MP to replace Sen. Abshiro Halake, MP;
2. Sen. Kipchumba Murkomen, EGH, MP to replace Sen. John Kinyua Nderitu, MP; and
3. Sen. Haji Abdul Mohammed, MP, to serve as a Member.
4. Sen. Moses Wetangula, EGH, MP to replace Sen. (Prof.) Imana Malachy Ekal, MP

**(v) Committee on Finance and Budget**

Sen. (Prof.) Samson Ongeru, EGH, MP to replace Sen. (Dr.) Ochillo Ayacko, EGH, MP.

**(vi) Committee on Information, Communication and Technology**

1. Sen. Samuel Poghisi, EGH, MP to replace Sen. Gideon Moi, CBS, MP;
2. Sen. (Eng.) Mahamud, Mohamed Maalim, CBS, MP to replace Sen. Susan Kihika, MP;
3. Sen. Moses Kajwang', MP to replace Sen. Petronilla Were Lokorio, MP; and
4. Sen. (Dr.) Gertrude Musuruve Inimah, MP to replace Sen. Mercy Chebeni, MP.

**(vii) Committee on Justice, Legal Affairs and Human Rights**

Sen. (Eng.) Ephraim Maina, EBS, MP to serve as a Member.

**(viii) Committee on Labour and Social Welfare**

1. Sen. Ledama Olekina, MP to replace Sen. Johnes Mwaruma, MP; and



2. Sen. Philip Salau Mpaayei, MP to replace Sen. Paul Mwangi Githiomi, MP.

**(ix) Committee on Land, Environment and Natural Resources**

Sen. (Dr.) Alice Milgo, MP to replace Sen. Ndwiga Peter Njeru, MP; and further that Sen. Gideon Moi, CBS, MP ceases being a Member of the Committee.

**(x) Committee on National Cohesion, Equal Opportunity and Regional Integration**

1. Sen. Abshiro Halake, MP to replace Sen. (Dr.) Christopher Andrew Lang'at, MP; and
2. Sen. (Dr.) Ochillo Ayacko, EGH, MP to replace Sen. (Dr.) Gertrude Musuruve Inimah, MP.

**(xi) Committee on National Security, Defence and Foreign Relations**

1. Sen. Gideon Moi, CBS, MP to replace Sen. (Eng.) Mahamud, Mohamed Maalim, CBS, MP; and
2. Sen. Paul Mwangi Githiomi, MP to serve as a Member.

**(xii) Committee on Tourism, Trade and Industrialization**

1. Sen. Aaron Cheruiyot, MP to replace Sen. Philip Mpaayei, MP;
2. Sen. (Prof.) Imana Malachy Charles Ekal, MP to replace Sen. (Dr.) Agnes Zani, CBS MP; and
3. Sen. Petronilla Were Lokorio, MP, to replace Sen. Mercy Chebeni, MP.

*(Motion deferred)*

**The Temporary Speaker** (Sen. Nyamunga): We move on to the next Order. I do not see Sen. Halake in the House. That one is deferred.

**BILLS**

*Second Reading*

THE LAW OF SUCCESSION (AMENDMENT) BILL  
(SENATE BILLS NO. 15 OF 2021)

*(Bill deferred)*

**The Temporary Speaker** (Sen. Nyamunga): Next Order.

*Second Reading*THE PUBLIC PRIVATE PARTNERSHIP BILL  
(NATIONAL ASSEMBLY BILLS NO. 6 OF 2021)

**The Temporary Speaker** (Sen. Nyamunga): The Senate Majority Leader, are you ready to move that one? You are not ready so we defer it also.

*(Bill deferred)*

*Second Reading*THE COUNTY HALL OF FAME BILL  
(SENATE BILLS NO. 9 OF 2021)

**The Temporary Speaker** (Sen. Nyamunga): Is Sen. Murkomen in the House? He was around but I do not see him so we defer that one also.

*(Bill deferred)*

**The Temporary Speaker** (Sen. Nyamunga): Next Order.

*Second Reading*THE DISASTER RISK MANAGEMENT BILL  
(SENATE BILLS NO. 14 OF 2021)

**The Temporary Speaker** (Sen. Nyamunga): Sen. Sakaja, are you ready to move forward? Okay, proceed.

**Sen. Sakaja:** Thank you, Madam Temporary Speaker. I am always ready. I did not think it would come today but this being a Bill that I sponsored jointly with Sen. Mutula Kilonzo Jnr., I am able to move it.

