

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Tuesday, 21<sup>st</sup> April 2020

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

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

### PRAYER

### COMMUNICATION FROM THE CHAIR

#### COORDINATION OF TEAMS MANAGING COVID-19 IN THE COUNTRY

**The Speaker** (Hon. Lusaka): Hon. Senators, you recall that on 31<sup>st</sup> March, 2020, the Senator for Kericho County, Sen. Aaron Cheruiyot, MP, rose on a point of order on the rounding up of parliamentary staff who had returned back to the country from official engagement abroad and had completed 14 days of self-quarantine.

The Senator informed the House that persons allegedly from the multi-agency team from the Office of the President had picked some staff of Parliament for a mandatory quarantine at a Government facility.

The Senator sought the intervention of the House to have the Cabinet Secretary (CS), Ministry of Interior and Coordination of National Government and the Cabinet Secretary, Ministry of Health to clarify on the number of teams coordinating the Coronavirus Disease (COVID-19) in the country and the harassment of staff of Parliament who had completed 14 days of self-quarantine. Several Senators spoke in support of the point of order and, thereafter, I directed the two CSs to present a report to my office on the teams that are mandated to fight COVID-19.

Hon. Senators, during the sitting of the Senate on Tuesday 14<sup>th</sup> April, 2020 the Senator for Vihiga County, Sen. George Khaniri rose on a point of order wanting to know the outcome of my directive to the said CSs. Hon. Senators, the two CSs indeed filed a report to my office within the directed timelines. The CS for the Ministry of Health indicated that the Ministry has been responding to the COVID-19 pandemic in line with the Public Health Act and the Health Act as well as following guidelines by the World Health Organization (WHO).

Further, the CS indicated that a parallel operation of the initial directive by the Ministry of Health on self-quarantine of those who arrived in the country established that there were individuals who did not adhere to the self-quarantine guidelines. As such, the multi-agency taskforce team found it necessary to identify and enforce mandatory quarantine for persons who did not strictly follow the quarantine guidelines. He further stated that this action was appropriate and in line with the provisions of the Public Health Act as well as the said guidelines to safeguard the lives of Kenyans.

Hon. Senators, the two letters have been forwarded to the *Ad Hoc* Committee on COVID-19 situation in Kenya for consideration. The Committee will be updating the House on these issues and other related concerns in its progress report as appropriate. The House is now informed accordingly.

I thank you.

Let us move on to the next Order.

Proceed, Sen. Dullo.

### PAPERS LAID

**Sen. Dullo:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Tuesday, 21<sup>st</sup> April, 2020-

#### THE COUNTY GOVERNMENTS BUDGET IMPLEMENTATION REPORT FOR FY 2019/2020

The First Half County Governments Budget Implementation Review Report for Financial Year 2019/2020

#### STATUTORY INSTRUMENTS TO ADDRESS THE COVID-19 PANDEMIC

The Public Health (Covid-19 Restriction of Movement of Persons and Related Measures) Rules, 2020

The Public Health (Declaration of Formidable Epidemic Disease) Order 2020

The Public Health (Prevention, Control and Suppression of Covid-19) Rules, 2020

I thank you.

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

**COMMUNICATION FROM THE CHAIR****PROCESSING OF THE STATUTORY INSTRUMENTS TO ADDRESS  
THE COVID-19 PANDEMIC**

**The Speaker** (Hon. Lusaka): Hon. Senators, the Cabinet Secretary, Ministry of Health published the following statutory instruments to address the COVID-19 pandemic

—  
(1) The Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) Rules, 2020.

(2) The Public Health (Declaration of Formidable Epidemic Disease) Order 2020.

(3) The Public Health (Prevention, Control and Suppression of COVID-19) Rules, 2020.

These Rules have been tabled before the Senate pursuant to Section 11 of the Statutory Instruments Act. In this regard, I direct that the Rules be committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration pursuant to Section 12 of the Statutory Instruments Act. The Committee in this particular instance shall perform the functions of the Sessional Committee on Delegated Legislation as provided under Standing Order No. 221.

I thank you.

*(The Rules were committed to the Standing Committee  
on Justice, Legal Affairs and Human Rights)*

Next Order.

**STATEMENTS**

**The Speaker** (Hon. Lusaka): Proceed, Sen. Wetangula. I can see Sen. Wambua is still coming in.

*(Sen. Wambua walked into the Chamber)*

**CRITERIA FOR ALLOCATION OF WB FUNDS TO IMPROVE  
PRODUCTION OF COFFEE IN THE COUNTRY**

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. I wish to request for a Statement on the World Bank funds to improve the production of specialty coffee in the country. I am happy to see the Senators of Kakamega, Kisii, Trans Nzoia counties and other areas that grow coffee.

Pursuant to Standing Order No. 48 (1), I rise to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries, regarding the World Bank funds to improve the production of specialty coffee in the country.

In the statement, the Committee should-

(1) Explain the criteria the Cabinet Secretary for Agriculture has used in determining that these funds be allocated to the counties of Murang'a, Kiambu, Meru, Tharaka Nithi, Machakos, Kirinyaga and Nyeri, at the exclusion of other coffee growing counties.

(2) Indicate when the other coffee growing counties such as Bungoma, Kakamega, Vihiga, Kisii, Nyamira and Trans Nzoia will receive the funds and the rationale for excluding them in the first allocation in the first place.

(3) State the extent to which county governments have been involved in the process given that agriculture is one of the devolved functions.

(4) Explain the method and parameters that will be used to measure the proper utilisation of these funds.

Mr. Speaker, Sir, I seek this Statement with a lot of concern because this country knows that coffee has always been grown in the central and western parts of Kenya. Of late, I am aware the current Governor of West Pokot is planting a lot of coffee. Why would a Cabinet Secretary take resources given to the Government and lump them in one region with the exclusion of all other regions that grow coffee? This is not what the Constitution 2010 expected in this country. We desire and demand equitable distribution of resources and opportunities to all people of Kenya, regardless.

Thank you.

**The Speaker** (Hon. Lusaka): Sen. Cheruiyot, you have the Floor and then Sen. Malalah.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir. This is a very important matter that the distinguished Senator for Bungoma has brought to this House. I wish to remind him that he needs to add Kericho County in his list of coffee growing regions. My county is well known for growing tea, but coffee ranks second in our cash crops. This is because we have a large chunk of our population growing this particular crop.

Mr. Speaker, Sir, you will recall that last week, while debating the Division of Revenue Bill, I brought up an issue for the attention of the House. If we do not check the operations of the National Treasury through this mitigation projects, and all these funds such as the conditional grants and loans that do not bypass the checks and balances of Parliament, we will end up practising marginalisation and exclusion that brought us to the precincts of violence in the years that preceded the 2010 Constitution.

This is a very important question, which I want to request the responsible Committee, once seized of this matter, they should also take an opportunity to invite those of us who have interest and are representatives of coffee farmers, to join in on the day that the CS will come to respond.

I would wish to know why the people that I represent, who are not less taxpayers than those people from other regions that have continued to be favoured in terms of development, have been left out. Whether it is building modern hospitals, water projects or construction of major highways, they are favoured. The rest of the country is watching in anguish and wondering what they should do to enjoy such projects.

Mr. Speaker, Sir, that is my humble plea in addition to the requests by Sen. Wetangula.

