

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Tuesday, 10<sup>th</sup> March, 2020

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

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

### PRAYER

### PAPER LAID

REPORT OF THE 3<sup>RD</sup> ORDINARY SESSION  
OF THE 5<sup>TH</sup> PAP

**Sen. Kihika:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Tuesday, 10<sup>th</sup> March, 2020 -

Report of the Third Ordinary Session of the 5<sup>th</sup> Parliament of the Pan-African Parliament held from 7<sup>th</sup> to 18<sup>th</sup> October, 2019 in Midrand, South Africa.

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

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

### NOTICES OF MOTIONS

NOTING OF THE REPORT OF THE 3<sup>RD</sup> ORDINARY  
SESSION OF THE 5<sup>TH</sup> PAP

**Sen. Kihika:** Mr. Speaker, Sir, I rise to give notice of the following Motion -

THAT, the Senate notes the Report of the Third Ordinary Session of the 5th Parliament of the Pan-African Parliament held from 7<sup>th</sup> to 18<sup>th</sup> October, 2019 in Midrand, South Africa.

I thank you.

**The Speaker** (Hon. Lusaka): Sen. Ndwiga is missing in action.  
Sen. Nyamunga.

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

**Sen. Nyamunga:** Thank you Mr. Speaker, Sir, for giving me this opportunity. I beg to give notice of the following Motion -

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

NOTING THAT the beneficiaries receive a monthly stipend of Kshs. 2,000, delivered every two months through appointed payment agents, and also entitled to medical insurance through the National Health Insurance Fund (NHIF);

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

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

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

Mr. Speaker, Sir, it is a very good initiative that was started by the Government. We realise that some of the elderly people do not have beneficiaries. The people who have---

**The Speaker** (Hon. Lusaka): Order, Senator. I thought that was a Notice of Motion.

**Sen. Nyamunga:** I am sorry, Mr. Speaker, Sir.

**COMMUNICATION FROM THE CHAIR**

DEMISE OF HON. SULEIMAN DORI, MEMBER OF PARLIAMENT  
FOR MSAMBWENI CONSTITUENCY

**The Speaker** (Hon. Lusaka): Hon. Senators, I have a Communication to make.

On the morning of Monday, 9<sup>th</sup> March, 2020, the country received with great sorrow, the sad news of the demise of the Member of the National Assembly for Msambweni Constituency, the late Hon. Suleiman Dori, MP.

The late hon. Member passed on while undergoing treatment at the Aga Khan Hospital, Mombasa County, and was laid to rest yesterday afternoon in accordance with the Muslim faith.

The late hon. Suleiman Dori was born in Msambweni Constituency, Kwale County on 19<sup>th</sup> October, 1977. He attended, Tudor Secondary School and later other institutions, including the Young Men Christian Association (YMCA), where he was trained on Community Development.

The late hon. Dori made his debut in national politics in the March, 2013 General Elections when he successfully vied for the Msambweni Constituency, where he served from 2013 to 2017. He was subsequently re-elected in the 2017 General Elections in the same capacity.

He was a vibrant Member of the National Assembly who served actively and diligently. During his first term in Parliament, hon. Suleiman Dori served as an illustrious Member of the Departmental Committee on Lands as well as the Departmental Committee on Transport, Public Works and Housing.

In his second term in Parliament, he was reappointed to the Departmental Committee on Transport, Public Works and Housing where he had been serving diligently.

On behalf of all Senators, the staff of the Senate, and my own behalf, I wish to convey my deepest condolences to his family, friends and the people of Msambweni Constituency. Indeed, the country has lost an astute leader who championed the empowerment of the people he represented.

May the Almighty God grant comfort to his family, friends, relatives and the people of Msambweni Constituency, during this painful and sorrowful period.

May the Lord rest his soul in eternal peace.

Hon. Senators, in honor of our departed colleague, I request that we all rise in our places and observe a minute of silence.

*(Hon. Members stood up in their places and observed a minute of silence)*

I thank you.

**Sen. Faki:** Asante Bw. Spika kwa kunipa fursa hii kutoa rambirambi zangu kwa familia, jamaa na ndugu wa marehemu Mhe. Dori ambaye hadi kufa kwake alikuwa Mbunge wa Msambweni na pia Mwenyekiti wa Muungano wa Wabunge wa Pwani, yaani, *Coast Parliamentary Group*.

Ningependa kunukuu kitabu kitakatifu cha Quran kinachosema kwamba “Kila nafsi itaonja mauti”. Kifo cha ndugu yetu Mhe. Dori kilikuwa cha ghafla na twaomba Mwenyezi Mungu aiweke roho yake mahali pema peponi.

Tulisoma naye katika shule moja ya Tudor Day Secondary School. Ijapokuwa nilikuwa mbele yake, sote ni *old boys* wa shule hiyo. Kwa hakika, alitenda kazi zake kwa nia ya kusaidia wananchi na kuendeleza jamii pamoja na nchi kwa jumla.

Katika muda mfupi ambao amehudumu kama Mbunge wa Msambweni, alifanya kazi kubwa sana katika nyanja ya elimu. Aliweza kusaidia kupitia kwa National

Government Constituency Development Fund (NG-CDF) kuanzisha Dori Girls' Secondary School ambayo iko karibu nyumbani kwake na mahali alipozikwa jana.

Bw. Spika, mambo mengine ambayo ameweza kufanya ni kupigania haki za watu wa Pwani na Wakenya kwa jumla. Alikuwa mstari wa mbele katika kuhakikisha kwamba watu wake wa Msambweni wamepata mashamba na makazi yao kutokana na dhuluma za kihistoria.

Kama Mwenyekiti wa Muungano wa *Coast Parliamentary Group*, aliweza kutuweka pamoja sisi kama Wabunge kutoka sehemu ya Pwani. Alichangia pakubwa katika kuhakikisha kwamba jumua za Kaunti za Pwani zimeweza kuimarika na kusaidia wananchi wa eneo lile.

Wiki iliyopita tulikutana na Mhe. Dori hapa katika Bunge. Vile vile, tulikuwa pamoja katika *Health Club* mpaka siku ya Alhamisi ya Tarehe 22.02.2020. Wiki iliyopita niliwahi kuongea naye siku ya Jumatano wakati tulikuwa tumepanga mkutano wa kupeleka mapendekezo yetu kwa kamati tekelezi ya *Building Bridges Initiative* (BBI). Alinipigia simu siku hiyo akaniambia kwamba hangeweza kufika Bungeni kwa hivyo, tupange kufanya mkutano wiki iliyofuata.

Siku ya Jumamosi asubuhi nilipata ripoti kwamba alilikuwa amelazwa katika chumba cha wagonjwa mahututi katika Agha Khan Hospital, Mombasa. Niliwahi kuenda hapo hospitalini lakini kwa bahati mbaya sikuweza kumwona kwa sababu hali yake ilikuwa mbaya kidogo. Vile vile, kutokana na maradhi aliyokuwa nayo madaktari walikuwa wameshauri kwamba asiweze kuonekana. Jana asubuhi tulipata habari za kuondoka kwake katika ulimwengu. Twaomba Mwenyezi Mungu aiweke roho yake mahali pema.

Kifo kinaweza kupata mtu yeyote mahali popote. Kwa hakika, kifo cha ndugu yetu ni funzo kwetu sisi kwa sababu katika ulimwengu tumepewa fursa ya kusaidia binadamu wenzetu na kuhakikisha kwamba tunaacha alama kwa yale tumefanya. Mwenzetu ameweza kufanya mengi katika nyanja za elimu katika eneo lake la Msambweni na kuipatia jamii yake ardhi.

Mwenyezi Mungu ampeleke katika safari hii yake ya mwisho hapa ulimwenguni na tuhakikishe kwamba sisi ambao tunabaki nyuma tunayaangalia yale ambayo amefanya na kufanya bora zaidi.

Jambo la kusikitisha ni kwamba, Mhe. Dori aliacha familia changa sana. Watoto wake wote ninafikiri hawazidi miaka 15. Kwa hivyo, ni jambo la kusikitisha lakini analofanya Mwenyezi Mungu ndilo tunalokubali. Sisi kama binadamu hatuna la kufanya zaidi isipokuwa kumwomba Mwenyezi Mungu katika safari yake.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. I join you in sending my heartfelt condolences to the family of the late hon. Dori and the people of Msambweni as a whole.

Madam Speaker--- My apologies, Mr. Speaker, Sir. I was thinking about the girls' school he put up, and that is why I said "Madam".

*(Laughter)*

**The Speaker** (Hon. Lusaka): Order! The problem started last week and it seems to be gaining currency. I do not know whether I am beginning to look like a lady or something.

*(Laughter)*

Proceed.

**Sen. Farhiya:** Mr. Speaker, Sir, I apologize. I appreciate our departed colleague for choosing to build a girls' school. I think that kind of a person is one who wanted to bring equality to the society. According to our Muslim belief, every soul shall taste death, but at least he has left a mark in this world; he did the best he could. He has turned out as the best legislator for his people.

I pray for the people of Msambweni to get a good person who will take care of them the way hon. Dori did. The fact that he was fighting for his people in terms of land issues and girls' education means that he is somebody who needs to be emulated. We are told that our life in the world is limited. What makes a difference is not the amount of wealth we are able to amass, but how much we have impacted on peoples' lives.

I think hon. Dori was a good person and I pray that the Almighty *Allah* gives him *Jannatul Fardowsa*, meaning, the highest heaven that Muslims aspire to be.

I thank you.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. I join you in sending condolences on behalf of my family, Ford Kenya party, and my own, to the family of the departed friend and colleague, hon. Dori.

I have known and worked with him for over 10 years. I knew him before he came to Parliament. He has been a regular companion together with his distinguished colleagues from Mombasa and Kilifi in the Parliamentary Health Club.

When he was in Nairobi, he never missed to go to the Health Club. He was ever smiling, making positive jokes and talking to everybody. He has been a very steadfast representative. I have been to his home and know his family. It is regrettable that because of the strict nature of the Islamic burials, which we respect, some of us were not able to go and pay our last respects to our friend. However, I believe that we will plan and go to say *pole* to the family.

Mr. Speaker, Sir, hon. Suleiman Dori was one of those leaders who rose from very humble beginnings and walked the ladder of leadership without arrogance and self praise. He was always available to people. I recall the many times we have had rallies with him. When the High Court overturned the election of my then party member, Hon. Mwashetani, he provided the springboard upon which we carried out campaigns in the whole of Lunga Lunga Constituency, then known as Msambweni Constituency.

There was not a single day he missed. If we went round, by the end of the day, he would herd us to his family for late lunch or dinner. He would join us in the hotels to strategize for the next day. He knew not only the politics of his constituency, but also the entire Kwale County. He would tell you where our strengths lay and where our weaknesses were visible. His death is truly untimely.

Mr. Speaker, Sir, like my colleague from Mombasa County said, last week we were with him in the gym and he was very jovial. He was talking about many things regarding this country; very positive things. So, God has taken him from us. We respect God's will, but must celebrate the life of our colleague and the many things we have done with him. We pray that his soul rests in eternal peace. That is a route that we shall all follow.

Thank you.

**The Speaker** (Hon. Lusaka): I see a lot of interest. I will limit it to three minutes, except for those from the Coast region.

Proceed, Sen. (Dr.) Langat.

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to also extend my condolences to the family and all the people that were being represented by hon. Suleiman Dori. His death was very untimely, as Sen. Wetangula has said. We were together last week in the gym; he was jovial and was doing well. I regret the death that has affected all of us very negatively.

He was a great man. First, I really admired his approach towards matters politics. When he talked even in the rallies about the Building Bridges Initiative (BBI), he was so particular irrespective of his political inclination. He would address matters that touch the common man when it comes to the objects of the BBI. He was a great man.

Mr. Speaker, Sir, I read in the newspapers that he was suffering from blood cancer. Cancer has become a disaster in our country. Where I come from, every week we bury about 10 members of our society who die of cancer. The Government should take this issue very seriously and even make screening a public exercise that is mandatory to everyone.

Cancer management and treatment is very expensive. The fundraising meetings that we attend every weekend have emptied our pockets. This disease has left families very poor. We must take it seriously and ensure that this particular terminal disease is entirely taken over by the Government. I condole with the family, and may his soul rest in peace.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Nyamunga.

**Sen. Nyamunga:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to send my condolences to the family of the late hon. Suleiman Dori. Also, I want to pass my condolences to the family on behalf of the people of Kisumu County.

I had an opportunity to work with hon. Dori in the last Parliament and noted that he was a very reliable ally. He had an opportunity to visit me in Kisumu County when I was serving as a Women Representative. He was a very reliable leader.

I also had an opportunity one time to travel with him in a Committee to Korea. The Koreans offered a project that was to go to only one of the Members, and we were four of us. He stood and said: "This one has to go to Kisumu." I got a very good project that is still running to date. It is supporting over 1,000 children in Kisumu County.

Mr. Speaker, Sir, when I heard about his death, I was so saddened. I never heard about his sickness, but only learnt through a *WhatsApp* message that he had passed on. I want to condole with the family and pray for them, being a young family, that they may find consolation in God.

Thank you, Mr. Speaker, Sir.

**Sen. Halake:** Thank you, Mr. Speaker, Sir. Please, allow me to add my voice and join you in passing my condolences on behalf of my family to the late hon. Suleiman Dori. It is with great sadness that we learnt of hon. Dori's death. The pain of losing a loved one is greatest for the family, but we as his colleagues, are an extended family too. Therefore, we feel the pain, but perhaps not as much as his immediate family. However, the obligations of family demand that we look out for each other.

I hope that we will have an opportunity to condole with the family and support them in whatever little way we can and, perhaps to look out for, if he had children--- I am not very sure because I did not know hon. Dori that much. From what I have heard from colleagues, and observed in the last few weeks that I have bumped into him, he was such a great person. May his soul rest in eternal peace and as we say in Islam '*Inna Lillahi wa inna ilayhi raji'un*'. From Allah we came and to him we will all return.

**The Speaker** (Hon. Lusaka): Proceed, the Senate Deputy of Minority, Sen. Malalah. He wanted me to emphasize that bit.

*(Laughter)*

**Sen. Malalah:** Thank you, Mr. Speaker, Sir. On behalf of my family and the people of Kakamega County, I want to express my heartfelt condolences to the family of the late hon. Dori. I received this news when I was in Kakamega and must say that this was very sad news for us to lose one of our colleagues. However, I would like to encourage the family to hold tight on the rope of hope. It is only our Lord in heaven who will comfort them.

As a leadership, I would like to remind this House that in the Holy Book, the Bible; Mathew 24:26 clearly says that no one knows the day or the hour, not even the angels in heaven nor the Son, but only the Almighty Father. Therefore, it is incumbent upon us, as leaders, to ensure that we prepare for our departure on this earth. Let us ask ourselves, if we left this earth at this moment, what will we be remembered for?

Mr. Speaker, Sir, I want to celebrate my friend, hon. Dori, for having inscribed himself in the history of the Msambweni people by constructing a girls' school. That is a legacy that he has left for the people and we shall continue celebrating him. We shall remember him forever for having done that. It is a challenge to us, leaders, who are serving the people at this time and have been given the privilege to serve people, to ask ourselves what we will be remembered for.

Lastly, I would like to request this House, especially the leadership--- I appreciate the Islamic tradition of laying to rest the deceased immediately after he dies, but this does not give us, as colleagues, time to mourn one of our own.

I suggest that this House prepares a mourning prayer session with the family, so that we have an opportunity to condole and console them. The Leadership of this House will go to Mombasa over the weekend. I suggest that on behalf of the Senate, we pay a visit to the family, so that we pray with them, console and strengthen them.

May his soul rest in eternal peace.

**Sen. Boy:** Asante Bw. Spika kwa kunipa fursa hii ili niweze kutoa risala za rambirambi kama Seneta wa Kaunti ya Kwale. Siku ya Alhamisi nillikuwa nimelazwa katika hospitali ya Aga Khan lakini nilitoka kule alfajiri. Marehemu aliletwa hospitalini siku ya Ijumaa na nikapata taarifa kutoka kwa Sen. Faki kwamba alikuwa katika *Intensive Care Unit* (ICU) hapo Aga Khan. Lakini nilidhani ni maradhi ya kawaida.