I beg to move that the Disaster Risk Management Bill (Senate Bills No. 14 of 2021) be read a Second Time.

This Bill is very important. This is one of the Bills that this House had already passed. Subsequent to the court ruling, which was made in favour of the Senate, this Bill was one of those that had to be republished. However, we had already passed it as a Senate. This Bill had gone onward transmission to the National Assembly.

Madam Temporary Speaker, the reasoning behind or the purpose of this Bill is to establish a model or system through which we can manage disasters in this country. This is to establish the National Disaster Risk Management Authority (NDRMA) and County Disaster Risk Management Committees (CDRMC) to provide for a legal framework for the coordination of disaster risk management and for connected purposes. I would urge Members to go through. The Bill is available on the devices and any Member can access it.

Very quickly, I think we all know what has been happening across the country. I will give an example. In Nairobi County, every two weeks or month, there is a fire and some form of disaster or another. We had a building collapse recently. We have had workers at a construction site where an entire crane fell and killed a few people just on the day when we were having the funeral service for Sen. Prengei.

Madam Temporary Speaker, it has almost become a norm. In fact, at some point I said I have stopped going to Gikomba. Every so often, we go there and make huge statements but there is no authority that can follow up the arson in Gikomba market.

It has been a pain to me as the Senator for Nairobi County that property worth millions and lives are at risk. Property is lost every so often when disaster strikes yet there is no model or framework through which it can be dealt with.

Madam Temporary Speaker, just the other day, there was fire in Westlands in Kibagare. It is just because I was able to pick up my phone and call the relevant authority. The people on the ground did not know who to call. It cannot be then that we respond to disasters based on who knows the Senator, governor or County Executive Committee Member (CECM). There must be a number and a hotline.

I remember very well while we were doing this Bill. AT some point the Senate Committee on National Security, Defence and Foreign Relations at that time I was the deputy chairperson but I was holding fort for the late Sen. Haji. We looked at British Columbia in Vancouver and the model through which they manage their disasters, hotlines and response time of less than three minutes to any disaster.

Madam Temporary Speaker, many lives that we have lost in Nairobi City could have been saved if we had a proper framework for disaster management. A lot of property have gone up and many of us in our culture many people do not insure their property. A lot of property could be saved.

Incidentally and I am confident enough to say this. I will not shy out of it because it might be a bit political. When I have done investigations on many of the fires in Gikomba, those fires have been caused by three reasons. The first reason is people who have been prospecting for that land. We have made pronouncement that that is public land of the entire 12 acres. No one should think that you will burn and move the traders away.

Madam Temporary Speaker, the second two reasons are the ones, which are much more disturbing. There is a section of certain traders and we know some of them, and we have raised this issue severally. When their stock is about to run out, they cause a fire so that they can claim insurance yet they are jeopardising the livelihoods of many more other traders. That is why I am not afraid to say it.

Finally, there has been accidents either electrical fault. We have these ladies who cook *githeri* and it is burning overnight. Sometimes we have street boys who are enjoying the fire and maybe some sparks fly. That has been another reason. The second reason of insurance-based arson as well as the reason of land prospecting really needs to be dealt with.

Madam Temporary Speaker, this Bill wants to ensure that first, there is coordination between the national government and the county governments when it comes to dealing with disasters. Many counties do not have the capacity that Nairobi County has. Even Nairobi County despite having the biggest capacity has not been doing well in managing disaster.

We have proposed in many parts of this city, first, fire stations. Land has been grabbed where fire stations are supposed to be. People have built and encroached on the paths through which even a truck could come and bring relief or rescue the situation when there has been a disaster.

Madam Temporary Speaker, there was some small buggies that I think Gov. Kidero had bought which were small quad bikes with water that would go inside Gikomba and these markets when there is disaster. As the story has been on many issues in my county of Nairobi, they disappeared. We do not know where they are. They are not being used.

We saw fire hydrants in this city. The red posts along the streets were in case of a disaster---, because you call the fire engine, they come and say either they come without water or they come and quickly run out of water. There are many times Nairobians have almost lynched these people and sent them away. Why would you come to the site of a fire disaster without water?

Madam Temporary Speaker, we want to make sure that there is coordination of disaster risk management issues for national and county governments especially for counties that might not have the capacity.