**The Speaker** (Hon. Lusaka): Finally, on that, we will have Sen. Malalah and then one more Senator because of time constraints.

**Sen. Malalah:** Mr. Speaker, Sir, this is a disturbing matter considering the amount of money involved. We are talking about Kshs1.6 billion. Article 10 (2) of the Constitution is very clear. It describes what the national values and principles of governance entail. Equity and equalisation are key in exercising any form of governance in Kenya.

It is sad to realise that a colossal amount of Kshs1.6 billion was given to the Government of Kenya and it has been allocated to one region of the country. This country consists of eight regions and 43 tribes. Therefore, equity in distribution of resources is mandatory.

I want to thank the Senator for Bungoma for bringing this matter to this House. I would like the concerned Committee to take this matter seriously because we want to get to the root cause of this matter. We want equity and justice practiced when this matter is addressed.

My proposal is that any time we consider the Division of Revenue Bill in this House, let the Executive disclose all the grants they are receiving from donors. Let us distribute those grants when we discuss the Division of Revenue Bill. There is need for us to know how much money was allocated to Nakuru, Kakamega and Kisii counties. Therefore, we shall not be allowing and giving the Executive the discretion of choosing where the donor funds should be directed to.

**The Speaker** (Hon. Lusaka): Though I had said you are the last one on this, but I know Sen. (Prof.) Onger's county has been mentioned. So, I will give him an opportunity.

**Sen. (Prof.) Onger:** Thank you, Mr. Speaker, Sir. Obviously, this is a very worrisome event that there are certain geographical locations in this country that can only grow cash crops. For example, there are crops that are grown in the highlands and the other areas. Coffee happens to be one such crop that can be grown in these areas that have been mentioned in the western region; Kericho, Kisii, Kakamega, Bungoma and other places that have been left out.

When you hear that a fund which is supposed to help farmers to stay afloat, particularly at this moment of COVID-19 disaster and that it is only being distributed to favourite counties, that is unacceptable. We all accept the principle of equity. Therefore, resources must be equitably shared with all counties. In Kisii and Nyamira counties, we grow a lot of coffee. We are one of the pioneers of coffee growing in this country. Therefore, when we have not been catered for in these resources, to say the least, it is discriminatory.

Mr. Speaker, Sir, I urge the Committee that will be seized of this matter to study it carefully, invite the Cabinet Secretary in charge of Agriculture to explain why all these other counties were excluded and take remedial measures to ensure they receive their share of these resources.

**The Speaker** (Hon. Lusaka): The Committee has heard. Sen. Wetangula.

**Sen. Wetangula:** Mr. Speaker, Sir, from what the Cabinet Secretary said, he is in the process of disbursing these funds to the favoured counties. I request that you direct the Committee that will be seized of this matter to interrogate it as quickly as is practically possible to arrest this situation that will exclude counties that have traditionally grown coffee and continue to grow it and are being discriminated, probably because of the geographical location or whatever it is the Ministry is doing.

**The Speaker** (Hon. Lusaka): Is the Chairperson of the Committee on Agriculture, Livestock and Fisheries here? Is the Vice Chairperson here? I direct that they hold a meeting with the Cabinet Secretary for Agriculture and give us a report next Tuesday when we convene.

Next Statement by Sen. Wambua.

RESTRICTION OF MOVEMENT OF PERSONS AND RELATED MEASURES  
IN AND OUT OF NAIROBI METROPOLITAN AREA

**Sen. Wambua:** Mr. Speaker Sir, pursuant to Standing Order No.47 (1), I rise to make a Statement on an issue of national concern. This relates to the implementation of the restriction of movement of persons and related measures in and out of the Nairobi metropolitan area, as contained in Legal Notices Nos. 50 and 51 of 6<sup>th</sup> April, 2020 by the Cabinet Secretary for Health.

I would wish to start by commending the Government for its effort to contain the COVID-19 menace that has afflicted the country. I further reiterate my support for the order for the Restriction of Movement of Persons and Related Measures in and out of the Nairobi Metropolitan area as announced by the President, on the advice of the National Security Council, and gazetted by the Cabinet Secretary for Health on 6<sup>th</sup> April, 2020.

There is no doubt that the order for cessation of movement among the many other measures put in place by the Government will go a long way in addressing the current COVID-19 crisis facing the country.

Mr. Speaker, Sir, in effecting the order for restriction of movement, the Cabinet Secretary for Health, in Legal Gazette No. 51 dated 6<sup>th</sup> April, 2020, set the boundaries of the Nairobi Metropolitan Area. In the set boundaries, I have observed that a roadblock has been set up on Thika Road, at Kilimambogo area about 56 kilometers from Nairobi City and only about three kilometers to the boundary between Machakos County and Kiambu County. On the Nairobi-Naivasha Road, the roadblock is located at Uplands, about 45 kilometers from Nairobi City Centre. On Mombasa Road, the roadblock is located at Small World in Athi-River which is about 35 kilometers from Nairobi City Centre. On Kangundo Road, the roadblock is located in Kamulu area, 36 kilometers from Nairobi City Centre.

Mr. Speaker, Sir, Thika and Mombasa roads share a lot of economic and social features including industrial and residential boom. Thousands of Kenyans live in Thika and work in Nairobi and vice versa. Similarly, thousands of Kenyans live in Machakos and work in Nairobi and vice versa. The said counties are, therefore, greatly inter-dependent and affected by the effects of the pandemic.

The current placement of roadblocks, however, especially on Mombasa and Kangundo roads, are discriminatory to Kenyans residing in Machakos County. This is not the case for the residents of Kiambu County as the roadblocks along Thika, Kiambu and Naivasha roads have given the residents a lot of latitude on accessing the Nairobi Metropolitan Area, compared to the residents of Machakos County.

Mr. Speaker, Sir, while I appreciate the work being done by the National Emergency Response Committee (NERC) in response to the existential threat posed by COVID-19, I urge the *Ad Hoc* Committee on COVID-19 situation in Kenya, to take up this matter with the national Government and-

(1) Explain the criteria used to determine location of roadblocks in effecting the order on Restriction of Movement of Persons and Related Measures in and out of the Nairobi Metropolitan Area;

(2) State whether the Government took cognizance of the impact the location of roadblocks to and from lower eastern towns such as Machakos would have on residents of the town who work in Nairobi and live in Machakos.

(3) State measures put in place to ensure there is no disruption of business in factories along Mombasa and Kangundo roads, which depend on workers who live outside the Nairobi Metropolitan Area; and,

(4) State whether the Government can consider adjusting the location of the roadblocks on Mombasa and Kangundo roads in view of the residents of Machakos County, and the factories situated along these roads.

Mr. Speaker, Sir, I thank you.

**The Speaker** (Hon. Lusaka): Kindly proceed, Sen. Dullo followed by Sen. Wetangula.

**Sen. Dullo:** Mr. Speaker, Sir, I thank Sen. Wambua for bringing this Statement because Kenyans are facing a lot of challenges. It is important for the Government agencies to consider certain things while coming up with measures that are meant to help curb the spread of COVID-19. I applaud the Government and the CS, Ministry of Health for the measures they have put in place because many Kenyans are benefitting from them. The spread of COVID-19 has been cut down.