Jana nikiwa nyumbani Vanga, nilipata taarifa kwamba Mhe. Dori alikuwa ameaga dunia. Nilijikokota kwa sababu hata saa hii ninaposimama hapa sijihisi vizuri, nikaandamana na viongozi wenzangu wa Pwani hadi Aga Khan tukatoa mwili na kuipeleka Gasi.

Bw. Spika, Mhe. Dori alikuwa kijana shupavu ambaye alileta maendeleo katika Eneo Bunge la Msambweni. Ametengeneza barabara, mashule na kusaidia watoto wengi mayatima.

Kwa hivyo, mimi kama Seneta wa Kwale nitamkumbuka Mhe. Dori kama Mbunge shupavu ambaye alichaguliwa mara mbili katika Eneo Bunge la Mswambweni ambalo sio kama maeneo mengine ya bunge. Alikuwa Mbunge mwenyemaono na aliyeleta maendeleo makubwa.

Bw. Spika, umoja wetu ni nguvu. Kwa hivyo, tukipata nafasi, tuandamane twende Gasi kutoa salamu na rambirambi zetu kama viongozi.

Kwa hayo machache, mniombe Mungu mimi pia, kwa sababu hali yangu sio nzuri.

**The Speaker** (Hon. Lusaka): Pole sana.

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I also join you and the rest of my colleagues in sending my condolences to the family of the late hon. Suleiman Dori, Member of Parliament for Msambweni.

I had the privilege of knowing him because we served in the last Parliament together. In fact, he was a Member of the Committee on Transport, Housing and Public Works, in which I was the vice Chairperson. He was a diligent, brave and straightforward Member.

May Allah rest and admit him in peace and into the best of heavens, which is, *Jannatul Fardowsa*. For us Muslims, we all come from God and to him we will go back. As we condole with members of the family, it behooves us, as Senators of this House, to at least organize ourselves and send a small kitty to his family by paying a visit and also make a contribution. Let us stand with the family in this hour of need and distress.

**Sen. Kwamboka:** Mr. Speaker, Sir, on behalf of the people of Nairobi and my family, I pass my condolences to the family of the late hon. Suleiman Dori.

As the Secretary General of ODM, Nairobi region, I pass my condolences on behalf of the Members of Parliament from Nairobi. The late hon. Suleiman Dori was a humble and hardworking man who supported the education of the people of Msambweni.

He was a Member of Kenya Young Parliamentarians Association (KYPA), and as the treasurer, I pass my *pole* on behalf of all the Members.

May his soul rest in peace.

**Sen. (Dr.) Ali:** Thank you, Mr. Speaker, Sir. *Inna lilahi wa inna ilayhi raji'un*. May his soul rest in eternal peace, *inshallah*.

I also join my colleagues in condoling with the family. I did not know the late well, but from what I am hearing, he was a good man. I hope we will do the right thing as Parliament and support his young family. I hope that the Parliamentary Service Commission (PSC) will take care of the family as soon as possible, so that they do not suffer.

**The Senate Minority Leader** (Sen. Orengo): Thank you, Mr. Speaker, Sir. I also join the Senate in passing my condolences, those of my family and the people of my county.

Hon. Dori was doing his second term. To many people, he was a quiet politician. He was not the kind of politician who speaks loudly everywhere, for example, in funerals.

Yesterday, when we were attending his funeral, we were told to keep away from the normal pontificating that we hear in other funerals. That went with the appreciation of the local community and some of us who worked with him know of the quiet work he was doing in carrying out activities in Msambweni Constituency to uplift the people.

Land is an important and challenging issue in the Coast. Therefore, I value his contribution towards resolving land issues in Msambweni and Kwale generally. It is a difficult question to deal with, but to that extent, he made an attempt and the people of Kwale County will remember him for the effort he made in trying to resolve it. It is a huge political, economic and social question at the Coast.

He was also a team player. I know that my colleagues from the Coast, for example, Sen. Faki and others, know how he loved to work in teams. We were also told yesterday of the work he did in schools and health centres. He also socialized and politicked with the local people in his constituency, which has a big chunk of people from up country people and who are not indigenous in the Coast.

One of the reasons he was doing well in that particular constituency is because he created harmony among members of the various communities. He was a true patriot who believed in the constitutional dispensation of the Constitution of Kenya, 2010, that makes Kenya a country where there is freedom of movement, and people can stay wherever they wish.

He was an important player in our Orange Democratic Movement (ODM) party and also in the NASA Coalition. To that effect, he will be greatly missed.

May the good Lord rest his soul in peace.

**Sen. Cherargei:** Mr. Speaker, Sir, I join you and the rest of my colleagues, on my own accord and on behalf of my family and the great people of Nandi, to pass my deepest condolences to the family of the late hon. Suleiman Dori, the immediate Member of Parliament for Msambweni Constituency in Kwale County.

We met a few weeks ago and he was a jovial and friendly person. Being the Chairperson of the Coast Parliamentary Group shows that he was a team player and committed individual. This week is meant to celebrate the International Women's Day. Having constructed a girls' secondary school in Msambweni, it shows a lot of commitment that he had for the empowerment of the girl-child and the tremendous effort that he put in education, among other development agenda in Msambweni Constituency.

As Sen. Malalah has said, since the Senate leadership and the Liaison Committee will be in the Coast and the Senate Minority Leader is here, if we get time, through your leadership, we should go and condole with the family at their Msambweni home.

Finally, the late *Mhe.* Dori was a straightforward leader who spoke his mind. I remember one of his fiery speeches before he passed on. He insisted that the Building Bridges Initiative (BBI) that this country should have is to economically empower and not disenfranchise Kenyans in any way. This, therefore, shows his commitment to see a future and posterity for all of us, where we have a united nation, and that is the way to go.

Mr. Speaker, Sir, we wish the family God's grace at this time of grieving and mourning. As the people of Msambweni Constituency look for a replacement of their immediate former MP, they should look for somebody who will transform their lives.

I thank you, Mr. Speaker, Sir.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, before I give my condolences, I thought it would be nice to appreciate the fact that Sen. Kiburu and Sen. (Dr.) Langat are safe and sound, having been quarantined in Germany.

On behalf of my family and the people of Makueni, I pass my condolences to the family of the late hon. Suleiman Dori. I will not repeat the words of my colleagues, but only to say that we should have a roll of honour for all MPs. I saw it in Germany where all Members who have served, including Adolf Hitler, have a particular place reserved in Parliament. There is a particular box, and I think we should also do so. It is a good proposal for us and in future.

Secondly, we must not forget that Sen. Orenge left whatever he was doing yesterday and represented all of us. I think we should thank him for acting quickly.

Thirdly, we admire the Muslims for doing things quickly. Some of us have our way of doing our burials, but it is extremely traumatizing and painful. The Muslim burials are over even before any record is done, and there is less pain. However, we live in this country and accept our traditions.

I thank you.

**Sen. Madzayo:** Asante, Bw. Spika, kwa kunipa nafasi hii kuungana na ndugu zangu. Natuma risala za rambirambi kwa familia ya marehemu Mhe. Dori. Kwa niaba ya watu wa Kilifi, natoa risala za rambirambi kwa familia kwa sababu najua wana huzuni wakati huu.

Itakumbukwa kwamba sisi Wabunge kutoka Pwani tulikuwa na kikao ili kumchagua kiongozi wetu. Kwa kauli moja, sote tulikubaliana kwamba marehemu Mhe. Suleiman Dori alikuwa na uwezo, akili na maarifa ya kuwa Mwenyekiti wa Wabunge wote kutoka Pwani. Hicho ni cheo ambacho tulimpa na sote tulikuwa tunamheshimu kama Mwenyekiti wetu.

Sasa hivi, tuna jukumu la kujua nani atachukua nafasi hiyo. Alikuwa na ujasiri katika uongozi, utulivu, ukakamavu, na mwenye maono. Kwa hivyo, natoa rambirambi zetu kwa watu wa Msambweni. Sisi tutamkosa mwenzetu, lakini watakaomkosa zaidi ni watu wa Msambweni. Hii ni kutokana na juhudi zake hususan kwa upande wa kutengeneza shule, haswa shule inayojulikana kama Dori Girls' Secondary School, ambayo niliiona kwa macho yangu. Ni shule nzuri sana na inasaidia watoto.

La muhimu zaidi pia ni kutambua kwamba kuna watoto wa kike 50 ambao amekuwa akiwalipia karo katika shule hiyo. Kwa hivyo, kiongozi kama huyo alijitolea kwa moyo msafi.

*(Applause)*

Ningependa kusihi Serikali ya Kaunti ya Kwale ihakikishe kuwa wanafunzi hao 50 ambao wamekuwa wakilipiwa karo na marehemu Mhe. Dori wanaendelea na masomo yao. Mstahiki Gov. Mvurya mwenyewe alikuwa hapo wakati maombi hayo yalikuwa yakifanywa. Kwa niaba ya Seneti, ningependa kumsihi Gov. Mvurya achukuwe nafasi ili kuona kuwa watoto hao hawafukuzwi shuleni. Wanafaa kusoma mpaka wamalize masomo yao.

**Sen. Iman:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to pass my deepest and heartfelt condolences on behalf of my family, my people, my community and Garissa County as well. When someone passes away, in Islam we say: *“Inna lillahi wa inna ilayhi raji’un al kumi marsuda kotol meit”*, which means, “and every soul shall pass through death and there is no way we will escape from death.”

I wish the family well. May Allah rest his soul in *jannatul firdaus*.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for this opportunity to join you and my colleagues. On behalf of my family and the people of Kitui, I also convey my condolences to the family, relatives and friends of the late hon. Dori.

I happened to meet the late hon. Dori in the gym. He was very active, friendly and jovial. Sometimes I would meet him at the gym with the Senator for Mombasa, but unlike the Senator for Mombasa who goes to the gym mostly to read newspapers and take a shower, the late hon. Dori was a very active Member in the gym and---

**Sen. Faki:** On a point of order, Mr. Speaker, Sir. I am disappointed by my neighbour here, Sen. Wambua. This is because whenever I go to the gym and he sees me there, it is because I will have already done my workouts at Nyayo National Stadium, where we go to play football every Tuesday, Wednesday and Thursday morning. He should withdraw the remark that I go to the gym to read newspapers. In fact, my record in Bondo the other day is very clear. Recently, I scored a beautiful goal at Nyayo National Stadium, and my record is there.

*(Laughter)*

**The Speaker** (Hon. Lusaka): I further want to support because if we go by your size, then you are doing better in the gym than Sen. Wambua.

Sen. Wambua, kindly proceed.

**Sen. Wambua:** Mr. Speaker, Sir, I do not know what the Senator of Mombasa County is complaining about because he has confirmed what I said. When he goes to the gym, he usually has exercised elsewhere. He goes there to take a shower and read newspapers.

Mr. Speaker, Sir, I have heard from my colleagues who profess the Islam faith, which avers that every man shall test death. Those of us who subscribe to the Christian faith also believe in death. It is written in the book of Hebrews 9:27 that it is appointed

for a man to die once and after death, judgment shall follow. Therefore, the late hon. Dori has lived his life and gone to rest.

Mr. Speaker, Sir, my challenge is more specific to Sen. Nyamunga because she has confessed that the late hon. Dori helped some children in Kisumu County to access education. To return that gesture to the family, she needs to raise funds and pay school fees the late hon. Dori's children. That will be a very good thing to do in recognition of his commitment to the education of children.

Mr. Speaker, Sir, may the late hon. Dori's soul rest in eternal peace.

*(Sen. Murkomen stood in his place)*

**The Speaker** (Hon. Lusaka): Order, the Senate Majority Leader! You cannot just walk in and harass the Speaker.

*(Laughter)*

*(Interruption of debate on Statement)*

I have a brief Communication.

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM KAIRI SECONDARY SCHOOL, KIAMBU COUNTY

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Kairi Secondary School, Kiambu County.

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

I thank you.

*(Applause)*

The Senate Majority Leader, kindly proceed.

*(Resumption of debate on Statement)*

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, first of all, this is very sad day for us, as Members of Parliament. Yesterday, we lost our colleague, hon. Suleiman Dori.

Mr. Speaker, Sir, I knew him in person from the last term as a man who meant his word; a very jovial legislator and friendly to everybody. As you know very well, he was elected on an Orange Democratic Movement (ODM) ticket, and I was elected in Jubilee. However, we had a very good working relationship with him.

Yesterday, I received the news of his demise with a lot of shock. Up to now, it is difficult to believe the circumstances under which our brother passed on. In fact, when people say that he has been unwell for long, it is a shock to some of us. This is because he took his situation with a lot of grace and commitment to his constituency.

Mr. Speaker, Sir, I would like to say the following for the record's sake. When hon. Dori was threatened with expulsion from his political party, he came to me for legal services. We spent several days with him and hon. Aisha Jumwa working on his response on a complaint that came from his party Chairman. He took it with grace. His greatest accusation was that he was associating with the Deputy President. It was a bit preposterous in the era of handshake.

He managed to continue working with his a party, the Deputy President and all of us. We managed to solve that problem in the interim. The befitting send off for a man who was so committed to his own people, is for us as a House to make sure that--- This is something that has been raised on the Floor of this House. If you remember, when Muslim brothers and sisters are bereaved or pass away, because they bury the person within the same day, we forget that person and give no support.

Mr. Speaker, Sir, I want the Whips of both sides to move in the manner that we have done for all other legislators, especially the Christian ones, who bury after two or three weeks, to circulate forms for contribution. We will make our contributions as legislators in the Senate and the National Assembly. I suggest that, that contribution goes to a fund that will support his children and family. We should not become unfair in the way we treat our brothers and sisters who are Muslims yet, we get support from them. We have supported our colleagues who have passed on while we are in this House.

Mr. Speaker, Sir, I am glad that our colleagues managed to go there yesterday. I thank the people of Msambweni for standing with him and for good manners and civility against all kinds of political maneuvers in a situation of mourning.

I thank you.

**Sen. Seneta:** Mr. Speaker, Sir, let me first join you in welcoming the students and the teachers from Kiambu County. I also want to join my colleagues in sending my sincere heartfelt condolences to the family and the people of Msambweni for the loss of our colleague.

Mr. Speaker, Sir, I had an opportunity to work with the late hon. Suleiman Dori in the Eleventh Parliament. Indeed, I can give witness that he was a person who liked education. One time, I visited his constituency because of the contributions he was doing for the girl-child.

Mr. Speaker, Sir, one of the attributes that the late hon. Dori had was that he interacted with every Member of Parliament despite the region that one comes from or political affiliations. He could interact with everyone for the benefit of his people. Therefore, the people of Msambweni have lost a very committed Member of Parliament. They were sincerely pained by the death of their leader. We wish his family the best. We would also like to thank the people of Msambweni for having shown us that such a kind of a funeral function could not entertain the divisions of political parties and affiliates.

I pray to God to rest his soul in eternal peace.

**Sen. Mwaruma:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. First of all, I join you in welcoming to this House the students of Kairi Secondary School in Kiambu. I would like to say that we have two Houses of Parliament, that is, the 'Upper' House, which is the Senate and the 'Lower' House, which is, the National Assembly. I know that you aspire to work hard and one day come and serve in this 'Upper' House. You have a great Senator, Sen. Wamatangi. When you go home, assist him to serve you better.

Mr. Speaker, Sir, I would like to join you in condoling with the family of the late hon. Suleiman Dori. On my own behalf, my family and the people of Taita-Taveta County, I would like to pass my heartfelt condolences to the family.

The late hon. Suleiman Dori was a great man, and a man of great repute. He is a man that I worked with since the time I joined Parliament. He was the Chairman of the Coast Parliamentary Group. He was a very courageous and humble man in his operations. He was a gentlemen because he was quick to say 'sorry' and 'thank you' without much effort.

Mr. Speaker, Sir, we worked very closely with him. He really supported me, In fact, he inducted me when I came to Parliament. He advised me several times.