In the Fourth Schedule, disaster management is actually a concurrent function of both the national and county levels. There could be national disasters that are beyond the scope of one county. For instance, if a disaster is between the Counties of Laikipia, Samburu and Nyeri, for instance, then that is dealt with jointly through the disaster coordination committees at the county as well as the NDRMA because it is a shared function according to the Fourth Schedule.

Madam Temporary Speaker, we propose to bring together the National Disaster Operation Centre (NDOC) that exists, the National Disaster Management Unit (NDMU) that is in existence and the Department of Special Programs at the hospices of the proposed NDRMA. We are not creating necessarily a new body. We have enough institutions. We are bringing together institutions that for a long time have been too uncoordinated. The left does not know what the right is doing.

You remember when a building collapsed in Huruma. That time I was not the Senator but I went there and spent three nights.

I did not leave the site you remember. Throughout that time, I was so sad. I had to buy the machines that are used to cut the steel bars, because people were trapped in those buildings. I as a citizen had to buy, yet I had military officers there and the National Youth Service (NYS) headquarters is so close. They said because of the bureaucracy, they could not get someone to approve a voucher and do what.

Madam Temporary Speaker, I had to fuel the generators for those who were going in to search. Additionally, even getting milk and bread for those who were doing the rescue efforts, who were private citizens, had to be done by well-wishers. I am very grateful for many of my friends who came together. When I heard it, I just got into my car, went to a petrol station, filled it with milk and bread and asked people to send, and they kept sending.

The goodwill of the people of Nairobi is what has helped us survive in many of these disasters. I remember Mr. Gigotho was in charge of disaster then. His hands were tied. He wanted to do one thing and the military wanted to do something different. They wanted to do another thing, and the NYS were trying to do something different. That lack

of coordination cost us lives. I remember painfully carrying bodies of dead children, who did not deserve to die.

Madam Temporary Speaker, what we are trying to do together with my brother Sen. Mutula Kilonzo Jnr. is to first bring all of these units under one command of the National Disaster Management Risk Authority (NDMRA). They will respond to many different disasters. Even a terrorist attacks can be seen as a disaster because it has just happened. By the time it has happened, that authority must get wind of it and know which agency is best suited to respond.

Again, during the West Gate attack, and that time I remember I was the patron of the National Gun Owners Association (NGOA), it was a Saturday. At the range where we train civilian gun holders - and I had just landed from China - the civilians were able to leave. We train with the General Service Unit (GSU) Recce Squad, but the civilians were able to leave and go to West Gate to start saving lives. I remember Sen. Abdul Haji came out distinguished, trying to save lives.

Madam Temporary Speaker, the best qualified response team we have in Kenya, the Recce Squad, could not leave because of the chain of command and instructions to be released. That was the first disaster. What happened next was that my friend, Munene, who was an officer, was actually killed by friendly fire from another unit of our defence forces. A GSU officer was killed by the military because of lack of coordination and their signals are different.

I thank President Uhuru Kenyatta because he has really supported our officers. We were able now to have what we call joint command in the case of such. That is why when the Dusit attack happened, the response was a bit different. I remember that time Gov. ole Lenku talking about mattresses, and I do not know what. It was a mess because of lack of coordination.

Madam Temporary Speaker, the main premise of this Bill then is to approach disaster risk management in a manner that seeks, first, to respond effectively in a timely manner, to any disaster or risk of disaster.

Second, is to prevent the adverse effects of disasters and recover as far as may be possible the livelihoods of communities affected by disaster. Many lives change and things are never the same after many of these disasters. I will urge Members to support it. Enactment of this law will assist in efficient and effective management of disasters across the country.

If you go through the Bill, Part One is just the preliminary provisions, where we have done definitions. We have defined different terms that we use. Then, we have established this authority, but then it is the national coordination.

Madam Temporary Speaker, in the county, we will have County Disaster Risk Management Committees (CDRMC), where we have the leadership of the county together with those professionals who are required, and I will go through the clause that provides for that, so that there can be better coordination. It is not just the County Executive Committee Member (CECM) or the governor who is dealing with that.

We will have the, county, county commissioner and the national Government part of it. Many times, the lack of coordination is between the county and national Governments at the same place. We will have the Regional Commissioner, in the case of Nairobi, or county commissioner in your county, who is trying to head west, yet the

county CECM or the Chief Officer (CO) in charge of disaster management is heading east, causing more problems.