Secondly, we need to consider the dynamics of the counties before putting up roadblocks. Some of the roadblocks that have been set up are affecting Kenyans economically and inhibiting many people from accessing other essential services. The people who transport camel milk from my county, Isiolo to Nairobi have been stopped. Transportation of *miraa* has also stopped. The two items are essential services so I hope that the Committee will investigate the matter.

Mr. Speaker, Sir, as we are struggling to contain the spread of COVID-19, insecurity is on the rise. Yesterday, three youths were killed in my county by cattle rustlers from Garissa County. I urge the Committee to look into that matter because if we do not look into such issues that are affecting Kenyans, we will have serious repercussions especially in areas that are prone to cattle rustling.

Finally, we need to also inhibit inter-county movements. I was informed that a person from Garissa County, who was critically ill, had been dumped in my county at a

place called Garbatula. If people are not advised and movement checked properly, there will be many inter-county infections. I understand that the Committee has its plate full, but I hope that they can look into the issues that are pertinent.

I thank you.

**Sen. Wetangula:** Mr. Speaker, Sir, the distinguished Senator for Kitui County has brought a very important Statement. I congratulate the CS in the Ministry of Health because he has done a good job so far in updating Kenyans on the COVID-19 pandemic. Further, he has told Kenyans what and what not to do to avoid this pandemic. However, some of the measures must be taken within the context of the provisions of the Constitution and the law. We all know that towns like Kikuyu, Kiambu, Thika, Machakos, Kitengela up to Kajiado are the bedrooms of Nairobi. Many people work in Nairobi, but have opted to either buy or rent cheap property in those areas where they reside.

The provision to lock off Nairobi was not well thought-out in terms of the inconvenience that is being caused to Kenyans who live and work in Nairobi from those areas or those who live in Nairobi and work in those areas. I encourage the Committee chaired by my distinguished nephew, the Senator for Nairobi City County, to not only concentrate on the issues that appeared in the preliminary Statement, but to look at the broader issues that are affecting Kenyans. For example, I have received a Petition from the youths in Bungoma Town stating that whenever it gets to 7.00 p. m., they are harassed by police officers.

I was happy when the President apologized to Kenyans during a press briefing for the excesses that the police officers meted on Kenyans. When a Kenyan is found outside two or three minutes past 7.00 p.m. walking home, one would expect that the police officers would assist such individuals to get home safely not to be beaten thoroughly. What the police officers in Bungoma are doing is that as soon the clock hits 7.00 p.m., they walk around with whips and beat up the young people. I spoke with the County Commissioner this morning and cautioned him that what the police officers are doing is unacceptable so he has to bring them to order.

Mr. Speaker, Sir, I thought that the close down of the country by way of curfew was going to reduce criminal activities, but that has not been the case. In some areas, the crime rate has gone higher. In Bungoma County, robberies have been reported every night all the way from Bungoma Town to Chwele along the Kibabii University Road.

People come dressed like police officers – I am not saying they are police – carrying guns in military fatigue and enter people’s homes and business premises and carry away whatever they find. This must also be dealt with.

Mr. Speaker, Sir, finally, I urge Sen. Sakaja’s Committee to also note that a declaration of a curfew is synonymous constitutionally with a declaration of emergency. When an emergency is declared, the Constitution obligates the Executive to bring the matter, not to the National Assembly only, but to both Houses, to explain why, the duration and limitations of the rights of the citizens, within this period.

I am not aware of any time the Executive has come to any House of Parliament to explain the process of this curfew and the degree to which the rights of Kenyans have



been limited, including but not limited to the police wielding unreasonable force on Kenyans whenever they are found outside in the curfew time.

Thank you.

**The Speaker** (Hon. Lusaka): Thank you. Because of time, we will have to move to the next Statement. I seek your indulgence that we are operating within extraordinary times. I will give you an opportunity to talk on other Statements, which are quite many.

Sen. Sakaja, do you want to respond now?

**Sen. Sakaja:** Mr. Speaker, Sir, I am not responding. I just want to assure Sen. Wambua that this is one of the issues we are looking at, as opposed to maybe what is more popular out there. We are focussing on many areas.

There are five thematic areas. We met with the Cabinet Secretary for Health, Hon. Mutahi Kagwe, on Saturday. Tomorrow morning, we will meet with the CS for Interior and Coordination of National Government and the entire team, including the Inspector General of Police.

In the afternoon, we will meet stakeholders in the transport sector. So, I will invite Sen. Wambua to attend that meeting so that he can also raise that issue. It will be a virtual meeting, and we will send the log-in details. If he looks at the first and second progress reports that we have tabled, that is part of the areas that we are focussing on. We will invite you, so that you are appraised.

Thank you.

**The Speaker** (Hon. Lusaka): As you settle down, let us have Sen. (Dr.) Mbito.

#### DETAINING OF DECEASED PERSONS BY HOSPITALS OVER NON-PAYMENT OF BILLS

**Sen. (Dr.) Mbito:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.47(1) to make a Statement on a matter of general topical concern, namely, the habit by hospitals of detaining deceased persons over non-payment of outstanding bills.

When people take their relatives to hospital, it is the hope that the person will be attended to, treated and they will get well enough to go back home. Unfortunately, this is not always the case and there are times that the patient loses the battle and dies. Often times, there are patients who die after prolonged stay in hospital or even following emergency treatment that is often very costly.

Mr. Speaker, Sir, there appears to be a continuing habit in Kenya of detention of patients for inability to pay their hospital bills. There are countless accounts of distraught families having to deal with rogue hospitals that refuse to release bodies of their deceased relatives for burial because of huge outstanding medical bills. Cases of relatives having to end up in court for intervention to enable them bury their dead are also rampant and cannot be overstated.

Alarming, such detention of patients has gained social acceptance with most Kenyans being forced to mobilise funds from family, friends and other well-wishers to secure the release of their kin, instead of challenging the illegal detention by the hospital.

To mention just but a few, in 2012, the Nairobi Hospital was taken to court *vide* Case No.407 of 2012 over the detention of a deceased person. Again, Karen Hospital *vide* Case No.448 of 2015 was taken to court over the same issue. Most recently in 2017, a police officer whose twins died after birth was detained in a Nairobi hospital for failure to foot a bill of Kshs3 million.

Mr. Speaker, Sir, I am further perturbed by the current story of a family in Gatuikira, Kiambu County, which in March was forced to hold the burial of their son without the body. This was after it was detained at Gertrudes Children's Hospital over a bill amounting to Kshs17.8 million. The 13 year old boy, Brian Kimani, passed away in February this year. He had been undergoing treatment for Leukaemia for five and a half months before he passed on.

This is a very sad state of affairs and the cruelty meted on the poor patient's parents and relatives of this boy is unfathomable. For a family to have to bury an empty a coffin because of inability to raise the hospital bill is unacceptable by any standards.

This detention is unconstitutional. The Constitution protects everybody's right to dignity, protection from cruelty, inhuman degrading treatment and to liberty. The right to dignity means that one must be valued and treated with respect. The right to be protected from cruel, inhuman and degrading treatment places a responsibility on the Government to ensure that no one is treated in a manner that causes them mental, emotional and physical pain or in any manner that humiliates them.