He will be missed by the people of Msambweni because he was very hardworking and really supported education. Yesterday, I did not make it to Msambweni, but sent a representative. They are full of praises because of the things that he has done for the people of Msambweni, especially supporting girl-child education and Dori Secondary School, which he built. We have been told that he has been supporting more than 50 girls to access education. I encourage us to emulate the ways of the late hon. Dori who supported the education of girls using his own finances. Death is a bad ripper. May God rest the soul of the late hon. Suleiman Dori in eternal peace.

I thank you.

**The Speaker** (Hon. Lusaka): Kindly proceed, Sen. Zawadi.

**Sen. Zawadi:** Asante Bw. Spika. Nakuunga mkono kuwakaribisha wanafunzi na walimu wao kutoka Kaunti ya Kiambu. Ningependa kumtambua Sen. Wamatangi kama kiongozi mwenye bidii. Tumetembea Kaunti ya Kiambu mara nyingi tukiangalia miradi ya barabara. Naamini kwamba watu wa Kaunti ya Kiambu wako sawa.

*(Laughter)*

**The Speaker** (Hon. Lusaka): Kwani Sen. Wamatangi ni mwanakandarasi wa barabara?

**Sen. Zawadi:** Bw. Spika, Sen. Wamatangi ndiye mwenyekiti wa Kamati ya Nishati, Barabara na Usafirishaji.

Nakuunga mkono kutoa rambirambi zangu kwa familia ya marehemu mhe. Dori kwa kumpoteza kiungo muhimu katika jamii. Mhe. Dori alikuwa mlezi katika nyumba yake. Kwa kumpoteza Mhe. Dori, ninahakika familia hiyo imempoteza mtu wa maana ambaye watamkumbuka kwa siku nyingi. Sisi sote ni watembezi ulimwenguni. Wakati utakapofika, kila mtu atarudi mavumbini tulikotoka.

Bw. Spika, Mhe. Dori alikuwa mwenyekiti wa wabunge wote wa Pwani; wabunge wa Seneti na wale wa Bunge la Kitaifa. Mhe. Dori alipenda sana ushirikiano. Mhe. Dori alipenda tukishirikiana katika mambo ya Bandari ya Mombasa. Alisistiza kwamba bandari ikihamishwa, watu wa Pwani watateseka. Mhe. Dori alikuwa na marafiki kutoka pande zote za Kenya kwani Kwale kunaishi makabila zote. Naamini kwamba kifo cha Mhe. Dori kinahusisha jamii zote za Kenya.

Nikizungumzia ushirikiano, nimgependa kuwapa hadithi fupi. Kuna bwana moja aliyekuwa mkali sana na mke wake mpaka ikawa bibi yake anamuogopa sana kiasi kwamba hawezi kumuambia jambo lolote akiogopa kwamba atakaripiwa. Hivyo, mzee huyo aligonjeka na kuenda hospitali. Kule hospitalini, alipewa kichupa atakachotia mkojo wake wa kwanza akiamka asubuhi. Mzee yule alienda nyumbani na kichupa chake lakini hakumuambia mke wake kazi ya kichupa hicho.

Asubuhi ilipofika, mzee yule alikojoa ndani ya kichupa alichopewa hospitalini na kukiweka kando ya kitanda. Mke wake alipoamuka, aligonga kichupa cha mzee yule kwa bahati mbaya na mkojo ukamwagika bila mzee yule kujua. Kwa sababu ya ukali wa yule mzee na kutokuwa na ushirikiano na mke wake, mama yule alikata kauli na kuchukua kichupa hicho kisha akaenda akakikojolea yeye mwenyewe na kukirudisha palepale.

Bw. Spika, wakati mzee yule alipoamuka, hakujua kama kuna kitendawili kilichofanyika. Mzee yule alichukua chupa iliyokuwa na mkojo na kuelekea hospitalini. Baada ya mkojo huo kupimwa, daktari alimuambia mzee yule kwamba hajui kama wampe pongezi au wamuambieaje kwani mkojo wake ulidhihirisha kwamba ana uja uzito.

*(Laughter)*

Bw. Spika, hayo yote yalitokana kwa sababu ya kukosa ushirikiano. Maseneta na wabunge wa Bunge la Kitaifa wanafaa kushirikiana. Shida inapokuja, tunapaswa kushirikiana kama vile marehemu Mhe. Dori alikuwa kipaumbele kusema kwamba watu washirikiane. Mhe. Dori hakuwa na ubaguzi na mtu yeyote. Mwenyezi Mungu ailaze roho yake Mhe. Dori mahali pema peponi.

**The Speaker** (Hon. Lusaka): Kindly proceed, Sen. Wamatangi.

**Sen. Wamatangi:** Mr. Speaker, Sir, I take this opportunity to welcome the students from Kairi Secondary School in Kimabu County. I am glad that they are here today.

Secondly, as the Senator for Kiambu County, I hope that this gives them an opportunity to witness what goes on in the Senate. It is my aspiration that once they witness what goes on in this House, they will strive as much as they can to one day be Members of this House. This is a good House because it is a place where great minds meet.

I am sure that the students feel inspired to see the like of Sen. (Rtd. Justice) Madzayo, Sen. Pareno, Sen. Mutula Kilonzo Jnr., Sen. Wetangula and Sen. Zawadi who is a Member of my Committee.

I would like to state that I am the Chairman of the Committee on Roads and Transportation besides being a contractor. I welcome the students and teachers from

Kiambu County. We have been having quite a number of delegations from Kiambu County so we are happy to have you here.

Mr. Speaker, Sir, I take this opportunity to convey my condolences to the family of the late hon. Dori. In the few times that I had the opportunity to interact with the late hon. Dori, I am convinced that he knew how to play balanced politics. I had the opportunity once in a while to bump into him in the corridors of Parliament and sat down to have a cup to tea. Hon. Dori was a rational man. His politics speak to the fact that you would never find him controversial. Hon. Dori played and stayed within lines.

I pass my condolences to the Members of Parliament (MPs) from the coast region. I also thank the Senate Majority Leader for bringing out the fact that we have not been considerate with our colleagues of the Muslim faith. We need to look into ways of ensuring that those of us who subscribe to the Muslim faith get similar treatment to Christians when they pass away.

Mr. Speaker, Sir, I convey my condolences to the family of the late hon. Dori. I also welcome the delegation from Kiambu County.

**The Speaker** (Hon. Lusaka): Kindly proceed, Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, I thank you for giving me an opportunity to join you in condoling the friends and family of the late hon. Dori. On behalf of the persons with disabilities, I express my utmost condolence to the family of the late hon. Dori. It is unfortunate that the late hon. Dori died at a very tender age. He left a mark in his constituency because of the fact that he was concerned about education in this constituency. The late hon. Dori had established a school that is named after him. That school will serve as a memorial of the late hon. Dori.

*(Loud Consultations)*

**The Speaker** (Hon. Lusaka): Order hon. Members! Kindly consult in low tones.

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, the late hon. Dori taught us to be selfless in life because we are all on transit. However, when we are gone, we should live behind a legacy. Hon. Dori had concern for the girl child and many at times used his own money to educate them.

From the testimonies of my colleagues, it is clear that hon. Dori used his own money to support the education of about 50 girls. That is commendable. I condole with the family of the late hon. Dori. May God rest his soul in peace.

**The Speaker** (Hon. Lusaka): Kindly proceed, Sen. Pareno.

**Sen. Pareno:** Mr. Speaker, Sir, I join you in condoling the family of the late hon. Dori. The late hon. Dori was my friend. I encountered him severally as I served in the election board of the ODM party. The late hon. Dori was such a committed person.

I will never forget one time when we had elections for the East African Legislative Assembly (EALA) Members and I was one of the candidates. This was towards the 2017 elections. I called Hon. Dori and told him there was voting on that day and asked him to come and vote for me. He told me: "I am upcountry but Judy, because you are such a friend, I will come all the way to ensure that my vote counts." Hon. Dori

then flew all the way from upcountry just to come and ensure he voted for me. That day, the vote did not happen but he showed how he meant his words.

Mr. Speaker, Sir, it is such a loss. At 43 years old, he was such a young man with a young family. It is sad for the nation and for we, legislators. It is sad for his family at this moment. It is a loss even to my party, Orange Democratic Movement (ODM), as he was a candidate of our party. He vied twice and won twice to be Member of Parliament (MP) for Msambweni.

My condolences to the family and his constituents. I am sure it is such a loss. He was just starting his life but, of course, we leave all to God. *Pole* to the family.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to join you in condoling with our brothers and sisters from the coast, specifically Kwale County.

I knew Hon. Dori as a nice and sociable person. I got to know him more closely when he had trouble with my party, which was his party. I want it to go on record that the trouble was not based on the fact that he was associating with the Deputy President but on the fact that he was in active disagreement with the party that sponsored him to Parliament.

Fortunately, before he passed on, the Biblical words found in Luke 15:11-32 were fulfilled. He had occasion to reconcile with his party and *Baba*. So, let it go on record that by the time he left us, there was no dispute between him and the party. They were truly reconciled and he remained a Member of ODM until he left us on earth.

We have lost him at a time when we needed him most. We needed his views on the ongoing political discourse and he was a moderating influence between the relationship we have between Senate and the National Assembly. Therefore, we are poorer as parliamentarians because one of us who could talk across the chambers is not with us any more.

Mr. Speaker, Sir, it is my prayer that God will have mercy on him and give favour to his family. I also pray that the spirit of reconciliation and making up with everybody – including the ODM party – should prevail among us, so that we make up and deal with our differences and have a united House.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir. I also join you in sending condolences to the people of Msambweni and the family of Hon. Dori.

Although I never met Hon. Dori, yesterday as we condoled with his family, I learnt that he did a lot of work in Msambweni in terms of education. The Governor enumerated a number of works that Hon. Dori had done in schools. Notable among them was building a school named after him. Hon. Dori has left a great legacy in that constituency. It pleased me more because he built a girls' school. That is one man that was really "he for she" in terms fighting for equality.

He has left a young family and in this case, I know that family is suffering right now. I was very excited yesterday when somebody who wanted to bring in politics was stopped by the people of Msambweni. In most cases, people go to funerals to politic. It is high time we learnt a lesson and took funerals for funerals and took politics elsewhere.

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

**Sen. Pareno:** On a point of order, Mr. Speaker, Sir. We are sadly mourning the death of a colleague. I think it only benefits and is of honour for us not to refer to any politics. We can do politics anywhere any time but for the sake our colleague---

I do not think it is in order for Sen. (Dr.) Milgo, Sen. Seneta and Sen. Murkomen, to bring in politics. It is time we showed that we are touched and feel for the family of the late Hon. Dori.

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

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Speaker, Sir. The events of yesterday are of immense public interest in terms of our behaviour as MPs, even when we are mourning our colleague.

*(Applause)*

You remember I tried to pass over it but the person who crucified and persecuted Hon. Dori – who was the chief complainant against him even when he was sick – was the same one who went to do politics in his graveyard. He felt that he was robbed.

*(Applause)*

Mr. Speaker, Sir, we know what we are talking about because when I say I was hon. Dori's lawyer when he was facing a fictitious and frivolous complain from hon. Mbadi, MPs here are saying that behaviour must stop, not only when we are burying a colleague but even when other people are burying their loved ones. Let us not use that opportunity to do politics. That is exactly what we are saying here. We are not saying that we should bring politics.

**The Speaker** (Hon. Lusaka): Sen. Ochillo-Ayacko, what is your intervention?

**Sen. Ochillo-Ayacko:** On a point of order, Mr. Speaker, Sir. Although we should not bring politics in this issue, it is not proper for it to go on record that the charges against hon. Dori were frivolous. There was reconciliation on this issue and he was pardoned because he asked for it. If we want it to go on record and those of us in ODM to explain that the charges were not frivolous, we will miss the solemn opportunity to condole with the family of hon. Dori.

I urge that we leave politics out of it because this is not the time to accuse ODM or anybody. We are sad because we have lost a colleague.

**The Speaker** (Hon. Lusaka): Sen. Madzayo, proceed.

**Sen. Madzayo:** Asante, Bw. Spika. Ni jambo la kusikitisha kwamba watu wanatoa rambirambi zao halafu katikati, tunaanza kujibizana namna hii. Nilikuwepo katika hiyo hafla ya mazishi. Aliyetajwa ambaye ni Mwenyekiti wa Chama cha ODM aliomba msamaha kwamba: "Nitasema lakini kama nitakanyaga roho za watu wengine, mtanisamehe."

Watu waliposema kwamba si sawa vile alivyoongea, yeye mwenyewe alirudi tena akaomba msamaha: "Kama nimewakosea, basi mnisamehe." Aliketi na hayo mambo yakamalizika. Sijui kwa sababu gani tunaleta tumbo joto hapa ndani ambayo haifai?

**The Speaker** (Hon. Lusaka): Okay. Order, Members! We have done very well so far. We were winding up well. I want Sen. (Dr.) Milgo to conclude so that we put that matter to rest.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir. Cultures need to be respected. In the Muslim culture, you do not talk politics at a funeral. Whenever we go to funerals, we should respect the family of the deceased. He was a great gentleman and we ought not to politic at the time when we are condoling.

I was even fascinated when the same hon. Dori allowed Sen. Nyamunga to take up just one slot of a very important project that has been going on in Kisumu County. We know the truth because we asked Sen. Nyamunga. He gave the opportunity to her instead of taking it for himself. That was a selfless leader and that is worth emulating. As politicians, we need to ask ourselves what legacy we will leave behind if our term was cut short today.

I support the Senate Majority Leader that we also contribute something just like we have been doing for others in order to assist the family. Otherwise, may the soul of hon. Dori rest in eternal peace.

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

**Sen. (Prof.) Ongeru:** Thank you, Mr. Speaker Sir. I also stand to condole with the family of late hon. Suleiman Dori. I am aware that quite a number of people from my county settled in Msambweni. From time to time, I was able to get the input from the residents in Msambweni about the kind of relationship enjoyed between the late hon. Dori and the people he represented as a Member of Parliament (MP).

Secondly, one of the things that is far-reaching and deep in the minds of many people from Kwale and for that matter, Msambweni, was the fact that he was able to zero in on the education of the girl child. I remember, when I was the Minister for Education, we did a survey and one of the most astounding revelations that we came about is the rate of dropouts of the girl child in the coastal belt, particularly in Kilifi and Kwale counties.

It worried us because the dropout rate was so high that there were hardly any girls proceeding to secondary school, leave alone university. Therefore, the fact that hon. Dori took it upon himself to put up a girls' school and dormitory, for the purpose of ensuring that these children stay in school, is a very creditable thing to do.

I think that we should give him that tribute, without colouring it with other issues beyond it. This is because he proved himself a selfless man. He was able to build the human capacity through education and his other contributions. In politics, he was able to contribute towards harmony and peace for this nation.

That is the kind of tribute that should find its way in the books of this august House, rather than the other peripheral issues that have no consequences at this point in time, and more so, to his family.

I thank you.

**The Speaker** (Hon. Lusaka): Thank you, hon. Senators for condoling with the family of your colleague.

We, therefore, move to the next Order.

Sen. Nyamunga.

## STATEMENTS

MENACE CAUSED BY SECURITY PERSONNEL  
MANNING BUSINESS PREMISES

**Sen. Nyamunga:** Thank you, Mr. Speaker Sir, for giving me this opportunity. I rise, pursuant to Standing Order No. 47 (1) to make a Statement on an issue of general topical concern, namely, the menace that is caused by security personnel manning business premises.

Mr. Speaker Sir, there is growing concern among Kenyans from all walks of life regarding the manner in which some security guards have executed their duties, which often results in humiliation and embarrassing situations. There is no doubt that there could be an underlying cause to the unprofessional and inhumane behavior.

Security companies have flooded the market and operate with little or no regard to the laid down regulations and guidelines as provided for in Sections 27 and 47 of the Private Security Regulations Act (2016). The conduct of these security guards has totally watered down the meaning of security. The fact that this sector has created the much needed jobs for our youth is not in doubt.