Madam Temporary Speaker, we have established that a focal point for coordination. That focal point then coordinates with the national authority. Many of the things that we seek to do include early warning signals. Many disasters including environmental disasters; early warning will help.

When we were in the Committee that dealt with the Solai Dam Tragedy, it is very sad that warnings had been given in advance on the matter of Solai; that the dam was going to burst its banks. But since there was no entity to which you would say the buck stops when it comes to this, whether it is Water Resources Authority (WRA) or is it National Environment Management Authority of Kenya (NEMA) or the county government--- What happened is the classic case of 'there was something that anybody could do,' but nobody did it because everybody thought somebody would do it. At the end of the day, nobody ended up doing it and we lost lives. A total of 49 children died because of lack of such an entity. That is why you need early warning signals.

Madam Temporary Speaker, it is not lost upon us--- Where you come from, around the lake, flooding happens every year. There is Budalang'i or when River Nyando bursts its banks, if I am not wrong. There must be something that we must do. I said earlier that insanity is doing the same thing every day repeatedly and expecting different results. We need those early warnings and signals, and for us also to understand where these hotspots are.

I can give you an example in Nairobi. Apart from the markets of Gikomba and some of the trade areas, one constituency that always has fire is Mathare Constituency. We know it. I remember going to the Kenya Power Company, as the Senator, and telling the management, "please, come with us. Let us make sure there are safe connections because it is power connections."

Madam Temporary Speaker, if you are charging people so much, they will take power for themselves. That vehicle will not enter Mathare, unless it is accompanied by leaders. You remember Hon. Ndolo of the famous quote of "*ukiona wao.*" He said "*weka tyre,*" but he meant that if you see them and they have a puncture, help them by putting a tyre. Of course, we know that, that is not what he meant.

That is what is happening in my county. It is because of the high costs of living. I have just explained today from Korogocho, where I have come and walked through Kariobangi. They are just saying '*mafuta.*' Fuel prices are too high. Because of that, people then get illegal connections and tap electricity. It is very dangerous, but because of the load of that electricity - sometimes they even go into Three Phase to go into the *mabati* structures - there is a fire almost every two weeks. You can ask Hon. Oluoch and he will tell you.

Madam Temporary Speaker, as leaders, instead of always responding to these fires to look good, taking galvanised sheets and wood for them to construct. This is a solution that then will outlast. We do not want to be ambulance chasers. Yesterday, there was fire in Gatina in Kawangware, and I have seen leaders went there today. We thank those leaders. His Excellency Musalia Mudavadi went there and gave some support. Thank you, but that is not sustainable.

We cannot keep doing that. We cannot keep going and speaking angrily; that something must be done about Gikomba, Westlands or Mathare. What must be done is

creating that coordination, with early warning signals for us to know that a particular place is a hotspot because of power. This will enable us address that issue. If the area with industries is a hotspot because of the kind of effluent that is released, let us deal with that issue. Then, we will have a coordinated way of dealing with disasters in this country.

Madam Temporary Speaker, we also provide for a fund. We have put it in such a way that it is not a money Bill. This is because it is a provision on the establishment on objectives of what that fund will be. Then, it gives power under the Public Finance Management (PFM) Act, which is passed by the National Assembly, for the Cabinet Secretary (CS) to do it. In effect, we are not necessarily creating the fund here, but providing the framework through which that can be created, because we will need to resource disaster risk management.

In Tana River County, for example, and the Senator is here, there are many disasters along Tana River, but they may not have the resources, as a county, to necessarily deal with it every year, otherwise, it will overshoot their budget at the county level. However, if you have this fund where there is sharing between the national Government and county governments--- Also, even well-wishers who want to support, instead of asking everyone to bring their fire engines and what not, they can support that disaster management fund. There can be hotlines where we have call centres, where our young people can volunteer and be picking up those calls. This is so that when there is anything that happens in any part of the City or country, then there is quick response from this management authority.

Madam Temporary Speaker, there are also penalties of offences under this Bill. One of the entities that we said we are putting here is the department of special programmes. I do not know if you have had to deal with them. Many times when we have these issues in Nairobi, I have asked. You write a letter and they used to be very cooperative. I do not know what has happened to them nowadays.