The right to liberty means that one should not be arbitrarily deprived of their freedom. Courts on several occasions have pronounced themselves on the matter of detention of deceased persons by hospitals. It is imperative that this illegality be put to a stop.

Mr. Speaker, Sir, the next step is to engage a national conversation around financing and regulation of the health sector to eliminate arbitrary pricing, thereby addressing one of the root causes of this detentions. Further, the Government is currently pushing the Universal Health Coverage (UHC) Programme with the aim of ensuring that the most vulnerable citizens can access quality healthcare without being crippled by financial hardships.

As the Chairman of the Standing Committee on Health, I wish to make an undertaking to follow up on the case of young Brian and any other Kenyan who might be undergoing a similar situation and report to this House in due course.

Thank you.

**The Speaker** (Hon. Lusaka): I am giving Sen. Farhiya, Sen. Kinyua, Sen. (Dr.) Mwaura and Sen. Nyamunga three minutes. They had raised their hands very early. Please, put your thoughts together, so that we save time.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. Medical issues are serious especially in terms of charging and billing of hospital bills, and the exorbitant prices that people are being charged. I wish to thank Sen. (Dr.) Mbito for bringing this Statement to the House.

This is a liberal economy, and you can set your price. The issue is that people need to give a humane face to how they charge those prices. Most Kenyans go to India to

get services because they feel that it is cheaper than to seek health services in Kenya. This is despite the quality of healthcare that we have.

Mr. Speaker, Sir, when somebody is charged after the loss of a loved one, that is double tragedy for them. First of all, they lose their loved one whom they wanted to take care of. Secondly, there is a huge bill that---

These people are left with huge bills. Therefore, it is like the person has died twice and people are so helpless, especially people who are unstable financially. All Kenyans are not the same.

Mr. Speaker, Sir, the other thing is that most people are not aware of the National Hospital Insurance Fund (NHIF). By just paying a voluntary contribution of Kshs500, one can receive some reprieve in terms of medical bills.

I am happy that the Senator has given an undertaking that he will take this matter to the next level. We really need to save Kenyans from the trouble of medical care, especially with the surge of critical illness like cancer. It is so painful when a person dies and somebody locks up the body for lack of payment. We have lost humanity in this country.

**Sen. Kinyua:** Asante sana Bw. Spika kwa kunipa fursa hii. Ninampongeza Mwenyekiti wa Kamati ya Afya kwa taarifa hii nzuri.

Kwanza kabisa, jambo la kuwazuia wagonjwa katika hospitali limekuwa mazoea. Ukiangalia malipo yanayotozwa hospitalini baada ya yule mgonjwa anapokufa, unapata kwamba ni hela ambazo kwa ukweli hazina maana yoyote. Kwa mfano, sindano inayouzwa kwa Kshs3 unapata inauzwa kwa Kshs300 ili ada ya hospitali iwe kubwa hadi anashindwa kulipa. Ikiwa mgonjwa amekufa, ada ambayo familia yake inatozwa inaongezeka marudufu. Unashindwa hii ni nchi gani.

Jambo lingine ambalo lina nishua zaidi ni kwamba Mwenyekiti hangekuja kusema anataka taarifa yenyewe. Mwenyekiti angekuja katika Bunge hili na kutuelezea mambo ambayo Kamati ya Afya imefanya na kupendeza majibu. Hangepaswa kuja kuuliza. Angekuja kutuambia nimefanya hili na pahali ambapo inaleta kizungumkuti ni hapa ili tuweze kumsaidia.

Lakini yeye kuja katika Bunge la Seneti---

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

**Sen. Olekina:** On a point of order, Mr. Speaker, Sir. I was listening to my colleague trying to question why the Chairperson of the Committee of Health brought this Statement and why he should not be telling us what he should do. I think this is a House where we put our minds together to be able to determine---

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

**Sen. Olekina:** Mr. Speaker, Sir, I think Sen. Kinyua is completely out of order to question why the Chairperson brought the matter to this House, yet it is his Committee which is dealing with this matter. When he brings it to this House, it gives us an opportunity to share ideas on how we can help these Kenyans.

Therefore, I know for a fact that in the 'Lower House', there are two Members of Parliament who have been dealing with this issue to amend the Public Health Act. I know

the MP for Nyali Constituency, Hon. Mohammed and Hon. Okemo have been pushing for this. I do not see if there is anything wrong with the Chair.

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

**Sen. Cherargei:** Mr. Speaker, Sir, I want to thank the Chairperson of the Committee on Health for the Statement he has brought to the House. Is it in order for Sen. Kinyua, who is my Chairperson of the Committee on Devolution and Intergovernmental Relations, and also a high-ranking Member of the Committee on Health, to cast aspersions on his own Chairman?

**Sen. Kinyua:** Bw. Spika, ninataka kuwashukuru Maseneta wenzangu. Pengine kwa sababu ninatumia lugha ya Kiswahili inawachanganya kidogo.

*(Laughter)*

Nilianza kwa kusema kwamba, nampongeza Mwenyekiti wangu kwa kuwasilisha taarifa nzuri sana katika Bunge hili la Seneti. Nina uhakika kwamba wenzangu hawakunielewa kwa sababu nilitumia lugha ya Kiswahili. Wakati mwingine nitatumia lugha ya Kiingereza kwa sababu wameboba kwa lugha hiyo sana.

Bw. Spika, ninasema kwamba, tabia ya hospitali kuwazuilia wagonjwa kwa sababu ya kutolipa ada ya hospitali haikubaliki. Jambo ambalo nilikuwa na shida nalo ni kwamba Mwenyekiti wangu angekuja katika Bunge la Seneti na kutueleza hatua ambazo Kamati yake imechukua kutatua tatizo hilo. Sikusema ni makosa yoyote. Nimesema kwamba, ninampongeza kwa taarifa hiyo.

Pengine ningengea kwa lugha ya Kiingereza, Sen. Ledama na Sen. Cherargei wangenielewa zaidi.

*(Laughter)*

**The Speaker** (Hon. Lusaka): Order Members. I think what Sen. Kinyua is saying is that the Chairperson, being the Chair of the Committee on Health, should have put more emphasis on what they have done and the challenges they are meeting so that he does not complain himself because he is the Chair and he is supposed to be ahead of this matter.

Let us proceed so that we do not waste a lot of time.

**Sen. (Dr.) Mwaura:** Thank you, Mr. Speaker, Sir.

I rise to support the Statement by the Chairman of the Committee on Health. When you see him come here to make this Statement, it is a clear indictment of the fact that we are required to do so much more as the Senate, to assist the Committee to come up with a solution.

As I speak, I am processing a letter to Kenyatta University Teaching, Referral and Research Hospital (KUTRH) of a little girl by the name Andie Wanjiru Mwangi who got ill and was admitted there. She had cerebral palsy and because of convulsions, she passed on 7<sup>th</sup> April 2020. Her body has not been discharged for burial. The family approached me because of a bill of Kshs.1.3 million and they have exhausted Kshs100,000 under the NHIF.

Mr. Speaker, Sir, this is a very serious issue because we have indigents; people who cannot pay and will not pay. How do you deal with that? When you look at this COVID-19 crisis, it has exposed our health systems as meant for the rich. That is why the doctors overcharge 10 to 15 times what the nurses are earning.