However, many of the individuals engaged in these jobs are mostly school dropouts, who may not have completed Form Four education, with some having quit school after the primary level. They are, therefore, lacking in the knowledge, attitude and skills in regards to the importance of good customer service, and appear to be unaware of the negative impact they are causing to the businesses they are supposed to be serving.

Mr. Speaker, Sir, many cases have been reported where clients have been abused, assaulted and even embarrassed by security guards when accessing business premises. In fact, media reports show that some people have been fatally injured during altercations between them and the guards, such as the case at the Nyali Center Mall in Mombasa, where a man died following one such incident. Something must be done by employers of these security guards to avert more damage.

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

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

Mr. Deputy Speaker Sir, a classical case is that of security guards manning restaurants, especially within Nairobi Central Business District (CBD), who are known for denying members of the public access to washrooms, particularly when they perceive that the customer may not be interested in purchasing one of the business products or services.

Indeed, what was once an unspoken law has now been put out there, with some premises even posting notices warning the public of hefty fines if caught using the washrooms without buying from them.

In this day and age, given what some unsuspecting patrons have gone through in terms of being drugged, for example, it is only sensible that one uses the washrooms first, if need be, before proceeding to make their order, to avoid leaving their meal unattended.

Mr. Deputy Speaker, Sir, business premises that have untrained security guards should communicate the importance of good customer care, courtesy and etiquette, since it has a direct bearing on business growth. Security guards are the first people that customers come into contact with when they visit any business outlet. We all know that first impressions are lasting. It should be made mandatory that employers provide proper training to this cadre of employees, to enable them attain and maintain a professional status while on duty.

Mr. Deputy Speaker Sir, can I make a comment?

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Yes, proceed.

**Sen. Nyamunga:** Thank you, Mr. Deputy Speaker Sir. It is self-explanatory. This is a big problem that has been going on for quite some time. There is public outcry about the way the security guards have been handling people in business areas, and even public utilities and buildings.

I understand and know that security is of great importance to this country, more so, now that we are threatened---

*(Loud consultations)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Members!

**Sen. Nyamunga:** It is important that it is done in manner that does not cause a lot of harm to not only the citizens of this country, but also the business premises that we visit from time to time.

Mr. Deputy Speaker Sir, I beg your indulgence on this.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well. Proceed to the other Statement. You had two.

STATE OF AHERO AND WEST KANO  
IRRIGATION SCHEMES

**Sen. Nyamunga:** Thank you, Mr. Deputy Speaker Sir, for giving me this opportunity.

I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries concerning the state of Ahero and West Kano Irrigation Schemes.

In the Statement, the Committee should:

- (1) Explain measures being undertaken by the Government to mechanize rice production in Ahero and West Kano Irrigation Schemes.
- (2) State plans put in place by the Government to increase rice production in Ahero and West Kano Irrigation Schemes, noting that achieving food security is one of the Government's Big Four Agenda.

Mr. Deputy Speaker, Sir, if you look at the statistics that we have, rice production was introduced in Kenya in 1907 from Asia. It is currently the third-most important cereal crop after maize and wheat. Therefore, it has become a household food.

We also know that about 80 per cent of the rice grown in Kenya is from irrigation established by the Government, while only 20 per cent is produced under rain-fed conditions. Most Kenyans living in the rural and even urban areas rely so much on rice as major food.

The annual consumption of rice is at a rate of 12 per cent as compared to 4 per cent of wheat and 1 per cent maize, meaning that it is a staple food for Kenya.

Mr. Deputy Speaker, Sir, if you look at the statistics of the production of rice, the national consumption of rice is estimated at 300,000 metric tonnes compared to an annual production of only 45 to 80 per cent. This is a big shortfall. Most of the rice is imported from China, India and Taiwan.

While we want to support the President in one of the Big Four Agendas, which is food security, it is very important for the Kenyan Government in particular, the Ministry of Agriculture, to make sure that rice production is improved. There is a lot of land lying fallow in Nyanza which has water but infrastructure is lacking.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator. We are not debating.

**Sen. Nyamunga:** Thank you Mr. Deputy Speaker, Sir. I am not debating, but I am saying that we need to improve on rice production because it is of critical importance to this country.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Loiptip, Senator for Lamu. That Statement is deferred.

STATUS OF THE LAPPSET PRESIDENTIAL SCHOLARSHIP  
PROGRAMME IN LAMU COUNTY

*(Statement Deferred)*

Sen. Faki. We are done with the Statement Hour; it is already 4.00 p.m. I, therefore, ask Whips to whip members so that we can go to Division shortly.

Order Sen. Cheruiyot. Look at the Order Paper. Do you want to reorganize the Order Paper from your seat?

UBOMOAJI WA MAKAZI YA WATU WA ENEO LA MWAEBWA,  
KAUNTI YA MOMBASA

**Sen. Faki:** Asante Bw. Naibu Spika kwa kunipa fursa hii kuomba Taarifa kuambatana na kifungu 48(1) cha Kanuni za Bunge la Seneti.

Nimesimama kuomba taarifa kutoka Kamati ya Kudumu ya Barabara na Uchukuzi kuhusu ubomoaji wa makazi ya watu wa eneo la Mwaeba *Ward*, Miritini, eneo Bunge la Jomvu katika Kaunti ya Mombasa.

Kwenye taarifa hiyo, Kamati inafaa kueleza kwanza sababu ya Shirika la Usimamizi wa Vinywanja vya Ndege, Kenya Airports Authority (KAA), kuwavunjia makazi wakaazi wa eneo la Mwaeba wanaoishi karibu na uwanja wa ndege wa Kimataifa wa Moi, Jijini Mombasa.

Pili, kueleza mikakati iliyowekwa na Serikali kuzilipa ridhaa na kuzipa---

*(Sen. Kwamboka stood in her place)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order. Sen. Kwamboka. I hope you are going to whip, although you do not look so.

**Sen. Faki:** Bw. Naibu Spika, pili, kueleza mikakati iliyowekwa na Serikali kuzilipa ridhaa na kuzipa makazi mbadala zaidi ya familia 100 zilizoathiriwa na ubomoaji huo.

Tatu, kueleza ni kwanini waathiriwa wa ubomoaji hawakupewa ilani au taarifa ya mapema kuhama makao yao kabla ya ubomozi kutekelezwa.

Nne, kueleza mipango ya kusitisha ubomoaji huo ili kutoa fursa kwa Kamati husika kuchunguza swala hili na kutoa jibu muafaka.

Asante.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Faki, are you done?

Maybe one or two comments on any of those Statements then we leave it at that.

**Sen. Malalah:** Thank you, Mr. Deputy Speaker, Sir. I want to comment on the Statement made by Sen. Nyamunga on the issue of private security guards.

When you talk about security guards, I am sure that 80 per cent of security guards in Kenya hail from the western region. It is very important as a representative from Kakamega to say something about what Sen. Nyamunga has raised.

I am alive to the fact that most of the private security guards do not have the basic attributes of customer care and basic etiquette to receive clients in the business premises, both in the capital city and in other parts of this country. I think this is contributed by the fact that we have so many security guards who have basic education; most of them are Standard Eight drop outs.

Since the Government has introduced the 100 per cent transition policy to secondary school, it is high time that we considered giving a minimum requirement or prerequisite for the security guards to have Form Four certificates.

It is sad that we have security guards who do not know how to express themselves in English or Kiswahili. Therefore, it is important that the Private Security Regulatory Authority puts in place regulations that will ensure that we have qualified security guards.

In recruitment of security guards, the private sector is supposed to complement the National Police Service. Therefore, it is important for us to have personnel who are qualified and who can complement the National Police Service.

One of the reasons that contribute to low standard of personnel recruited in this force is the remuneration. It is important that through the relevant agencies, there is a standard minimum wage for these security guards, because most companies underpay these people. Therefore, getting the quality that we want to recruit in the security firms is becoming hard.

It is my proposal that all the security firms through the Private Security Guards Regulatory Board, should meet the prerequisite of implementing the minimum wage of the security guards. Most of them are being underpaid; some of them are being paid as low as Ksh5,000. As this House, we should ensure that the minimum wage policy is implemented to ensure that we cushion the security guards and also sieve to get the quality that we require in this sector.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Kindly conclude.

**Sen. Malalah:** Mr. Deputy Speaker, Sir, as I conclude, I would like to urge Sen. Nyamunga to take this issue further than just giving a Statement in this House and ensure that we summon the CEO of the Private Security Guards Regulatory Board so that he can shed more light and he can give us a way forward towards making sure that this sector is well cushioned and the people who are recruited in private security firms are having a good platform to execute their mandate.

*(Interruption of debate on Statement)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senators. I have the following communication to make, regarding visitors in the Public Gallery.

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM SAWAGONGO  
SECONDARY SCHOOL, SIAYA COUNTY

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Sawagongo Boys' School, Siaya County. They are welcome to the Senate.

I thank you.

I will give two minutes each to a few more Senators.

*(Resumption of debate on Statement)*

**Sen. (Dr.) Musuruve:** Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to add my voice. I want to congratulate Sen. Nyamunga for coming up with the two Statements.

I want to comment on the first Statement concerning guards. Guards have an important role to play in the day to day running of any organization because they work as the sentinel of an organization. They are the watchdogs and the ones who know when something is going to be wrong even before the management is aware.

When it comes to effecting safety measures of an organization, guards come in handy. In as much as we blame them, you will find that guards usually follow instructions given to them when doing their work. If a guard has been told that nobody should get into that toilet unless the person is a customer, there is no way the guard is going to allow anyone to go in there. Sometimes they do things and act in a certain

manner in order to protect their jobs. Therefore, there is need to ensure that guards are protected.

I read in the media the other day; a guard in Uiri Polytechnic who was killed by the polytechnic students simply because he blamed the students for having stolen bulbs. There is need for us to ensure that even guards are protected because they are fathers, mothers, husbands and all that. We cannot just take a back seat and decide that guards do not have customer etiquette yet they are doing what their organization has told them to do.

I also want to contribute towards Sen. Nyamunga's issue on rice. There is need for us to ensure that we protect our farmers, especially rice farmers because it is a staple food in Ahero. They must have an exit route when it comes to selling their products. There is no need of importing rice when we have rice from Mwea Tebere and ---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Your time is up. Proceed, Sen. Were for two minutes.

**Sen. Were:** Thank you, Mr. Speaker, Sir, for the opportunity. I would like to contribute to the Statement by Sen. Nyamunga on the conduct of private security guards as they go about their business. We have all experienced some security guards who harass people and sometimes even assault Kenyans. We have seen instances where Kenyans have been hospitalized because of misunderstandings between security guards and their clients.

However, I would like to also note that most of these security guards are school drop-outs and, therefore, have not gone through the basic etiquette that people are taught in schools. I urge that the Kenya Institute for Curriculum Development (KICD) or the Association of Private Security Guards in consultation with KICD develop a curriculum that various actors can use to train these security guards on matters of public relations, customer care and just simple etiquette knowing that a customer is always right.

Thank you.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, I want to contribute to the Statement by Sen. Nyamunga on private guards. Last year, a Bill on security guards was rejected by the National Assembly. The Ministry of Interior and Coordination of National Government developed a circular on the regulation of security guards.

If I was to advise the Senator, this is a matter that needs to be revived because the Executive has taken over the role, after the National Assembly refused to pass what would be regulations on discipline, conduct and otherwise, a method of being able to deal with those who are errant.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Well done, Sen. Mutula Kilonzo Jnr. Finally, Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru:** Thank you, Mr. Deputy Speaker, Sir, for allowing me to comment on this matter. One thing we must appreciate is that private security guards have been able to fill in a gap where not many people would want to come and do the kind of jobs they do; working at very odd hours.

What remains to be done is to request the private sector to put a little extra investment in training so that they can come up with a very refined etiquette and behavior for security guards, in dealing with the public in diverse manners. Otherwise, it is one

avenue of employing people not necessarily those who are school dropouts; there are even graduates who are also taking up these jobs for their survival. It is just a question of investing more in training and ensuring these people get proper training and learn proper etiquette and manners on how to deal with the public.

We commend the Private Security Regulatory Authority for providing jobs for our people who would otherwise become very difficult and dangerous in the society.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senators. I will apply Standing Order No. 40 and direct that following Orders be deferred: Orders Nos. 8, 9, 10, 11, 12, 13 and 14.

## BILLS

### *Second Reading*

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)  
(NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 13 OF 2018)

*(Bill deferred)*

### *Second Reading*

THE SACCO SOCIETIES (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO. 1 OF 2018)

*(Bill deferred)*

### *Second Reading*

THE FISHERIES MANAGEMENT AND DEVELOPMENT  
(AMENDMENT) BILL (SENATE BILLS NO. 22 OF 2019)

*(Bill deferred)*

### *Second Reading*

THE INDEPENDENT ELECTORAL AND BOUNDARIES  
COMMISSION (AMENDMENT) (NO. 3) BILL  
(NATIONAL ASSEMBLY BILLS NO.35 OF 2019)

*(Bill deferred)*

**COMMITTEE OF THE WHOLE**

CONSIDERATION OF THE NATIONAL ASSEMBLY  
AMENDMENTS TO THE OFFICE OF THE COUNTY  
ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)

*(Committee of the Whole Deferred)*

CONSIDERATION OF THE NATIONAL ASSEMBLY  
AMENDMENTS TO THE PETITION TO COUNTY ASSEMBLIES  
(PROCEDURE) BILL (SENATE BILLS NO. 22 F 2018)

*(Committee of the Whole Deferred)*

CONSIDERATION OF THE NATIONAL ASSEMBLY  
AMENDMENTS TO THE EARLY CHILDHOOD EDUCATION BILL  
(SENATE BILLS NO. 26 OF 2018)

*(Committee of the Whole Deferred)*

Next Order.

**BILL***Second Reading*

THE LIFESTYLE AUDIT (NO. 2) BILL  
(SENATE BILLS NO. 21 OF 2019)

*(Sen. Farhiya on 5.3.2020)*

*(Resumption of debate interrupted on 5.3.2020)*

Sen. (Dr.) Zani is not present. She had a remainder of eight minutes. I do not see any request. Let the Mover reply. Is Sen. Farhiya present?

**Sen. Mugo:** Mr. Deputy Speaker, Sir,--

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Mugo, are you the Mover? You are overtaken by events. The Deputy Speaker has already directed the Mover to reply. The Senate of the Republic of Kenya waits for no Senator.

The Mover is not around. It is not a must that she replies. I direct that Division be done tomorrow.

Next Order.

## MOTIONS

NOTING OF REPORT ON THE 50<sup>TH</sup> CPA AFRICA REGION CONFERENCE

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the 50th Commonwealth Parliamentary Association (CPA) Africa Region Conference held in Zanzibar, Tanzania from 30th August to 5th September, 2019 and laid on the Table on 27th November, 2019.

*(Sen. Halake on 27.02.2020)*

*(Resumption of debate interrupted 27.2. 2020)*

Let us have the Mover, Sen. Halake.

*(Sen. Halake rose in her place)*

**Sen. Halake:** Oh! Sorry.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): You know the traditions of this House. When you are moving a Motion you cannot do it from there. Do the right thing, Sen. Halake. You had five minutes left to conclude your moving remarks.

*(Sen. Halake moved to the Dispatch Box)*

**Sen. Halake:** Thank you, Mr. Deputy Speaker, Sir. That is the reason I had sought to do it from there. I had moved the bulk of the points that I had wanted to make with regard to the 50th Commonwealth Parliamentary Association (CPA) Africa Region Conference meeting.

For the next five minutes, I would like to bring to the attention of this House to the resolutions that were passed by the African parliamentarians that attended the 50<sup>th</sup> CPA regional meeting in Zanzibar.

I would also like, just as a reminder, to bring to the attention of the House the theme of the 50<sup>th</sup> CPA Africa Region Conference which was e-parliament: A Seamless Platform for Facilitating Democracy.

Mr. Deputy Speaker, Sir, what was very important about this conference was the use of Information Communication Technology (ICT) in strengthening public involvement in the legislative process.

Therefore, the meeting was useful because it was about employing technologies in Information and Communication Technology (ICT) to ensure that public participation, which is the cornerstone of our democracy and the Constitution 2010, is used. This will ensure that our parliaments work, engage the people and are efficient.