You would write a letter and ask them for some flour, maize, rice and sometimes some building materials. If you are lucky or they like you, maybe, they would give you some of these supplies. If they do not, they would take you round in circles and end up doing nothing.

Madam Temporary Speaker, it cannot be that subjective that any elected leader or it depends on which side you are as an elected leader to go. Many people have come to ask me please help me to get these supplies for my county. I feel very bad that why I am able to go there yet Sen. Nyamunga or another Senator, you are not able to. It must not be subjective. It must be very objective. In the case of a disaster, these are the kinds of responses we require, this is how much we are able to give and this is the formula we use.

Recently, I had fire in Kamkunji. Again, I thank Principal Secretary (PS) Hon. Kibicho and Cabinet Secretary (CS) Hon. (Dr.) Matiang'i because immediately I got in touch with them, they were able to tell me this is what we can do. I got Hon. Yusuf who is one of the most cooperative leaders in Nairobi and quickly, I sent him there with resources. We gave the people something. We told them *pole* and built houses for them.

Madam Temporary Speaker, as much as it works, it is not sustainable. That is why we have the rule of law more than the rule of man. This is so that today if you do not like Sen. Orenge and there is a disaster in Siaya County. You just tell him do not worry, tell the County Commissioner to write to us. However, if you like Sen. Wario, then you help him. It cannot be like that. I think that discretion is wrong.

Also, it has led to a lot of corruption. When there is a lack of a proper system of accountability and who deals with these disasters, we find sometimes chiefs in some areas. They have been given maize, beans or supplies and those supplies disappear. You find someone has been told to go but nails for traders to build and they go and collude with the hardware owners. That has been happening and I have seen it. I am not saying anywhere or pointing names but if they are listening they know themselves.

Madam Temporary Speaker, if this comes this will be the end of that. There will be accountability, repository or even stores to store some of these things so that we can help our people get back to their feet after a disaster.

Those provisions have been provided, offenses and penalties. Anybody who, first, misuses that fund. Secondly, anybody who knowingly for instance. You know some people can do prank wars. When we were children in Nairobi, we used to tap the phones. You tap and find you have called somewhere and you have called 999 and tell the police that this and that has happened. We tell the fire engine this and that has happened yet it has not happened.

Madam Temporary Speaker, if you are caught also lying, there must be a penalty. Imagine deploying ten trucks to go all the way to the site of a disaster yet there is nothing and then there is an actual disaster elsewhere. You might actually cost lives of people.

We have given legislative powers that we delegated to the CS responsible for matters related to disaster risk management. As it is that is most likely the CS for the Ministry of Devolution or Ministry of Interior and Coordination of National Government actually. Some of these entities and that was the problem. You find one entity under this ministry and National Disaster Operations Centre (NDOC) is under another ministry and National Disaster Management Unit (NDMU) is in another ministry. They will be all under one CS who can deal with that and make sure that staffing is done.

Madam Temporary Speaker, in the transitional provisions, we also provide for the transition. I remember the other Bill I had done. The first time we did one on National Employment Authority (NEA). The President sent it back and I was very hurt. I thought he did not like it. He said no, there already exist the bureau.

So, you must provide a transitional clause of how these people move from this bureau where they are now at the Ministry of Labour and Social Protection to the NEA. This time round, I do not want him to return this Bill. We have provided for that transitional provision of how these people can move to the new institution.

Madam Temporary Speaker, this concerns county governments. It actually affects the functions, powers and finances of the counties. We have noted that in this Bill. However, enactment of it and why we said it is not a money Bill, will not occasion additional expenditure to the public. I know I have a lot of time and I will go on so that when we come back, I can be seconded by Sen. Mutula Kilonzo Jnr. I know he will really want to second this.

I will proceed. It is a body corporate. It is capable of suing and being sued and purchasing and acquiring property. It will need a lot of property. Part of it is to reclaim grabbed properties. A lot of counties, and I thank my former governor, Hon. Sonko. You find car yards in Lavington. There was a car yard which was in Gigiri next to the United Nations (UN) headquarters which is actually a fire station, but somebody was leasing it out to sell cars.



Madam Temporary Speaker, that is the place where response in the entire Gigiri and Runda area and UN headquarters where we have all these people; is supposed to be done from. What has happened? It has been taken. Even this fire station in Nairobi Town was at risk. Imagine the audacity. It is like trying to grab Kenyatta International Convention Centre (KICC) which incidentally has also been grabbed.