When you look at our NHIF, out of the Kshs38 billion that we give to this agency through the contributions, Kshs22 billion goes to private hospitals and another Kshs8 billion goes to faith-based hospitals, like Kikuyu Hospital. Only Kshs7 billion goes to public hospitals; yet, if these monies were properly appropriated, they would make a whole difference in terms of ensuring that such patients and families who are suffering a lot under this COVID19 where nobody is earning, have an opportunity to bury their dead with dignity.

This is a serious matter, which we should be seized of. Now that the Chairperson of the Committee on Health has made his Statement here, maybe, the Chair should direct the COVID19 *Ad hoc* Committee deals with the matter. This is because we cannot take it back to him to superintend over this matter.

We need to come up with measures because even the people who are suffering are not those that are vulnerable in the manner that we know during this COVID-19 crisis. As somebody said, “Coronavirus is a colonizer, Coronavirus is an equalizer.”

Thank you.

**Sen. Nyamunga:** Thank you Mr. Speaker, Sir, for giving me this opportunity just to make one or two comments on this Statement.

First, I want to thank Sen. (Dr.) Mbito for bringing the Statement. I think we should find a formula on the issue of hospital bills and dealing with each case individually because it depends. Also, we do not want to stop hospitals from admitting patients. Initially, they were refusing to admit specific patients because they thought they may not be paid. If we do not come with proper regulations on how to do it, it may have a negative impact on many patients. In my view, I know it is very difficult to be a doctor and it is also very expensive to setup a private hospital. Therefore, as we put these things in place, we should have that in mind.

Secondly, I do not think this Statement should be referred to, in my view, the Coronavirus *Ad hoc* Committee because I think they already have too much. We can only put our House together to find a way forward, but, to me, that is not a matter of the *Ad hoc* Committee.

We are burning ourselves with issues that we have at hand, which is good. However, many counties are suffering from the floods. Yesterday, we saw what happened in West Pokot, Elgeyo-Marakwet and Kisumu counties. Our people are suffering a lot.

I think I have gone to all offices; I have gone to the Office of the Minister for Devolution and Planning, Hon. Eugene Wamalwa, and nothing is happening. Giving people food at this time alone is not enough. Where are they going to cook that food? Where are they going to sleep? There is a lot that we should do as a House during this time that we are faced with so many issues apart from COVID-19 and the locust menace.

Kenyans are suffering, more so, those who come from the lowlands. They are really suffering from floods. The Government should intervene to alleviate their suffering. Hon. Members of Parliament from Kisumu and other parts affected by these floods have done their best. However, we can only talk about it. We cannot physically go and control the floods caused by the bursting of River Nyando.

**The Speaker** (Hon. Lusaka): Finally, Sen. (Dr.) Musuruve, kindly proceed. Sen. Olekina, you spoke.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Statement. The Chairperson of the Committee on Health has come up with a very important issue. We are in a situation where Kenyans are really constrained. There are so many deaths. When someone is sick and in hospital, the entire family is affected psychologically and financially.

Paying hospital bills becomes very difficult. There is need for hospitals to reach an agreement on how those bills will be paid by family members of the sick person. This is because it can be very heavy and weighty on them, especially when it comes to chronic diseases like cancer and diabetes. It is important for such patients to be cushioned.

During this COVID-19 period, there is need to cushion family members who have lost their beloved ones. We do not want to see hospitals retaining bodies because family members are unable to pay hospital bills. This is the time to condole with families of the deceased. We need to comfort them to overcome this difficult moment.

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

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

**Sen. Cherargei:** On a point of information.

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Musuruve, do you want to be informed?

**Sen. (Dr.) Musuruve:** Yes, Mr. Speaker, Sir.

**Sen. Cherargei:** Mr. Speaker, Sir, I would like to inform my good friend Sen. (Dr.) Musuruve, that the Permanent Secretary, Ministry of Health, Ms. Mochache said that the Government is incurring the costs of taking care of patients. She indicated that it should be Kshs1 million to take care of the patients until recovery. I do not think there is a situation which arises whereby any fees will be incurred.

**The Speaker** (Hon. Lusaka): Okay. Sen. (Dr.) Musuruve, kindly wind up.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir. If there is money that has been set aside to support our patients, then there is need for the Government to work with hospitals to ensure that a percentage of it will cushion the families of the dead.

**The Speaker** (Hon. Lusaka): The next is by Statement by Sen. (Dr.) Mwaura. Sen. Olekina, I will give you an opportunity when the Senate Majority Leader makes his Statement because it is very similar.

*(Sen. (Dr.) Mwaura approached the Dispatch Box)*

Order! Sen. (Dr.) Mwaura, you are not supposed to be migrating from your seat. You cannot deliver your Statement from the Dispatch Box. Go back to your seat.

DEDUCTION OF PAYE FOR TEACHERS  
WITH DISABILITIES

**Sen. (Dr.) Mwaura:** Sorry, Mr. Speaker, Sir, we are living in very extraordinary times. However, I beg to seek my Statement.

Pursuant to Standing Order No. 38(1), I rise to seek a Statement from the Standing Committee on Education for the March Pay As You Earn (PAYE) deductions for teachers with disabilities.

In the Statement, the Committee should explain-

(1) The reasons that informed the violation of the Persons with Disabilities Act, No. 14 of 2003, which provides for tax exemption for all persons with disabilities in gainful employment;

(2) State whether due diligence was carried out in the manner in which deductions of the March salaries to teachers where tax exempt was done;

(3) Explain the mechanisms put in place to ensure that the April salaries and subsequent salaries are not affected;

(4) Explain the measures being taken towards the reinstatement of the tax exemption status in the Teachers Service Commission (TSC) payroll for all the affected teachers and,

(5) Explain the measures to ensure refund of the March PAYE deductions in full.

Mr. Speaker, Sir, Persons with Disabilities (PWDs) are exempted from paying tax up to Kshs150,000. If you earn below Kshs150,000, you are not supposed not to pay tax. Many of the teachers living with disabilities are exempted from it. However, in March, 2020, teachers with disabilities were shocked because the TSC arbitrarily decided to remove that legal benefit privilege that is under the Persons with Disabilities Act, 2003. Many of them suffered. You can imagine these people had planned for it in their salaries after all the deductions. It has been very unfair. Thousands of teachers have been calling to ensure that this illegality is done away with.

I call upon this august House through the relevant Committee to ensure that the changes are done immediately. As I conclude, this is a time that the teachers should benefit from the other five per cent. This is because PAYE was reduced from 30 to 25 per cent. So, it should actually be more. These teachers are suffering and they cannot even meet their expenses.

**The Speaker** (Hon. Lusaka): Okay. Sen. (Dr.) Mwaura, conclude on your Statement.

**Sen. (Dr.) Mwaura:** Mr. Speaker, Sir, we need to ensure that we give Kenyans the opportunity to live a dignified life even in terms of cost of food, so that *unga*, which cost Kshs90 during the elections, should actually cost less than that right now.

**The Speaker** (Hon. Lusaka): Next Statement from Sen. Sakaja.

DEATH AND BURIAL OF JAMES OYUGI ALLEGEDLY  
DUE TO COVID-19 DISEASE

**Sen. Sakaja:** Mr. Speaker, Sir, I rise pursuant to Standing Order No. 51(1) to make a Statement on the issue for which the *Ad Hoc* Committee is responsible, namely the request for Statement by Sen. James Orengo, Senior Counsel, MP, regarding the burial of Mr. James Oyugi Onyango, a resident of Siaya County, who reportedly died of COVID-19 disease.