It will also enhance use of ICT in providing life-changing solutions to rural communities by ensuring that efficiencies on how we take care of education, agriculture and social protection for our communities.

Mr. Deputy Speaker, Sir, there is also the use of social media in enhancing Parliamentarians to reach out to the constituents and citizens and the role of technology in developing democratic practices. This is about embracing e-governance and cutting costs to increase accessibility, promote transparency in how we do our business, and to fight corruption. Also the best practices were resolved in terms of e-voting, biometric registration of voters, timely and collation of results, as well as broadcasting of election results.

The CPA meeting was key in employing ICT. As the Vice Chairperson of the Committee on Information, Communication and Technology, this was useful. I remember in the Budget Policy Statement (BPS) that we just concluded, some of the best practices that we learnt from the CPA came in handy, in terms of how we use ICT to ensure efficiencies and monitor payables towards some of the Government programmes and projects. It was also handy in the use of digital tools to ensure maximum participation of our constituents and citizens and the use of social media platforms for feedback from our constituents.

Mr. Deputy Speaker, Sir, some of the issues around the use of ICT in health, education and agriculture, including pest and locusts control came up. Early warning systems could easily have been put in place had we employed ICT. This ensures that we mitigate risks.

One of the things that ICT can do for us is also public participation and constituency engagement. The innovative thing that we learnt was the virtual town hall meetings and video conferencing to entrench accountability. It enables monitoring of Bills, Motions, laws, and all our legislative processes. We have a lot of opportunity in this sector.

As the Vice Chairperson of the Committee on Information, Communication and Technology, the issues around e-parliament, e-governance and virtual town hall meetings are some of the things we will be using both in our budget and project monitoring as well as public participation.

Mr. Deputy Speaker, Sir, with those many remarks, this House should adopt innovative technologies to ensure that we implement some of the things provided for us in our Constitution, 2010. We also need to use ICT to entrench democracy and engagement with our communities.

I thank you and beg to move.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Who is your Seconder, Sen. Halake?

**Sen. Halake:** Mr. Deputy Speaker, Sir, I ask Sen. Farhiya to second.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Proceed, Sen. Farhiya.

**Sen. Farhiya:** Mr. Deputy Speaker, Sir, I beg to second.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Hon. Senators, I will propose the question.

*(Question proposed)*

I see no interest. This is not a matter affecting counties and, therefore, we will proceed on a *viva voce* voting. That is voting by acclamation.

*(Question put and agreed to)*

Before we call out the next Order, that Order is deferred on the request of the Mover.

ADOPTION OF REPORTS ON VISITS TO THE MALABA  
BORDER POINT/KITUI ROAD PROJECT

THAT, the Senate adopts the reports of the Standing Committee on Roads and Transportation on the visit to the Malaba International Border Point (OSBP) and the inspection visit and familiarization of the Kibwezi-Athi-Mutomo-Kitui Road Project in Kitui County laid on the Table of the Senate on Wednesday, 4<sup>th</sup> December, 2019.

*(Motion deferred)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Before we call out the next Order, I will extraordinarily reopen a matter that I had closed, which should not be the case. I have taken consideration of the fact that the Senator was around but had just stepped out. That is Sen. Farhiya who normally stays for long hours in this Chamber most of the time.

Therefore, I direct that we call out again Order No.15 for purposes of--- Sen. Mugo had also been cut out by the directive but she wanted to say something. I will allow Sen. Mugo to make some remarks and then after that the Mover will give her reply. Let us call out the Order first.

**BILL**

*Second Reading*

THE LIFESTYLE AUDIT (NO. 2) BILL  
(SENATE BILLS NO. 21 OF 2019)

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Mugo, do you want to speak or you have abandoned the interest?

*(Sen. Mugo spoke off record)*

Give Sen. Mugo the microphone. Now you are okay.

**Sen. Mugo:** Thank you, Mr. Deputy Speaker, Sir, for allowing me to speak after you had made a ruling. I will be brief and not take a lot of time.

I commend Sen. Farhiya for moving this Bill which is timely because it is important for Kenya and Kenyans. We know about the fight against corruption. This Bill goes a long way in supporting the fight against corruption.

We read in the press all the time about billions of shillings being embezzled. Of course the money is used by some people for personal reasons. It could be because of their lifestyle. We know that they drive big cars and live in mansions. They also have other things to show off that they are in another level. Some of them have not even worked for years to amass their wealth. Most of them have worked for few years because you can tell how old they are. If we want the fight against corruption to materialize and take effect, we must support this Bill.

Mr. Deputy Speaker, Sir, our hospitals lack medicine to treat high blood pressure, diabetes, cardio illnesses and many others. This is because a few people have embezzled money meant for medicine so that they live a luxurious life. They do not care about patients who eventually die because they cannot afford the medicine. Medicine should be available in public hospitals for free or subsidized prices. Mothers and old people in Gatundu Hospital which is a big hospital are crying due to lack of medicine. Money is voted to buy medicine, but it does not find its way to the hospitals.

We have heard of massive corruption in the National Hospital Insurance Fund (NHIF). This means the sick will not be supported and they will end up dying. What will happen to them? However, their deaths could have been prevented if only this country is corruption free. It seems like corruption is higher than the money which is set aside for public use. If we want to support the President and many others of good will, for example, EACC, DCI, DPP and the courts, who are strongly fighting corruption, we must all play a part.

This House should come out clearly to support the war against corruption and question the lifestyles of people who cannot explain how they amassed wealth unless they have embezzled public money. The only way to find out is agreeing to the lifestyle audit.

I strongly support this Bill and congratulate Sen. Farhiya for being brave. I know that they are many who do not want to hear about lifestyle audit.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Beth Mugo. The Chair today is an abundantly discretionary disposition. I had said that I will close this matter. However, I realise that it is an important Bill, Second Reading is where the debate takes place and we have dispensed of most of the items in the Order Paper for today. So, I will allow all the other Senators who want to contribute before, Sen. Farhiya, the Mover, can reply. The next Senator to contribute will be Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru:** Thank you, Mr. Deputy Speaker, Sir. I was worried that we will be closed out on this important Bill.

One of the most important elements in Kenya today is fighting corruption. This Bill talks about lifestyle audit. It brings to focus and consolidates all other efforts that have been put in place through various Acts to fight corruption. Looking through this Bill, when it eventually becomes an Act of Parliament, alongside The Anti-Corruption and Economic Crimes Act, The Public Officer Ethics Act, The Leadership and Integrity Act, The Public Service, Values and Principles Act, The Bribery Act, The Proceeds of Crime and Anti-Money Laundering Act, The Public Finance Management Act, The Public Procurement and Asset Disposal Act, will help to consolidate the fight against corruption in a manner that will bring benefit to this nation.

It goes without question that corruption has totally destabilized this nation. People have acquired wealth through unprocedural and unethical manner that is not in conformity with the set out standards of how a public or State officer should behave in a given manner. Therefore, the Bill comes at an opportune moment for us to consolidate all the pieces of legislation that have been put into force in order to fight corruption.

One area that this Bill addresses is the manner and style in which this lifestyle audit should be carried out. It should be carried out with clear objectivity and not witch-hunt. That is the most important element that we need to spell out. When this Bill eventually becomes an Act of Parliament, whoever is handling it and using it to execute its mandate should have a certain level of objectivity so that we understand what it entails.

The second critical element is the confidentiality of information that they may be privy to. Sometimes, we tend to interfere or wade into personal issues of an individual that may not fall within the purview of prosecution. Therefore, that level of confidentiality is critical in helping to sieve what is relevant to the case and what is not.

There are other existing standards under other written law. For example, I have cited the other pieces of legislations which have set out the standards upon which the lifestyle audit should be carried out.

Mr. Deputy Speaker, Sir, I have seen people entering into a public officer and rising meteorically to a level which cannot explain where their wealth has come from. If you apply the normal standards of wealth acquisition, you cannot pin your hand on whether the wealth has been created through legitimate functions. Therefore, this Bill will put a stop to ambitious wealth catching elements that want to use public coffers to enrich themselves and manipulate the social lifestyles of our societies.

It is an important element that we must safeguard because people with money can manipulate any system.

They can manipulate our economic order because they want to accumulate more and more money. Therefore, it is important that we stop them at their tracks before they manipulate the whole society and everything goes up in smoke.

This Bill safeguards the rights and privileges of the people of Kenya. This is because they have given us a mandate to act on their behalf and we must be accountable to them. It is that element of accountability that this lifestyle audit is bringing to focus. If you are given a public office or you are in a public position, then you must be accountable.

I have seen an element here which is rather interesting. I will expect to hear more comments from the learned friends or senior counsel who are in the Bench on the deferred prosecution agreements. We would like them to shed more light on how the deferred prosecution agreements would work in the interest of the wider society of Kenya. Is it another way of shutting what would have been an element that would have been properly prosecuted in court and then deferred to a level where there private agreements that are being reached at the very expense of the very public that we are trying to protect?

I would like to hear more on this area of deferred prosecution. How will it function within the law? There is a provision that the Chair will be a person of the

calibre of a Judge of the High Court of Kenya. That is okay. However, I would like to hear more details on how this will function.

With those few remarks, this is an important piece of legislation. The lifestyle audit is crucial and we need to put our minds together so that we safeguard Kenyans from these marauding individuals who steal left, right and centre.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. (Prof.) Onger. Sen. Okong’o Omogeni, Senior Counsel. I hope that you have noted the sentence from the Senator of Kisii.

**Sen. Omogeni:** Yes, Hon. Mr. Deputy Speaker, Sir, I am wondering whether we have learned counsel who are on the Bench and who are in this House.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Can you clarify?

**Sen. Omogeni:** Mr. Deputy Speaker, Sir, I think that he meant learned counsel who are Members of the Bar. We do not have members of the Bench who sit in this House.

Mr. Speaker, Sir, I first want to register my appreciation and congratulations to the originator of this Bill, Sen. Farhiya C.P.A, a very dedicated Member of this House. I have been privileged to serve with her in the Committee on Delegated Legislation. She is one of the most professional Senators, very dedicated and who mean well for this country.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senior Counsel, Sen. Omogeni!

**Sen. Omogeni:** I, therefore, want to go on record---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Omogeni, are there colleague Senators who are unprofessional? Is that your view?

**Sen. Omogeni:** Mr. Deputy Speaker, Sir, I have not singled one who does not mean well. I am just trying to shower some praise on the Senator who has brought this Bill before the House.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Alright, I will allow you to get away with it.

**Sen. Omogeni:** Thank you, Mr. Deputy Speaker, Sir. This is a very good Bill. We are trying to be in line with the best international practices. In the United Kingdom (UK), for example, there is a law known as ‘Unexplained Wealth Orders,’ whereby the country tries to ensure that those who illicitly benefit from public resources never enjoy the fruits of that wealth. I, therefore, want to go on record as fully supporting this initiative because it is meant to save money that is supposed to be used for development.

Devolution was a good idea and it was meant to change the lives of the people that we represent. Under Article 96, we are here to represent the interests of the people who reside in the counties and their governments. I have no doubt that if this Bill sees the light of the day; it will go a long way in discouraging people who have been privileged to serve in public service from stealing from the people who put them in those offices.

I remember that when I was the Chair of the then EACC, we did attempt to pass such a law after the enactment of the new Constitution, 2010. However, the Tenth

Parliament flatly rejected that initiative on the pretext that it was going to open up a witch-hunt and that hard working Kenyans will have their assets seized by the State because of political differences. However, we all know that even without this Lifestyle Audit Act in place, we have seen initiatives by the DCI, EACC and the KRA where people are put to task to explain how they amassed wealth that cannot match their known income.

I know that there are cases reported, which have gone to court where even traffic policemen have become millionaires. There are people who are in this House who cannot match the wealth that has been amassed by some people who earn less than Kshs40,000 in this county. Their balances in their accounts do not marry with what they earn. I remember one case where a policeman had a balance in his account in excess of Kshs40 million. You all know the case that went all the way to the Court of Appeal, where an accountant who was earning Kshs120,000 had assets well over Kshs200 million and in his account he had Kshs32 million.

Mr. Deputy Speaker, Sir, this is a law that is supposed to discourage public officers or people who serve in public service from misusing the privileged that has been given to them to serve the public. It also meant to discourage them from using their privileged positions to steal money that is meant to offer services to our people.

Even if we have any reservations on some of the clauses in this Bill like what has been raised by my good friend, Sen. (Prof.) Ogeri, these are things that we can look at and clean-up in this Bill. However, by and large, this Bill has very good intentions. We want to discourage people who have been privileged to be given an opportunity to serve the people, not to use that opportunity to steal from the people that they are supposed to serve.

I know governors in this country who the only thing we can remember them for is the mansions they built once they were elected. There are counties in this country where hospitals have never been built by governors. We have counties in this country where hospitals have no medicine. We also have counties where even money that is meant to assist our women to deliver free has been diverted into people's pockets. These particular people end up using this money to amass wealth for themselves. It is something that we, as leaders, should not encourage. The only way to discourage it is for us to put in place legal mechanisms that will enable the State to repossess those assets back to the State.

I hope that once this Bill is enacted and becomes an Act of Parliament, we can repossess some of these houses that have been built through public funds and convert them into hospitals. Let us put Magnetic Resonance Imaging (MRI) machines in those hospitals so that we make it so painful that it does not pay to steal public money. We can even borrow from what the DPP is doing; there is a fund where banks that assist public servants or people who are doing business with the Government to launder money--- the banks are meant to pay, there is a fine.

I hope that we can come up with a health support fund so that the assets that are recovered from the people who have stolen public funds can be used for the benefit of the health of our people. This is because there is a big challenge in this country on provision of healthcare. There are no medicines in our hospitals. People cannot afford to be treated

in private hospitals while a few of us, who have been privileged to be put in public offices are benefiting from money that is supposed to change the lifestyle of our people.

I like the idea of going after the associates of people who may be occupying influential offices because often times, what they do is that they steal through proxies. You will never see assets registered in the name of a certain individual. However, those who are close to them, what these Bill calls associates of these people, will have a lot of assets under them. Let us not just go for the principal only, but also his associates so that we make it impossible and painful for anybody to steal public funds.

Finally, Mr. Deputy Speaker, Sir, if it is of any comfort, I have seen that this law has put in place a mechanism where those who want to come out in the open and surrender wealth, can also get a plea bargaining agreement whereby, in exchange of prosecution, you surrender that wealth back to the State and you are off the hook. There is a very good procedure that has been put in place so that we ensure that there will be no abuse of power by the people we are entrusting with this task.

Mr. Deputy Speaker, Sir, as I said earlier, the Kenya Revenue Authority (KRA) has been doing this thing for a long time. KRA can write to a person and say that they have looked at your tax returns *vis-à-vis* your assets, and they do not match. There cannot be an abuse of power in a case where we are talking about facts. This is what you have and this is what you have declared as income. It is factual. Facts will speak for themselves.

The EACC is a statutory body with a constitutional mandate. The procedure we have put in place is that somebody will be given a notice; there will be an opportunity for someone to come and explain so that we can know the miracles involved; how come you are in an office where you are earning Kshs200,000, but you have assets and wealth which is beyond even the Chief Executive Officer (CEO) of Kenya Commercial Bank (KCB) who earns Kshs3 million per month.

Mr. Deputy Speaker, Sir, this is not right. We must be honest to ourselves and be in a country where, you should acquire your wealth in a lawful manner so that we do not make our children to think that some of us are very lazy. We want fairness. If you have acquired your money in a manner that you can explain, let us know so that we make you a study case. We will send you to colleges so that you explain to our own children the miracles that you have used to acquire wealth that you cannot account for.

Mr. Deputy Speaker, Sir, we should discourage people. Even if you build a house which has 14 bedrooms, you can only sleep in one bedroom on any given day. In a night, you only need one bedroom. You do not need homes. In a county, you find that somebody has built homes in four constituencies using money that has been illegally acquired.

Mr. Deputy Speaker, Sir, I want to rest my case by saying that I fully support this Bill. I hope that once it is enacted, we will have assisted this country in fighting corruption and ensuring that there is accountability from those who are serving in public offices.