The fire station in town was at risk of being grabbed. In Eastlands, I have so many spots and I know which are at threat and some have actually been grabbed. The first thing is to reclaim all of these properties and equipment that is necessary for doing that.

Madam Temporary Speaker, so, the authority, first, will adopt a coordinated interagency and inter-ministerial approach in disaster prevention, mitigation, response and recovery activities. It would be the central national agency in implementing these activities and sets the policy. They will advise continuously the national and county government on management measures of disaster risk which is extremely important for them to get that advice.

They will develop, update and coordinate implementation of the management strategy and plan that each county must develop and then bring it to the disaster risk management authority at the national level.

Madam Temporary Speaker, this was very specific when we put it. In coordination with the bureau of statistics to coordinate, collate, review and analyse disaggregated information relevant to disaster risk management. This includes population data and household data. Our census even tells us what kind of firewood people use, whether it is firewood, gas or what not. Based on that, they can map out some of these hotspots when it comes to disaster.

Of course, formulate, establish and implement a national early warning and emergency communication system. That emergency communication system must be toll free. You cannot charge people to make a phone call when there is a disaster or to pass that. It must be toll-free. We used to have public campaigns them, years ago as I grew up in this city. This is where we would be told what to do in case of a fire. Fire drills used to be conducted. These days people do not know what to do.

Madam Temporary Speaker, what happens in case of a terrorist attack? The 9/11 was commemorated yesterday. I was watching a serious documentary on 9/11 on how people had to be taught after that. That in case of this, you either go down, under a table, or how do you get out. Some people would die because of stampedes in the case of a disaster. We need to create public awareness to let them know through civic education.

We must monitor, evaluate and document lessons learnt from the handling of disasters. The file on Solai Dam Tragedy is big, but it is in Sen. Mutula Kilonzo Jnr.'s office only. I do not know if the county government has seen what to learn or whether Water Resources Authority (WRA) has looked at it to see this is what happened. It is this thick. We went through all of those things and we know what happened and what the problem was. We must document lessons learnt. We must learn to be a country that takes documentation seriously.

Madam Temporary Speaker, of course to promote linkages with key ministries, community service organisations, international organisations, county, sub-county community based disaster risk management entities. Also coordinate preparation and maintenance of atlases including databanks and information on potential hazards and vulnerabilities. Also to lead and coordinate routine hazard identification and vulnerability

and risk assessments in all sectors and to have these early warning systems at the national level.

There are many functions and roles that this authority is going to have including structural and non-structural mitigation measures in all sectors. For instance, if you are dealing with people in Industrial Area. These are people who are in industry. There is what you need to tell them vis-à-vis people in the transport sector.

Madam Temporary Speaker, transport sector needs to look at disaster in a different manner. Those who are in, for instance, mining, we have people whose mines have collapsed around the country. They need to be given different disaster awareness. It will be sector-based across the country. We must have guidelines for participation in county, national, regional and international disaster management activities. We can have international disasters between our countries. How do we deal with those?

Of course to coordinate resource mobilisation strategies, training *et cetera*. I will ask Members to go through this Bill. It has all of those provisions.

Madam Temporary Speaker, without going further because I think I should actually just move and then it can be seconded when we come back or maintain a few more minutes. This is one of those Bills or laws that will change how things are being done and directly affect the lives of Kenyans. With that, I wish to move that the Bill be read a Second Time and I will ask Sen. Mutula Kilonzo Jnr. to second.

**The Temporary Speaker** (Sen. Nyamunga): You will not need to continue. You have finished and Sen. Mutula Kilonzo Jnr. Will just proceed. It is because you have a balance of 33 minutes.

**Sen. Sakaja:** Madam Temporary Speaker, I will continue. So, I have not moved. I will continue so that Sen. Mutual Kilonzo Jnr. can get the warmth of the Floor as he is seconding, but he is very well versed. Thank you.

**The Temporary Speaker** (Sen. Nyamunga): So, you will have a balance of 33 minutes.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Nyamunga): Honourable Senators, it is now 6.30 p.m., time to adjourn the House. The Senate therefore stands adjourned until Tuesday, 21<sup>st</sup> September, 2021 at 2.30 p.m.

The Senate rose at 6.30 p.m.