As Senators will recall, this said Statement was sought from the *Ad Hoc* Committee on the COVID-19 Situation during our Sitting of last Tuesday, 14<sup>th</sup> April, 2020.

In the Statement, the Senator sought the following information-

- (1) The cause of death of Mr. James Oyugi Onyango;
- (2) The reason and justification for the burial of the deceased at night, in a shallow grave and without being placed in a coffin as the family had planned;
- (3) Why there was a complete disregard of the protocols laid out by the Ministry of Health concerning respect for the dignity of the dead, hours of burial and sensitivity to acceptable cultural practices and traditions; and,
- (4) Why there was no consultation with the family and community before the burial.

Mr. Speaker, Sir, first, I would like to join Sen. Orengo and the other Senators who spoke on the matter, expressing outrage at the manner in which the burial was done.

As a Committee, we raised this matter with the Cabinet Secretary, Ministry of Health during the meeting on Saturday, 18<sup>th</sup> April, 2020. The CS and the PS expressed their regret and conveyed their apologies on how the burial was undertaken.

Mr. Speaker, Sir, despite that, I insisted that we need a written official response on top of the apologies in trying to explain why it happened in that manner and that accountability and action will be taken. The response that they have done is ready, but the copy I have seen is not signed. So, I will not be in a position to give it to the House. I seek your indulgence to give it officially next Tuesday.

**The Speaker** (Hon. Lusaka): Okay. Since it is still work-in-progress and in the interest of time, we will give you an opportunity to give a full report next Tuesday when we convene.

Finally, on Statements, the Senate Majority Leader.

LANDSLIDE DISASTER IN KERIO VALLEY

**The Senate Majority Leader** (Sen. Murkomen): Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.47 (1), I rise to make a Statement on an issue of national concern regarding the landslide that occurred on 19<sup>th</sup> April, 2020 in Kerio Valley. The landslide affected residents of Sigor Constituency in West-Pokot County and Marakwet East Constituency in Elgeyo-Marakwet County. The place that was affected the most is



Embobut Ward, which is my Ward in Kipchumo Location, Kipchumo Sub-Location, in Elgeyo-Marakwet County.

Recently, the country has been experiencing heavy rains and as a result West-Pokot and Elgeyo-Marakwet counties have experienced massive destruction resulting from the landslide in the two counties; more adversely at the Kipchumo and Chesogon Centre. The landslide also left a trail of deaths with over 20 persons. Of these 20 persons, what really saddens me is that most of them are children of between eight to 18 years.

One family lost twins who are eight years old. At a place called Katelit, there is a girl of seven years, the twins from Kobir are two, we have others of 11 years with the eldest being a person aged 82 years. There were also those who were 46 and 81 years old.

I have never seen anything like this and like I said, this is my home area and this is my ward where we have lost 24 people. I have seen that most of the media houses are focusing on the destruction of the shopping centre in Chesogon and Liter area, but I wanted to say, for emphasis sake, that the real impact where the landslide started is in the highlands. You know it very well because you were an administrator in that area. We have lost 24 people and the news will be trickling in the fullness of time. We also lost police officers who were affected in that area because a police post was swept away.

There are 15 people who are still missing and who are unaccounted for. Residents are continuing to struggle with lack of housing, swollen rivers and destroyed roads that have left certain areas inaccessible.

In the past, reports have indicated that due to environmental degradation, the two counties are prone to landslides. However, residents who have built their livelihoods in this area have continued to live there having nowhere else to move to. For God's sake, in 2013, we moved many people from Embobut Forest and so they went to their ancestral land in the escarpments. As a result of that, they put a lot of impact and pressure on the environment in the escarpment and that is why we witnessed many landslides. I wish to reiterate here that these people have nowhere else to live and have no other alternative land.

I wish to commend the Government for the quick efforts undertaken to manage the current situation. As a matter of fact, the same evening, the leadership of Elgeyo-Marakwet and West Pokot counties had a conference call with the Deputy President and the following day, the President called among other people, myself, to assure us that the Government is going to do everything possible to solve the situation. Therefore, I want to appreciate them because they sent Government officials to the ground.

Mr. Speaker, Sir, little or no effort has been made to account for the other persons who are missing as a result of the landslide and the search and recovery have been left largely to the locals who are ill-equipped to undertake such an exercise. It is so bad that the locals who are carrying out the search, find body parts such as a hand or a leg. It is very traumatising.

While I appreciate the effort from the Government, I believe that much more should be done to manage the situation, including putting in place measures to relocate

the population to safer grounds and to upgrade the environment to prevent further incidences of this nature from happening.

It is for this reason that I wish to draw this matter to the attention of the Senate and appeal to the Standing Committee on Land, Environment and Natural Resources to take up this matter with the national Government and-

(1) Explain the measures being undertaken to ensure that all persons who reside in the affected areas are fully accounted for;

(2) State the measures being undertaken to find alternative land to resettle the families that are displaced annually;

(3) State whether there is any form of compensation that will be granted to the families and victims who are counting huge loses as result of the destruction of property and loss of lives;

(4) State the steps being taken by the Government to rebuild the schools that have been destroyed such as Liter Girls Secondary School, which has been completely destroyed, Chesogon Primary School and Cheptany Primary School in West Pokot and Elgeyo-Marakwet, respectively and the roads that have been washed away as a result of the landslide; and,

(5) State the measures that are being undertaken to upgrade the environment in this area to ensure that these incidences do not occur in future.

Mr. Speaker, Sir, in conclusion, I want to thank my colleagues who have shown interest in supporting these people. I will be coming back to them formally, together with Sen. Poghisio, to request further support so that we can supplement the efforts that are being made by other well-wishers and the Government of Kenya.

Thank you.

**Sen. Kwamboka:** Thank you, Mr. Speaker, Sir. I want to ride on this Statement by the Senate Majority Leader. First of all, I want to convey my condolences to the families that are affected in Elgeyo Marakwet and West Pokot counties.

It is very sad that such a disaster happened during this COVID-19 disease curfew times. It is very sad that we have lost children and I do not know where the Disaster Management Bill that was being sponsored by Sen. Mutula Kilonzo Jnr. and Sen. Sakaja-

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**The Speaker** (Hon. Lusaka): On time, we look into three minutes each.

**Sen. Kwamboka:** Sen. Mutula Kilonzo Jnr. and Sen. Sakaja, it is high time that this Bill be given justice so that we can know these people who have been affected; how can they be compensated or where should they be taken to at this particular time. This is because some of them had businesses in that place. We should find out how they can continue running their businesses.

It is very sad. I convey my condolences and I believe that all shall be well with those two counties.

Thank you.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. First, I want to thank the Senate Majority Leader for bringing in this Statement. I truly empathize with the people of Elgeyo-Marakwet and West Pokot because of the challenges--- *Hii kitu haisikii bwana.*

*(Sen. Olekina removed his mask)*

**The Speaker** (Hon. Lusaka): You are out of order! Can you wear your mask?

**Sen. Olekina:** I am doing it.

*(Laughter)*

Mr. Speaker, Sir, I empathize---

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Senator, you may need to shave your hair so that it facilitates your---

*(Laughter)*

Okay, proceed.