I support.

**The Deputy Speaker** (Sen. Prof. Kindiki): Sen. Omogeni, I thought Sen. (Prof.) Ongeru had requested for some clarification on deferred prosecution agreements. I do not

know whether you have disposed of that, maybe, it did not catch my attention. You have explained the plea-bargaining agreement because some people think that plea bargaining is an unlawful underhand practice. It is a practice that is allowed in law all over the world. However, the issue of deferred prosecution was raised by Sen. (Prof.) Onger. Would you want to say something so that I give you two minutes?

**Sen. Omogeni:** Mr. Deputy Speaker, Sir, that is well captured in Clause 21 Part III of this Bill. It is around the concept of plea bargaining because it gives powers to the DPP to allow people who are under investigations or who have been subjected to lifestyle audit to enter into an agreement with the DPP, so that there can be some deferred prosecution on three things happening.

One, Clause 21(2) says that the DPP may, before instituting criminal proceedings against a person who is a subject of a lifestyle audit, invite that person into negotiations for the purpose of entering into a deferred prosecution agreement where; one, there are reasonable grounds of believing that the person has committed an offense that forms the subject matter of the lifestyle audit.

Secondly, public interests will be served if the parties enter into a deferred prosecution agreement in accordance with this act.

Thirdly, charges with respect to the alleged offence have been drawn against that person.

**The Deputy Speaker** (Sen. Prof. Kindiki): The question Sen. (Prof.) Onger and maybe other Kenyans is asking is whether that is lawful and whether that is common in the other legal systems of the world.

**Sen. Omogeni:** I think it is a grey area, but we can be trailblazers in this.

**The Deputy Speaker** (Sen. Prof. Kindiki): Senior Counsel, Sen. Orengo, is here. When he talks, he can mention that. Let us here from Sen. (Prof.) Kamar.

**Sen. (Prof.) Kamar:** Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity, first, to congratulate Sen. Farhiya for tabling this timely Bill.

Mr. Deputy Speaker, Sir, a country that is not accountable to itself and to its people cannot have a good foundation for growth. This Bill is bringing accountability to the fore of everything that we do. I really believe that this is what we require as a country. We have to account to one another just the way spouses can also account to each other and their children.

Mr. Deputy Speaker, Sir, this is also very important because it is giving a structured way of doing lifestyle audit. We have prosecuted people in *barazas*, funerals and churches to the extent that Kenyans do not understand what their leadership is doing. This is a very important Bill. The way it is structured, there will be no rumour about it. If somebody feels that there is a need to undertake a lifestyle audit of a colleague in this House, the procedure has been outlined.

Clause 17 is very clear that you can report an incident or an individual and require that the right body investigates. This is very neat and clear. There are people who have complained that they are being witch-hunted. I want to talk of a case of a youth in my village who was seen with a Prado.

**The Deputy Speaker** (Sen. Prof. Kindiki): Which is your village?

**Sen. Prof. Kamar:** Mr. Deputy Speaker, Sir, my village in Uasin Gishu County, where a young man arrived with a Prado from Nairobi. Everybody was asking themselves how he acquired the Prado. They really wanted to know. Of course, they did not know who to ask except to ask the same owner of the Prado on how he acquired the Prado. However, much he explained that he truthfully won a tender in Nairobi City County, nobody believed him. We know that money has been devolved. There are also very genuine cases of people who have made money.

Mr. Deputy Speaker, Sir, there are also situations where a contractor performs very well that we appoint the same contractor to be a member of the roads board. This is somebody who has made his money. When he joins the roads board, he could easily make more; whether rightfully or wrongfully. It will be very difficult to separate. This law is very good because it is going to allow us to do things in a systematic way. It might help us, as leaders, to desist from prosecuting people without following the law.

Clause 2 of this Bill sets out the framework for the conduct of the lifestyle audit. It will assure Kenyans of objectivity and confidentiality. With confidentiality, people will be very willing to demonstrate where they get the money because we want to be an accountable nation and accountable to one another and confidentiality becomes very important so that our colleagues who call themselves in this room “learned”, including you, Mr. Deputy Speaker, Sir---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. (Prof.) Kamar!  
Kindly proceed on other things.

**Sen. (Prof.) Kamar:** Mr. Deputy Speaker, Sir, sorry, I was stepping on the wrong foot. Let me proceed on other matters.

I would like to mention that there is a class of Kenyans that make their money within a short time. Such people include lawyers and consultants who speak for a few hours and make a lot of money. It is very easy to look at such a person and conclude that they have stolen money in the same way we looked at the young man who came to Uasin Gishu County from Nairobi driving a Prado and said that he is a consultant. We look at such individuals very suspiciously and wonder how they have made their riches.

Mr. Deputy Speaker, Sir, if we have a structured way conducting lifestyle audit as is indicated in this Bill, it is meant to defuse such kind of suspicion and enable us as a country to conduct ourselves in a decent manner, respect one another, have confidentiality and know that as much as we are fighting corruption, there are people who can make genuine money within a very short time, but they should be in a position to declare. If we are object in conducting the lifestyle audit and set standards that will apply to the young as well as the old, there will be no reason for anybody to fear a life style audit.

I thank Sen. Farhiya for bringing this Bill. We need a structured way of expressing ourselves in a situation where we think money is being misused by corrupt individuals. The same bodies that will do the investigation will have the right to decide when an audit is necessary or not. That way, people like the young man that came from Nairobi County to Uasin Gishu can also be schemed so that honesty can be put in the process itself. It is possible that everybody will report once we have this law. Some of the reports that will be made will be real while others will be witch-hunting.

Mr. Deputy Speaker, Sir, this Bill addresses the issue of how one can report a case, the responsibility that a person reporting has as well as ensure that they have facts and information. This is a very good Bill. It is the way to go because we must be accountable, not only to ourselves, but to the country at large.

I beg to support.

**Sen. Ochillo-Ayacko:** Mr. Deputy Speaker, Sir, I thank you for giving me an opportunity to speak to this important topic. I thank my sister, Sen. Farhiya, for being bold enough to come up with this novel piece of legislation. The BBI report identified corruption as one of the issues that we should all fight. I believe that the initiation of this Bill is the spirit that has possessed our sister to try in her own humble way to join us in dealing with matters corruption.

The book of Romans states that all governments are authorized by God and that all of us should obey the Government. I believe that the first government belongs to God. However, since it is in heaven, the governments established on earth are also through God's authorization so they must also be obeyed. The Government position occupied by any person is a position of trust. A government position wields immense power, authority and only trusted people of good character should occupy those offices.

Mr. Deputy Speaker, Sir, government positions are not intended to enrich anybody. Such positions offer stable jobs, but remuneration in such position the world over are not intended to enrich people. Governments create environment where individuals in private sector can invest and accumulate as much wealth as they can. What happens in a nation like ours and other nations, is that we keep on seeing public officials getting richer than the Government itself.

If you are a livestock keeper and you notice that your herd-person has more milk than yourself yet that person does not have any livestock, you must be a fool if you fail to question where that person is getting his or her milk. This Bill intends to rid the Government of predatory public servants

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Can the herd- person not buy milk from the shops?

**Sen. Ochillo-Ayacko:** Mr. Deputy Speaker, Sir, the herd-person can buy milk from the shops, but should be in a position to give evidence that they bought milk from the shop using their own money and not stolen money.

In decent nations the world over, people who are wealthy declare it. They can prove what business they are involved in because they want to inspire others to get involved in such businesses. However, when you see public officials tripping over one another to get elected as president, MPs or occupy any position, there is an incentive that they do not say. Such people want to get the opportunity to abuse the trust that is bestowed upon them by the public and that is also bestowed upon them by God under the book of Romans where it is indicated that God is the authorizer of all governments.

We need to deal with lifestyle audit seriously. If being a public official is this rewarding, and that you can become wealthy and get away with it because there is no legal framework or mechanism to try you or hold you to account to explain the source of your wealth, then crime will be encouraged and facilitated because people will get away with it. Once I have served as a messenger, police officer or held a position of trust at the

DCI or the EACC, I can get wealthy and nobody will have a legal mechanism of holding me to account to explain how I acquired that wealth.

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

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

Madam Temporary Speaker, I believe that in our war against corruption and in our attempt at achieving what the BBI report intends to achieve, we should start without waiting for any political settlement. By the time any legislation arises from the BBI report or any other initiative, this Bill will already be in place and that will be a plus. This Bill will help us solve some of the challenges that the nation faces.

Madam Temporary Speaker, I would like to inform you that in the county where I come from, every public servant owns either a hotel or other businesses, and yet, we do not see services being rendered to our people. We do not have any mechanism or authority to try to find out what magic they have done to transform themselves from humble to wealthy people overnight.

Many people may look at this piece of legislation as negative. However, for the first time, this piece of legislation will enable, for instance, you, Madam Temporary Speaker and I to proudly say what you own and explain to people how you got it. I am able to explain to people the few millions I have. I am able to tell them where they are and if I should acquire more as I think I may, I should proudly tell everybody the magic or formula I have used to acquire them. That way, people will truly record in history when I am not there that I worked very hard. It is not enough to be mysterious. It is proper and decent to state what you own and how you owned it. It also makes it easy for you to defend it in case anybody who is not using this mechanism tries to dispossess you of what you fought for.

Madam Temporary Speaker, it is an opportunity that all of us are seeking to be able to demonstrate the method we used to own what we own and also acquire legitimate ownership over it, defend it against illegal and legal aggressors who want to take it away from us. That is how a society can grow.

I heard my brother and senior neighbour, Sen. (Prof.) Onger, raise the issue of deferred prosecution agreement. If you look at what is happening in the United States of America (USA), this practice is available. It is also available in Canada and most of Europe.

The intention of prosecution the world over is not just to punish, deter or inflict pain upon any defendant or anybody who has aggressed or violated the law. The intention also includes reinstatement. A person should be made to reinstate to the public the loss that, that person occasioned upon the public. So, a deferred agreement may be in the nature of giving opportunity to a defendant to commit to reinstatement. It may cost so much to lock in a defendant for a long time without benefit to the public. An agreement that compels a defendant to do certain acts that are beneficial to the public may go a long way in restoring the loss that the public may have suffered from the offending act of that person.

Madam Temporary Speaker, there are certain instances where it is corporations and big businesses that have been charged. If you were to bring down, for instance, Safaricom and lock its leadership in jail, you may occasion unforeseen suffering to employees and the economy. You will remember there were issues of deferred prosecution in the National Youth Service (NYS) scandal. Some banks were enablers of the loss of money, and they were compelled to pay fines and do certain things that would not enable thieving fellows to steal in future. To that extent, the public has been protected.

Madam Temporary Speaker, if the directors of these banks were to be locked in, then people like you and I and other innocent persons whose monies are there, may suffer unintended consequences of just bare and retributive prosecution. So, the civilized world of the West has deferred agreements in their pieces of legislation.

My sister here has researched widely and seen the importance of having it in our legislation, so that the DPP is not given just a single mandate of trying to have people jailed. The DPP must be given the mandate of entering into agreements that might reinstate or sort out losses that the public may have suffered because of the violation of law.

Madam Temporary Speaker, this is a good piece of legislation. Any person who may wholly oppose it may be one whose intentions I will personally doubt. There may be areas that would be done better, but it is a good starting point. In my view, I have not seen any place that would require immediate attention. In my own assessment and evaluation, this piece of legislation is 99 per cent right and should receive the bi-partisan support of all Members of goodwill. We are all persons of goodwill here. We want corruption to be a thing of the past. We have an opportunity to add our votes to an effort by our sister to rid this country of corruption.

When matters like fighting corruption are not legislated or put in policy, then we enter a dangerous zone of arbitrariness. We want situations where mandate is given to a known institution and procedures to be followed are spelt out in pieces of legislation. That way, we will not hear public officials saying they are being targeted because they are a friend of Sen. Ochillo-Ayacko or somebody else.

A public official should be able to point at the law and say: "In my matter, there is violation of the law relating to lifestyle audit, but should not say that the process is being arbitrarily applied against me."

Madam Temporary Speaker, let me end by thanking Sen. Farhiya for doing the wonderful job. This is something for which you will be remembered for a long time. I hope you travel places and that this effort is rewarded both here and in heaven.

Thank you, Madam Temporary Speaker.

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

Sen. Halake, proceed.

**Sen. Halake:** Thank you, Madam Temporary Speaker. I also rise to support this Bill by Sen. Farhiya. I congratulate her for her courage to do her part in the fight against corruption.

The list of the number of pieces of legislation that ought to fight corruption is endless. Senators have listed the Anti-Corruption and Economic Crimes Act, The Public

Officer Ethics Act, The Leadership and Integrity Act; The Public Service Values and Principles Act, The Proceeds of Crime and Anti-Money Laundering Act; The Public Finance Management (PFM) Act, The Public Procurement and Assets Disposal Act, and so on.

It is not for lack of legislation that our country is embroiled in this mess of corruption. Sen. Farhiya has decided to complement some of these laws that have so far not worked for lack of implementation or enforcement. She is providing yet another piece of legislation that will perhaps offer another avenue that will encourage us to be a bit more careful. This is really a welcome initiative in this House and for the country. I am sure that Sen. Farhiya will be remembered for having the guts to try and do something about the non-enforcement of the laws that already exist that abound.

Madam Temporary Speaker, in 2008, the EACC took a certain financial controller to court for precisely this kind of thing. The gentleman earned Kshs306,000 per month, but if I remember correctly, he had seven houses, four plots and six bank accounts, one of which was in London.

Therefore, the EACC took him to court before Judge Kalpana Rawal, if I remember correctly. I do not remember the details, but that was thrown out because of some technicality – I do not remember the details - that the EACC required him to explain the source of the wealth.

Madam Temporary Speaker, I am told that eventually, a few years later, I think as late as just last year, this same officer was then required to return some Kshs41 million. That is how long that court process has taken; since 2008, it is over 10 years later.

Again, perhaps the legal framework for this lifestyle audit is the answer to shorten some of these legal procedures that have not really worked well for us. It also provides a certain avenue that would encourage people to return some of the proceeds without having them to go through a very rigorous legal process that gets thrown out like during the time that it went before Judge Kalpana Rawal. I think this is really welcome and would give us yet another avenue for us to continue with the fight against corruption.

Madam Temporary Speaker, it is not uncommon. There is another tool which I do not know if Sen. Farhiya has used in the Bill, because I did not quite go through all the provisions. It is the requirement for us public officers to declare our wealth at the time that we join public service. Since 2003, all of us have been required to file this particular requirement, but again, there is no requirement for inspection by the public. Therefore, I do not know how useful this tool is in the fight against corruption, if there is no requirement for it to be inspected. How useful is it as a yardstick against which we could measure the lifestyle audit or against which the courts can use to determine whether or not---

I know that during the Constitution making process in 2002, the initial draft did have provisions for the declaration of inspection of this tool by the public. However, successive drafts then kept whittling down until now where we have a tool that is not very useful when it comes to using it as a check and balance against this.

Madam Temporary Speaker, I am very proud of my sister, Sen. Farhiya, for finding the courage to give us yet another tool for fighting corruption. Perhaps it is going to give us an opportunity to diversify the fight against corruption. There are countries in

which the wealth of public servants is not a secret. For instance, you can go on the website and find out what parliamentarians in the United Kingdom (UK) own and what they get. It is written in articles and in the various engagements that they are involved in. It is only here, where we are not open to scrutiny.

Another issue to note is that we are ranked the fourth country in Africa in terms of individual wealth. The first is South Africa, then Nigeria, then Morocco and then ourselves. I do not know if we should celebrate or cry. In Nigeria, there are oil issues. It may not be perfect, but the source of that wealth can be traced to a certain natural resource. Unfortunately, it is fossil fuel, but it is there.

In South Africa, there is a mining sector that has been there for a very long time. Again, that was attributed to the mining wealth. In Morocco, a lot of millionaires got their wealth from tourism and other sectors. I am not sure what the super-rich in our country would attribute their wealth to. However, we are still home to lots of super-rich people.

I am not saying that the super-rich in Kenya are all culpable to corruption, but it would be nice to know what their source of wealth is. For instance, what industries are our super-rich involved in? This is so that our youth who are crying out can say that they want to go into a certain area. Are our rich people, for instance, entrepreneurs in the Information and Communication Technology (ICT) sector, like Mark Zuckerberg of *Facebook*? We do not know. It is not very evident for us.

I say this because it is in support of this lifestyle audit. Where is our source of wealth? Where are our industries and entrepreneurs, or are they really entrepreneurs? We do not know.

Madam Temporary Speaker, I know that time is not on our side and without belabouring, I stand to support and congratulate Sen. Farhiya for a great job.

**The Senate Minority Leader** (Sen. Orenge): Thank you very much, Madam Temporary Speaker. I also rise to support this Bill. I give it my full support. This is a big contribution in providing additional tools in the war against corruption. As you may be aware, we have several tools for dealing with corruption or ensuring that those in public office do not use those offices to obtain wealth or resources that are otherwise unjustified.

The history that we have had in this country is that when these tools are created, the degree of success that we have registered is very minimal. You know that we have several procedures, including self-declaration of wealth, which is done on a voluntary basis, but not so voluntarily. This is because once one makes a declaration of wealth as a public officer, they are required to give a true statement of fact with regard to the property that you hold, and that of their spouses and dependents.

Besides this self-declaration, there are other tools which can be used, including prosecutions. That tool has been ever present, even in the colonial times. In successive years, we have had corruption laws enacted to deal with corruption as criminal conduct. Again, we have not succeeded very well on that one. There used to be a specific law known as the Corruption Statute, before it was repealed. Subsequently, there was an attempt to consolidate the corruption laws under the Penal Code or under the Anti-Corruption and Economic Crimes Act.

The tools that are also available under the Anti-Corruption and Economic Crimes Act have also not been successfully used in the war against corruption. I stand here as

one of the people who believe that prosecutions are never really effective in dealing with corruption as a vice or as a basis for recovering wealth that probably had been corruptly acquired.

As I have stated so many times before, dealing with corruption begins with how the Government is organized, so that all the loopholes for opportunities to commit these acts of corruption with impunity are closed. This is because prosecutions take time. The courts are sometimes overloaded and the manner in which prosecutions are conducted requires resources, professional people, and evidence collection. Simply putting it, prosecution is not always very easy and yet this vice must be dealt with.

I congratulate Sen. Farhiya. She has been so persistent on this issue. I think that she has done a wonderful job in trying to bring this Bill to the Floor of the House. I think this procedure she has set out, especially in dealing with unexplained wealth and how to seek to have the person explain---- Probably if the person elects not to be prosecuted and uses the opportunities here to deal with that kind of conduct.

However, if you look at the Anti-Corruption and Economic Crimes Act, in order to create harmony in the law, certain provisions of the Act probably need to be repealed or lifted from that legislation and brought here. This is because this legislation is a better articulated procedure for dealing with unexplained assets.

That explains the difficulty the Ethics and Anti-Corruption Commission has had in dealing with acquisition of unexplained assets. Therefore, at a later stage in consultation with Sen. Farhiya, we will juxtapose this legislation and if necessary, lift those sections in that Act and make them part of this Statute.

For that matter, it would then put the question of ethics entirely in the hands of the EACC as opposed to dealing with investigations that lead to prosecutions. If we have too many bodies dealing with investigations and prosecutions, it creates conflict and competition within the sector and that sometimes ends up in nil prosecutions or investigations that are botched up.

Having said that, if you look at this country called Kenya and look at the acquisitions that those in public life have acquired over time; even people who are in corporate business or hold high offices in the corporate world do not acquire wealth with the speed with which those in public office are able to. We have living examples in Parliament. If there was a proper lifestyle audit beginning with the leaders in Parliament and high-ranking officials in the Executive, most of them would not be able to explain the source of their wealth.

In fact, at one time in Ghana - and I do not think that is something to emulate or follow - during the government of Lieutenant Rawlings when he took over power in Ghana, he gave opportunity to those public officers who had acquired wealth to explain and begin on the basis that that person was earning a salary and saving the entire salary, he was not buying food, not paying rent and that all the money was just going to acquisition of assets or having deposits in banks; and so on and so forth. A lot of them were not able to explain.

The unfortunate thing in Ghana is that some of them were taken to the beach and shot dead. I do not think that is something we want to emulate. If this Bill becomes law

and it is properly implemented, it will be an effective way of reducing this cancer called corruption in Kenya or completely eradicating it.

If we were not talking in this Chamber where we have got rules on debate, if names were to be mentioned in this Chamber of public officers or those in political office who by virtue of that office have acquired wealth that even if you were to share a cup of tea with some of the richest people in the world like Bill Gates and Bezos of Amazon, they will tell you that that wealth could not have been from hard work.

The problem is that once wealth is acquired not by hard work, but through fraudulent means, the society suffers. If it was possible to do it without society suffering or without the nation suffering, then probably we can live with it.

However, just look at some of the very important infrastructure projects that have been undertaken in this country, a lot of them have led this country to incur debts and loans that are completely beyond the reach of this country to pay when they are due. If they are paid when they are due, then it means services that should be rendered to the taxpayer cannot be paid for. As a result, the increase of wealth and the expansion of the economy becomes completely impossible.

Madam Temporary Speaker, looking at this project called the Standard Gauge Railway (SGR), if it was done properly and effectively; all the studies were done effectively and we are getting value for our money; you would see a difference along that railway line. Just by building a hub in Istanbul, a new airport completely switched the operations of airlines in Europe. Turkey became a seaways hub just by building one iconic infrastructure in terms of the airport.

Part of the success of Dubai is that you would think that that country is built around the airport. The airport is a kind of reference centre. Dubai has also excelled in fields such as sports and racing; it is not just about oil. When you do one successful infrastructure and it is done properly, it leads to benefits down the line. As a result, the whole country grows, and the economy grows.

The Asian Tigers, if one had to look at the growth of Singapore, is really around using the oceans and seas around that little island State. If you look at Taiwan and Japan without natural resources, they go into the service industry. What does Hong Kong possess which we do not have here in Kenya? I think part of the problem that we have had in this country is this menace of corruption. The many tools that we have to deal with it, the better. However, they must be effective tools.

For that reason, I am in complete support of this. The area that I would want looked into is the extent to which a lifestyle audit would interfere with the Bill of Rights because I think that should always be at the back of our minds. Reference to certain sections of the Criminal Procedure Code, particularly on question of search and seizure, I think if those powers are to be exercised, there should be provisions in this Bill to show to what extent that the power of search and seizure can be used for what purpose and that there should be specific return dates for purposes of progressing with the investigations.

In many investigations that are carried out by the investigative agencies on mere suspicions, somebody's house could be searched and property seized probably even for a year or two. There is no return date and effective inventories taken. Sometimes it is a tool

that is abused by the investigating agencies. Therefore, we should do something a little better than what I have seen here.

I think Sen. Farhiya is trying to point out to me that there is a provision. However, what is there is not good enough. In fact, even in The Anti-Corruption and Economic Crimes Act, there is a provision which limits that instrumentality of search and seizure. Since the provisions in The Anti-Corruption and Economic Crimes Act are limiting, they have specific provisions dealing with search and seizure. However, since they are limiting, the investigating agencies prefer going by the provisions of the Criminal Procedure Code, because its sections give the investigating agencies a lot of latitude.

I can see one of them here under Clause 8 of the Bill. It states that-

“A search may be conducted without a warrant in exceptional cases where there are reasonable grounds to believe that evidence maybe removed or destroyed.”

That is a very dangerous provision. Who determines that there are exceptional circumstances? Even when the courts try to define the “exceptional circumstances”, by the time the issue arises, a lot of danger could be caused to the person. I am afraid that “Exceptional circumstances” is not good enough. In fact, the procedure in the Criminal Procedure Code is far much better than that clause, because that provision says that you must go before a magistrate and offer evidence to prove that there is a basis for conducting a search and seizure. I plead with her, knowing how investigating agencies apply the law, that this can easily be abused.

There are provisions in comparative jurisdictions like South Africa, India, UK, and USA. I am saying this because we have the Right to Privacy under the Constitution. That right is fundamental in common law countries; that when you want to interfere with one’s privacy, there must be sufficient grounds. The way our Constitution is now framed, you must justify when you want to interfere with the fundamental rights and freedoms of a person.

Sen. Farhiya should know that when it comes to execution of search warrants, Sections 119, 120 and 129 of the Criminal Procedure Code shall apply. That should also be looked into, because these are the sections that many investigating agencies run to. As I have pointed out, in the Anti-Corruption and Economic Crimes Act, there are provisions which are more protective of the right to privacy but they are not absolute rights to privacy.

When you go before a magistrate, you do not have to call the other party. All you need is an affidavit that must be set out in a template. That is what you have to put before a magistrate before a search warrant can be issued. On warrantless search and seizure, Sen. Farhiya should know that at one time, the authorities wanted to bring the Royal Media House down.

One day, they just invaded their premises; it is some building near Anniversary Towers. Without search warrants, they took everything and destroyed some without an inventory. In the end, there was no prosecution or case. Without the tenacity of Mr. S. K. Macharia, it would have come down. That was after Madhu Paper Industry Limited was brought down. It is like the aim was to bring down one institution after another.

Madam Temporary Speaker, the other issue that we can also deal with at the time we will be looking at the Bill and possibly deal with the amendments, is if somebody is party to an agreement to defer and it ends up without a prosecution, what do you do with the evidence before the institution dealing with the investigations? This is because in Article 50 of the Constitution, there is right to keep quiet.

In the interest of having a plea bargain, one has an agreement to defer prosecution or a plea agreement. If it is or not undertaken successfully, there should be a statement saying that whatever comes out in that process, which the subject party offers in pursuit of negotiations which may fail, then it cannot be used in criminal prosecution.

They can be used somewhere else but under the law, even if I record a statement today and it was a confession, but there was no caution administered under inquiry or charge, then that statement cannot be used. This is in recognition of Article 50 of the Constitution, which has been a standard practice since the Magna Carter came to be. We should not, in the enthusiasm of fighting corruption, erode fundamental rights which have become central pillars of democracy in free nations; some of them which have survived since the Magna Carter.

I conclude by saying that if this tool is used effectively, then this is a wonderful opportunity. I can see a lot of research has been put into this. I know Sen. Farhiya belongs to another profession but looking at the way this Bill has been formulated and crafted, probably Sen. Wetangula would have agreed that this is the work of a senior counsel or an experienced lawyer.

Sen. Farhiya, this is wonderful work. The product of your work can only be effective if the law is used effectively also. This is because there are many botched up prosecutions and investigations, because the people who were offered those tools do not use them effectively.

Sen. Wetangula and I, probably in our profession know that if you have a good case which has been properly and thoroughly investigated, then it does not matter which lawyer you hire. In fact, we are offering a tool here that if a lawyer finds that there is no alternative, but to plea-bargain and enjoy the opportunities offered by this Bill.

Madam Temporary Speaker, a lot of times you find that crime goes unpunished because of bad investigations and prosecutions. I challenge those who sometimes criticize courts a lot. If you go to the criminal courts now where a lot of these cases are being done and you follow how a case has been prosecuted, you will be shocked to learn that a lot of times the investigating officer was not ready. He was ready to charge, but he was not ready with the evidence. If he is ready with the evidence, probably the witness is not there. If the witness is not there, the exhibits are not there. You find a prosecution taking too long. It is not on account of the courts, but on account of the agencies which are given that responsibility.

Sen. Wetangula, you can remember this magistrate who was called Mr. Hew who was in Court No.8. There was one time when the Chief Justice complained about the manner in which he was handling cases. He was coming to the courts very late. One of the senior lawyers went and found he had not come. The lawyer went to see the Chief Justice; Justice Wicks. The lawyer was Georgiadis, a very well-renown lawyer. When

they went to the court, they found there was nobody in the court. The magistrate had not come and he was not in his chambers. The magistrate was given a warning.

The next day, he was in his chambers by 8.00 a.m. One minute to 9.00 a.m., he was in the courtroom alone. He sat there for five minutes and there were no files and no prosecutor. The files came in at 9.10 a.m. The prosecutor was not there with the prosecution files. He just said call out the files. When the files were called, there was no prosecutor and no witness then the case was dismissed. He dismissed all the cases that particular morning. The next day, he repeated the same thing. The third day when the prosecution was now seeing the magistrate is there on time and they came on time, there was no witness and yet there were witness summons.

He applied the law strictly for two weeks. He was just dismissing cases. The Chief Justice had to go back to him and told him not to apply the law strictly otherwise there will be no successful prosecution. Sometimes we complain about courts, but a lot of times, it is not the courts. That is a point I wanted to make. Of course, there are times when the courts also make their mistakes. Sometimes they do not do their work as expected by citizens.

Madam Temporary Speaker, this is a wonderful Bill. I thank Sen. Farhiya for her industry. This is who you are. All the time you make me feel very proud as your colleague in the Senate.

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

Proceed, Sen. Were.

**Sen. Were:** Thank you, Madam Temporary Speaker, for this opportunity to contribute to the Lifestyle Audit (No. 2) Bill (Senate Bills No. 21 of 2019) ably sponsored by Sen. Farhiya. I congratulate Sen. Farhiya for bringing order in an otherwise chaotic place, disorganized and disorderly procedure of conducting lifestyle audit.

This area as important as it is, has been done haphazardly in the past. Sen. Orenge has outlined fully throughout the Bill what areas need improvement and which areas are quite clear based on his experience and also as senior counsel. So, I will not go into that. Mine is to encourage Kenyans to embrace this lifestyle audit once this Bill has become law. This is because it is very friendly and makes it easy for people to be accountable. It has areas that make the process confidential.

It gives you notice of even seven days with clearly outlined reasons for the audit. You do not have anything to fear if you are clear in your mind that you have not stolen from the public. It has been very confusing out there and a lot of mistrust on this process. This is because people are not sure whether they will be charged unfairly or with malice.

Clause 7 (2) says:

“An investigating body shall in making an application under sub clause (1) specify the grounds on which the application is made and if material relevant to the lifestyle audit is likely to be found on the premises.”

So, they do not just get out and search your premises. There must be grounds that say that the material that is relevant to that investigation is in that premise. Once a search warrant is issued, it must contain grounds for the conduct of a lifestyle audit, the name of the public or State officer and the address of the premises to be searched. We do not want to see people searching in our relatives’

homes assuming those are the places where the stolen money has been kept. It also provides an explanation that the material relevant to concluding the lifestyle audit is likely to be found in those premises as I had indicated.

Madam Temporary Speaker, having gone through this Bill, I remembered a relative of mine from my county of birth which is Busia which is a border county. This relative of mine was a simple clerk in the Deputy County Commissioner's (DCC's) office. He was able to change cars very frequently and even married two wives in a very short span of time. Everyone concluded that he must be stealing from the Government since he was working at the DCC's Office.

He was subjected to this haphazard lifestyle audit. They realised that the cars he was changing he had not even bought them. Busia being a border town, very many vehicles pass from Mombasa going to Uganda. He had gotten friendly with these drivers. Every time they came with a good-looking vehicle at the border, he would take a test drive around the town. Of course, when you have a good car in a rural county like Busia, women get attracted. He ended up marrying two wives because of the vehicles he would borrow from drivers and taking the vehicles across.

Madam Temporary Speaker, there was no order and framework upon which his lifestyle audit would have been done. He suffered great public ridicule when he was very innocent. I welcome such a Bill so that there is order.

In this Bill, there is also an appeal system. If you feel like the audit has not been done properly and you have been abused in a certain way, you have a way of seeking redress through the appeal system as recommended in this Bill.

This Bill has also outlined the investigative bodies that will be used to conduct this lifestyle audit. We have the EACC and KRA. There are specific commissions or bodies that that officer who is being investigated works for.

Madam Temporary Speaker, the investigation is specific. We do not have strangers who do not understand how the industry or the department works investigating the lifestyle audit. We have people who exactly know how the office works, what their job description is and how they conduct the job. Therefore, it will reduce bias in the process. It also removes witch-hunting from the process because it deals with people who are known. There is also an appeal system which is secured in law.