**Sen. Olekina:** Mr. Speaker, Sir, ---

**Sen. Sakaja:** On a point of order, Mr. Speaker, Sir, even as I interrupt my good friend, Sen. Olekina, when you gave guidelines, I think that you should have specified the type of masks because this is a dustpan mask for sleeping---

*(Laughter)*

That is why he cannot express himself. Maybe, you should specify which type of masks hon. Members should wear. Otherwise, people will come with all manner of contractions.

**Sen. Wambua:** On a point of order, Mr. Speaker, Sir. I plead with the Chair to require the Serjeant-at-Arms to provide Sen. Olekina with the right mask.

**The Speaker** (Hon. Lusaka): I think that the Serjeant-at-Arms have been providing masks. Let us stick to masks that are friendly.

**Sen. Olekina:** Mr. Speaker, Sir, I will try. I am feeling so sorry for the people of Elgeyo-Marakwet that I got so emotional because this happens all the time. I think that instead of waiting for us to ask ourselves what the Government can do, it is about time we started engaging these institutions so that we can prevent this from happening. When it happens, we can support our constituents.

When I saw the Senate Majority Leader fly there, I imagined a time in Narok when floods would take everyone and there would be nothing for us to do.

There was another Statement raised by Sen. (Dr.) Mbito about dead bodies detained in hospitals because family members of the deceased could not pay bills. We need to ask ourselves whether there are measures that this House can immediately take to support these people.

Some people will die in hospitals and their bodies detained because their next of kin might not pay bills. Hospitals are in business. They are there to make profits. In this case, I suggest that some of the money for COVID-19 be allocated to alleviate the suffering of these people. This is because if people are unable to maintain social distance, they may end up contracting this disease.

I encourage the Senate Majority Leader to reach out to us in person so that we can assist. This is the time when we should all give and find a way to help our brothers.

The most important thing is to plant trees so that we can save the environment and ensure that tomorrow when there is a landslide, the trees will hold the soil from moving.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir. I pass my condolences to the people of Elgeyo-Marakwet and West Pokot counties following the unfortunate disaster that has befallen them.

This is what we were referring to a few minutes ago on the Statement from Sen. Wetangula. There are certain regions of our country that are considered to be more special than others. Twenty four Kenyans have died and in more than 48 hours not a single high-ranking Government official, either a Cabinet Secretary (CS) or Permanent Secretary (PS) has shown up in the region to give guidance to the people that are leading the rescue efforts. It tells you the kind of discrimination that certain citizens of this country continue to live with. It is unfortunate.

I hope that the people that occupy these offices in the Executive find their conscience wherever they have lost it and treat all citizens of this country as equal.

This unfortunate incident has not only happened in Elgeyo-Marakwet. Last evening, as Sen. Rose Nyamunga alluded to earlier, in the County of Kericho that I represent, there were incidences of mudslides on the border with Kisumu County. We lost four young children. The rescue mission is going on and we do not know what the final tally will be.

Mr. Speaker, Sir, as I speak, I have said earlier, we are still awaiting the national Government to get its act together so that they can help these people. One of the duties that I performed when I came to this House this afternoon is that I went to the back Chamber to pick a phone call from the same citizens who told me that the County Commissioner told them that the Government does not have any assistance. The only news he brought to them is that they are supposed to bury their dead within 24 hours in line with the Government directives. That is shameful. I hope that those in authority will put their act together and assist the citizens of this country.

**Sen. Iman:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. I thank Sen. Murkomen for bringing this Statement. I send my condolences to the families and friends affected by the West Pokot and Elgeyo-Marakwet counties landslide disaster. I also thank the Government for quickly responding to this matter. However, they need to do more.

We started 2022 with a lot of disasters, for example, droughts---

**The Speaker** (Hon. Lusaka): Are we in 2022?

**Sen. Iman:** Sorry, Mr. Speaker, Sir, I meant 2020. My mind is in 2022. We started 2020 with disasters, for example, drought, locusts invasion and now COVID-19.

*(Sen. Olekina consulted loudly)*

**The Speaker** (Hon. Lusaka): Senator for Narok County, you are becoming a health risk. It is important that we put the masks on.

Conclude, Sen. Iman.

**Sen. Iman:** Mr. Speaker, Sir, the Government is lacking in disaster preparedness. It should have learnt from the disasters that have happened. I believe that more disasters will happen and so the Government should do more.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. I convey my deepest condolences to the families through the Senator for Elgeyo-Marakwet County.

Last year, we had a similar incident where 60 lives were lost. I hope that when times comes, we will assist in one way or the other.

Sen. Cheruiyot has said that there were mudslides in Tinderet Sub-County where we border with Kisumu and Kericho counties. There are many issues happening in this country. My appeal is for the Committee on Lands, Environment and Natural Resources to discuss this issue.

The Senate Majority Leader talked about alternative land when he was in Chesogon Area. In Kipkelion, Ahero Kobura Village in Nyando and somewhere in Chepkalel in Tinderet Sub-county, there is a lot of idle land where people can live in.

Let us also be environmentally conscious and plant trees, especially in escarpment areas, for example, Nyando Escarpment and Kipkelion West so that when landslides or mudslides happen, trees can prevent further fatalities.

Finally, in 2019, the CS for Interior and Coordination of National Government was not able to fly to West Pokot because the helicopter that he had acquired for Kshs3 billion could not fly there. Maybe, that is the reason he cannot fly up to date.

I hope that with the passage of the Disaster Management Bill, we will allow counties to have power to manage disasters. This issue of buying *unga* from Nairobi and taking it all the way to West Pokot or Eleyo-Marakwet counties should stop. Those things should be managed by governors at the county level.

**The Speaker** (Hon. Lusaka): I am trying as much as possible to give an opportunity to those who have not spoken.

Proceed, Sen. Omogeni, followed by Sen. (Dr.) Milgo then Sen. Hargura.

**Sen. Omogeni:** Thank you, Mr. Speaker, Sir. I also join my colleagues in registering my condolences to the people of Elgeyo-Marakwet and West Pokot counties who have lost loved ones. I send my sincere condolences to the 24 families.

I agree with the sentiments expressed by my good friend, Senator for Narok County. We should all be ready to generously donate towards any assistance that can be given to the 24 affected families.

Most importantly, it is bad manners for the Government to sit and watch while the 24 families are going through agonizing moments. It should always be a practice for our Government to set aside a fund which can respond to some of these calamities. It would be good if the Government could identify the affected families and give them financial assistance.

As we have been told, there are people who have lost businesses, houses have been destroyed and people do not have homes. Therefore, we need to see a better response from the Government.

I cannot agree more with the Senator for Kericho County. The last time I saw a calamity of this magnitude, it was in Tennessee Valley in the United States of America (USA) and Vice President Mike Pence personally visited the scene. So, I hope that the Deputy President of the Republic, who is a neighbour to Senator Murkomen, will find time to personally visit the victims of this calamity in Elgeyo-Marakwet. I cannot think on any high-ranking officer other than him.