There is also the issue of freezing orders on bank accounts of lifestyle audit suspects. This process has become regularized including compensation for those who might feel aggrieved from the process of freezing their accounts. It is a long process as outlined in this Bill. Sen. Orengo has looked at it extensively. I do not want to go through it again.

Madam Temporary Speaker, I support this Bill and look forward to have it signed into law so that this process can finally have some order.

**Sen. Wetangula:** Thank you, Madam Temporary Speaker, for giving me an opportunity to contribute to this Bill.

When Sen. Farhiya mooted this idea, she consulted and asked me whether I could second the Bill. Unfortunately, it was moved when I was not here but I had agreed to second it.

This Bill seeks to cure some *lacuna* in the existing law. It will also wake up those who have not been applying the law properly. We have some laws that can provide a prescient similar to this. We are having a specific Lifestyle Audit Bill and when it becomes an Act of Parliament, it will be the primary source of reference in carrying out audits.

In this country, if you look around, the wealthiest individuals are people who have been in public service, without exception. There are a few people, for example, the late Kirima who started selling meat and real estate and grew into a wealthy person. We also have exceptions, for example, *mzee* Njenga Karume, who started selling charcoal and painstakingly build an empire that appears to be crumbling.

Madam Temporary Speaker, without mentioning names, almost each and every extremely wealthy person in the country has made money through some inexplicable means from the offices they have held. Either they have been junior officers in very vital positions or they have been senior people in positions of accountability and failed to do so. Such a law would help.

If you go to Nigeria, you will find something bizarre. A person goes to university and qualifies to be a medical doctor, lawyer or an engineer but the first place they want to work is customs or immigration. That is where they struggle for. In fact, you will find many medical doctors who should be saving lives like Florence Nightingale, are working as immigration officers because of the ease of acquiring wealth from those positions.

When the systems are weak, you end up with people who fuel inflation in a country, getting money without working for it, they cannot account for it and the people who work hard are the ones who suffer and carry the weight of society.

More often than not, such characters do not pay taxes, it is the small man on the payroll whose Pay As You Earn (PAYE) is creamed off routinely every month. So, we must have a system that balances, like the Senator for Siaya said, because we have a new Constitution that is very strong on personal liberties and Bill of Rights. In calculating this accountability structure, Sen. Farhiya will have to very carefully go through the Bill of Rights and see whether the processes that we are envisaging will undermine any of the provisions in the Bill of Rights like Unreasonable Deprivation of Property, Violation of Privacy and so on.

Madam Temporary Speaker, I now want to look at the several clauses of the Bill and advise Sen. Farhiya that she can make them better. To begin with, when you want to carry out a lifestyle audit and do it effectively, it is not very good for the citizens to domicile this authority in too many bodies. In Clause 5, the Bill is domiciling this authority in the Kenya Revenue Authority (KRA), the Ethics and Anti-Corruption Commission (EACC) and Public Service Commission under the Public Officer Ethics Act.

I will tell Sen. Farhiya why I think so. First of all, the KRA; the role of KRA is to collect taxes, period. They can investigate people on tax avoidance and tax evasion. They have got no duty in interfering with people's lifestyles. Their duty is to collect taxes. If you have understated tax payment, they have the power to prosecute you and their power is set out in the Act.

I want you to vary your Bill to make KRA a constant complainant against persons they think that are living beyond their means; their tax returns look good but they do not look believable; somebody is buying a new car every other month; but his company is incurring losses year-in, year out. Every year, he is acquiring new real estate and that his company's returns show that he is in the negative and in the red throughout. So, such will then make KRA a complainant and the false information given in the returns will be part of the evidence that the Commission can use to pursue the offending party. I want to encourage her to remove KRA from here and leave them with their core mandate and where they have an issue against any one of us, let them complain to the necessary commission.

Secondly, the issue of auditing people's lives is already provided for in the Ethics Law, filing returns and so on. I want her to refine this law, and I will help her where necessary so that we have one centre of operation, that when people are not able to explain their wealth, we only go to one place for action. I will tell you why.

Knowing how this country operates, the State can vindictively embark on harassing and destroying people, tell the Kenya Revenue Authority (KRA) to audit your style, keep you busy, freeze your accounts and do everything, and when they finish and find nothing, the Ethics and Anti-Corruption Commission (EACC) comes in on somebody's instigation. For another year or two, they will keep you busy, freezing your accounts, searching everything, and once they finish, a third commission comes in. Unless you want to say - which will not be very good in law - that when one authority has done a certain audit, the others are precluded from doing the same.

In law, we normally say, "*autrefois acquit*" or "*autrefois convict*." If you have been convicted for an offense, you cannot be charged with the same offence; you will waive the conviction or acquittal, and it is a bar to further prosecution.

You can either have a nexus in the law by saying that if KRA has done this to you, the EACC or any other third authority should not. Otherwise, we will open the citizenry of this country, depending on the nature of politics of the day, to constant harassment by the State. You never can tell when this draconian behaviour will visit you. My good teacher, Justice Ringera, used to tell us that any law that you pass, imagine that law in the hands of your worst enemy. If you feel safe with it, then it is a good law. If the law is fluid, then you can see the history of this country, not just now, but from the days of Independence. People are taken to court for *quasi* political cases, depending on their association politically.

I remember a case in the 1980s when I was still a very young lawyer. A very senior man in Government fell out with the Government and he was dismissed. He had a loan with the Agricultural Finance Corporation (AFC), the Kenya Commercial Bank (KCB), and the National Bank of Kenya. These loans were properly processed and he was servicing them without fail, and they were running for a period close to 15 to 20 years. Upon dismissal, he went to his private office one morning and found a foreclosure on all the three loans. He was given seven days to pay the loans in full or be foreclosed. Indeed, they foreclosed him against the provisions of the Banking Act. They auctioned his property and left him to live and eventually die like a church mouse.

Madam Temporary Speaker, I want us to avoid that kind of situation where we pass a law, then it starts being used as an instrument of terror against the citizenry. If we want to do a lifestyle audit, Sen. Farhiya, you should look at the Ethics Act where there is declaration of wealth by each individual State officer. Perhaps, even if the declarations are not made public, there should be somebody somewhere who goes through them to see whether what we are declaring is false or not. It is not difficult to know what people own in this country. We are a small population, and the people who own property are very few; the rest are struggling. When you see people acquiring property every other day without explanation, the law may apply.

Madam Temporary Speaker, we must also bear in mind that there are many Kenyans who make legitimate money. There are many Kenyans who are legitimately wealthy; people who have professional practice like lawyers and doctors. If you go to Hong Kong or Singapore, one of the ten richest men in the world is a lawyer. There is a South African doctor in America who is among the ten richest men in the world. He is in the league of Jeff Bezos of New Mexico, USA.

He has discovered drugs and patented them. He is a big-time money maker. Somebody can vindictively tell him to explain where he got his money. I have a friend who has just discovered a very important innovation in the war against HIV/AIDS. That person is negotiating to patent with one of the big drug firms like Faiza Limited. That is a man who is going to move from disgrace to amazing grace in terms of wealth ownership. He is likely to pocket a few billion dollars from his invention. I am aware that he is negotiating with Faiza Limited and other big companies.

Madam Temporary Speaker, I can see my time is running out yet I have not even started debate on the Bill. In applying to the courts, this matter is not strictly criminal. It is quasi criminal and civil. I would like Sen. Farhiya to be very specific that applications for searches, freezing and all the other things will be done to the high court. Do not leave it fluid so that they go to a magistrate's court where they are manipulated, intimidated and given very unlawful orders. Kindly clarify that they should go to the high court. Persons reporting cases of lifestyle audit must do so in high courts. Physical property such as buildings will not just disappear. Transfer of land or such property cannot be done in a day. Due process should be given to the affected parties.

Clause 14 of the Bill speaks to application to freeze accounts. I sometimes feel very uncomfortable when police officers and state officers sneak into courts in the evening and walk out with freeze orders which they slap on unsuspecting citizens whose assets are supposed to be frozen. Freezing of accounts is a civil process. As Sen. Farhiya has rightly stated, due process should be followed. A person should be given a notice to show cause why his account should not be audited or frozen. There should be no circumstances where any state officers can walk into court alone with an excerpt application and freezes peoples assets without any due process. , I would like due process to be the corner stone of the lifestyle audit process so that we can make things better.

Madam Temporary Speaker, Sen. Farhiya has stated in this Bill that if an audit is conducted and the accused ends up innocent, he can sue. Our justice system is very bad. If you go to court with a simple civil matter, you will wait for the next five to ten years to receive justice. Look at the case of the 'chicken' gate scandal. Mr. Ouzman and his son

who bribed the officers of the Independent Electoral and Boundaries Commission (IEBC) were charged in London, the witnesses came from Kenya, testified in the case there. Mr. Ouzman and his son were jailed for seven years. Their money was confiscated and sent to Kenya. They have finished their term without remission and are now at home. The counterpart case of Mr. Oswago, the former CEO of the IEBC, has not even started. The case is still in court. The excuses in the courts include; that they are not ready and that witnesses are not available yet the same witnesses went to London and testified against Mr. Ouzman.

When we say that an officer has been unfairly treated by state officers, a good Bill like this one should provide for a quantum of compensation based on the percentage of the sum in a frozen account or the value of the asset.

This will deter public officers from abuse. You should further provide that if a public officer is found to have been reckless in handling a matter, he may be personally liable.

**Sen. Farhiya:** It is there.

**Sen. Wetangula:** It is there! Very good. He may be personally liable because there are those public officers who will now be used by the correct members of the system to pursue vendetta on their behalf and harass citizens unnecessarily.

Clause 17---

Can I beg for a few more minutes?

**The Temporary Speaker** (Sen. (Prof.) Kamar): You have two more minutes.

**Sen. Wetangula:** Sen. M. Kajwang', are you waiting to speak?

**Sen. M. Kajwang':** Yes, I am.

**The Temporary Speaker** (Sen. (Prof.) Kamar): You have two more minutes.

**Sen. Wetangula:** Thank you, Madam Temporary Speaker. Clause 17 appears to create whistle blowers; people who can go and lodge a complaint. You should also encourage whistle blowers, but also make it difficult for vindictive whistle blowers. The fact that you have bought a parcel of land and build a good house is no reason for your neighbour to go and complain that you be frozen.

I will also help draft something to share with you on how the public can report and the consequences of reporting falsely. Those who are genuine will make reports; the Omtatahs of this world who have risen as serious public defenders. There are also those frivolous and wicked ones who will not want to see anybody have anything. They would want to go to court and report. We should also have a situation where such a person is put on notice; that if what you are telling us turns out to be false, then there are consequences. Every choice has an attendant consequence.

Madam Temporary Speaker, the deferred prosecution agreement is good, especially when dealing with large corporates. I am happy with what the Director of Public Prosecution (DPP) did with the National Youth Service (NYS) case and the banks. You can imagine a situation where the Managing Directors (MDs) of the Kenya Commercial Bank (KCB), Co-operative Bank, Equity and Standard Chartered Bank are all hauled into the courts because of money from NYS by the likes of who we know – who are now running around looking whiter than cotton – if such money entered the bank

and you round up all the CEOs and lock them up, chances are that, those CEOs did not even know that these fellows had accounts in their banks.

Therefore, a bargain like that and deferring prosecution and making compensation like we have seen, is very important particularly when you are dealing with large corporates. However, deferring prosecution should also not be used to shield criminality, especially where there is serious evidence of corruption. You have heard of a case from Kitale in Trans Nzoia where I come from, a clerk made Kshs380 million in one-and-half years. He bought property in Mtwapa and many other places. When they caught up with him, he had no explanation.

In the media, we have seen a chap in City Hall working for the Kenya Revenue Authority (KRA), who was found with Kshs1.6 billion in the account and had no explanation. Such fellows should not be given the privilege of deferred prosecution. This is because on the face of it, it is clear criminal conduct on the part of the person.

Madam Temporary Speaker, let me end here because of time although had much more to say on this Bill.

I support the Bill and I think that Sen. Farhiya should go through this Bill very carefully through the relevant committee. She could even ask practitioners of law like Sen. Orenge, myself, and others to assist her.

Madam Temporary Speaker, it is a very good Bill. It will help this country.

I beg to support.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. M. Kajwang'

**Sen. M. Kajwang'**: Thank you, Madam Temporary Speaker. I rise to support this Bill. It is not very nice for me to speak after Sen. Wetangula, more so when he had so many good points to raise. Time is running out and I just want to lay out a few issues in support of this Bill.

As a parent, if your child came back home from school with a Rolex, a phone, or some other expensive gadget, it is your duty to demand an explanation of where that asset came from. If your teenage daughter came back home driving a car and owning the latest mobile phone, it is your duty as a parent to demand accountability and know where that gift came from.

That is essentially what Sen. Farhiya is attempting to do here; that those people who have been entrusted with public and State positions should be able to explain their livelihoods, to live within their means, and should be able to live in a manner that is justifiable and accountable. I want to lay out just a few broad issues, so that if this matter comes up for further debate tomorrow, I can follow it up from there.

One, the need for this Bill is the brazen corruption that we are witnessing at the both the national and county levels. One diplomat said that the corrupt are now vomiting on our shoes. Indeed, in counties, and even here at the national level, the corrupt are vomiting on our shoes with their opulence and their very flashy consumption. If this Bill gives effect to the provisions that it is proposing, it will help us to deal with those characters.

Madam Temporary Speaker, I spent some time in Uganda and I still recall a gentleman called Eriya Kategaya. When the National Resistance Movement (NRM) came from the bush, Eriya Kategaya was considered to be number two to the number one of

Uganda. Eriya Kategaya's children were my friends, and they lived simple lives. They lived in public houses and everyone laughed at them; how their father could be number two in the Republic and yet live a simple life. He died having lived a very simple life.

We must also deal with these values that we have in society, that once you in Parliament, you become a tree that gives rise to cash, or you become a cash dispenser that everyone can draw cash from.

Two, is on the sophistication of corruption. This Bill will help us deal with those who are primitively corrupt. They steal, you see them flashing that cash in churches very weekend, you see them buying big cars and marrying additional wives. However, there is that sophisticated thief, the one David Ndi says is pinching our pockets versus the one who is stealing our taxes. That sophisticated thief whose money is in those places that the Panama Papers have talked about. This Bill might need to give some thought to it.

Three, we have existing agencies. We have the Assets Recovery Agency, established by an Act of Parliament. We have the Ethics and Anti-Corruption Commission (EACC), which already has certain powers to deal with corruptly acquired property. Let us make sure that we are not creating an additional layer, but making these complimentary and making these to give effect to their work.

Madam Temporary Speaker, there is a time the President made a proclamation. All procurement officers and accountants in government entities, particularly the National Treasury, were told to step aside for a lifestyle audit. We also need to get a report on the outcome of that, because sometimes these issues can be weaponized to deal with people and to get people of a certain community or a certain conviction out of office so that a fresh breed of looters can be brought in.

Finally, we need to look at ourselves in the mirror. I hope that we are going to have the confidence and the fortitude as Parliament, to allow ourselves to be subjected to a lifestyle audit. As Sen. Wetangula said, if you look at the history of commerce and industry in this country, when the white person left, it is the ruling class that took over the assets of the then Imperial British East African Company (IBEAC). They took over the land, the business contacts, the supply chains and everything that the White person had built.

It has become the norm that to get into politics is an avenue to riches. Are politicians ready and willing to subject themselves to a lifestyle audit? At what point are we going to apply it? The last time this conversation came up, people said that there are historical injustices that we are not supposed to focus on. There should be no holy----

*(Sen. M. Kajwang's microphone went off)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Sen. M. Kajwang', you have a balance of 15 minutes, and you will be given the first chance tomorrow.

Hon. Senators, it is now 6.30 p.m. and it is time to adjourn the House. The Senate therefore, stands adjourned until tomorrow, Wednesday 11<sup>th</sup> March 2020, at 2.30 p.m.

The Senate rose at 6.30 p.m.