Mr. Speaker, Sir, when Kerio Valley was set up, it was meant to put in place---

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

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

**The Senate Majority Leader** (Sen. Murkomen): Your Excellency, Sorry, Mr. Speaker, Sir---

*(Laughter)*

**The Speaker** (Hon. Lusaka): I hope those are good wishes.

**The Senate Majority Leader** (Sen. Murkomen): Yes, Mr. Speaker, Sir. That is where you are headed.

When I made my remarks earlier, I told you that the President called me and we had a meeting with the Deputy President. This morning, I spoke with the CS, Ministry of Interior and Coordination of National Government whose responsibility is under matters of disaster management.

I appreciate my colleague saying that all of these high-ranking officials from the President, the Deputy President and the Cabinet Secretary (CS) should go there. However, I only have a problem with him trying to say that there is no other high-ranking member in this country after the Deputy President. Does he not know that the President is the leader of this Republic?

**Sen. Omogeni:** Mr. Speaker, Sir, I did not say that there is no other high-ranking member other than the Deputy President. I said that when we speak of high-ranking Government officials, we should be thinking of the Deputy President because he is the principal assistant of the President.

The point that I was making is that---

**The Speaker** (Hon. Lusaka): The President is a standalone. That is what you were saying. Please, conclude.

**Sen. Omogeni:** Mr. Speaker, Sir, that notwithstanding, the point that I am making is that we need to see our Government responding to this calamity by sending high-ranking Government officials. I cannot think of any person other than the Deputy President of the Republic of Kenya.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir, for allowing me to condole with the people of West Pokot and Elgeyo-Marakwet counties. The issue of floods and

landslides is not a new thing in the country, particularly in the area where it happened in a few days ago. There was an early warning that there would be heavy rains which would be followed by floods in those counties. However, those counties do not have disaster management plans. I support the idea that each county government sets up a strong disaster management team.

As things stand now, we will give food to the families of 24 people who lost their lives in the disaster. Many of the people there suffered physically and psychologically. Many of the survivors are mentally disturbed because they lost their loved ones and all their property is already down the drain.

Mr. Speaker, Sir, there should be a better way of managing such disasters in our county. It is sad that there were early warnings, which were ignored by the relevant authorities in those counties. I urge the President to assent to the Disaster Management Bill that was passed by this House so that the relevant Ministry formulates regulations to assist us manage disaster in this country.

We need to assist all the people affected with foodstuff and other items. I urge the Government to assist in settling them away from the disaster prone area. I support the Senate Majority Leader that there is need to move these people living on the lowlands of Elgeyo-Marakwet and other areas prone to floods, settle them elsewhere so that they continue with their lives. I also support the idea of planting trees in those areas to prevent soil erosion and flooding.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir. I would like to send my condolences to the bereaved families of the 24 persons in particular, the people of Elgeyo-Marakwet and West Pokot counties in general. We have been going through disasters one after the other; it is either drought, floods, or this kind of thing.

As a country, we should be prepared. I know that in the case of drought, there is the National Drought Emergency Fund. It is a Kshs2 billion fund. This Parliament passed a Bill, I do not know whether the President assented to it, but it needs to be used. Similarly, we generally need to have a bigger kitty to handle disasters.

I would like to thank the Senate Majority Leader for giving us clear facts on what actually happened. He said this area was settled on, degraded and that is how the slopes became unstable. In the first place, the Government should come in. We should not leave to the members of the public to look for their loved ones who are missing or trapped. The Government should come in to alleviate their suffering and assist them in burying their loved ones who died in this disaster.

There should be a very clear way of carrying out disaster management. We know that we have the Kenya Water Towers Agency (KWTA), which is supposed to be doing afforestation. We know that they have been getting money from the European Union (EU). We need to know what they are doing with this money. We do not just leave people to create this kind of environmental disasters then they just watch. At least, we need to see the Government's action in terms of even relocating the people and institutions. Let us quickly see what can be done.

**The Speaker** (Hon. Lusaka): Sen. Wetangula, Sen. Mwaruma and finally Sen. Omanga.

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

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

**Sen. Sakaja:** Mr. Speaker, Sir, Sen. Mutula Kilonzo Jnr. and I worked very hard on a legal framework. Even as we give condolences, as a Senate, we have done our part. There is the National Disaster Management Bill that went to the National Assembly. Would it be in order if I request that the Senate Business Committee (SBC), through you, write to the Speaker of the National Assembly to find out where this piece of legislation is? This is because we need to establish a proper framework for the national and county governments to coordinate. We work here and legislate so that we do not have to deal every week and every month with these things. Could I kindly request that you make that communication?

**The Speaker** (Hon. Lusaka): That is okay. I undertake to write to my colleague in the National Assembly and I will give a feedback next Tuesday.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. May I also join my colleagues in sending our condolences to the people of Elgeyo-Marakwet and West Pokot, who are our neighbours.

Seeing the pictures of what was happening was very disheartening. Disasters do happen even in very developed countries. However, how we handle them is what defines us as a nation. I am not quite sure that the disaster in West Pokot and Elgeyo-Marakwet counties has received the attention that it deserves.

I have said over and over again that we have a fairly large army in this country. We have not had any war situation for a long time apart from our current misadventure in Somalia. When such disasters occur, we expect the Commander-in-Chief to immediately deploy our army to help in the rescue missions with all the equipment that they have. You cannot expect *wananchi* - like I have been seeing young boys of about 14, 15, or 16 years - running through mud carrying dead bodies. At the end of the day, they are heavily traumatized and will require some counseling to recover.

The Bill that Sen. Sakaja talked about was born out of a trip we had to Canada. We visited the Canadian Disaster Management and Response Centre in Vancouver which is a shining example of how you can manage disasters. I want to join Sen. Sakaja in asking that, that Bill should not be sitting in the “Lower House” any more.

**The Speaker** (Hon. Lusaka): Sen. Mwaruma, then Sen. Omanga will conclude.

**Sen. Mwaruma:** Asante, Bw. Spika kwa kunipa hii fursa kuungana na Maseneta wenzangu kumshukuru Kiongozi wa Wengi kwa Taarifa aliyotupa kuhusu janga liliotokea katika kaunti za Elgeyo-Marakwet na Pokot ya Magharibi.

Tunaomboleza wale ambao walipatwa na janga hili. Tunaomba Serikali ijizatiti na kusaidia walioathirika. Wapewe chakula na nyumba. Serikali inaweza kutengeneza hema ili wale wananchi wasiendelee kuteseka. Wengi wa wale walioathirika sana ni watoto na akina mama.

Kusema kweli hatuko sawa sana katika muundo wa sheria hapa nchini. Ninajiunga na akina Sen. Sakaja na wengine kusema kwamba kuna njia tunaweza leta muundo wa kisheria wa kusimamia majanga hapa nchini. Pia nakubaliana na wenzangu kwamba wengi wa wale ambao wameathirika watahitaji huduma za kiafya. Watibiwe bila



kulipishwa chochote kwa sababu hili janga, ni kama lile la Virusi vya Korona, ambapo wagonjwa hawalipi. Tunaomba serikali za kaunti na Serikali Kuu wasilipishe watu walioathirika na janga hii.

Hili janga si katika kaunti hizo mbili peke yake. Pia kuna mafuriko Tana River. Taita Taveta kuna nyumba zilizoanguka. Kama kuna mpangilio wowote wa kusaidia wananchi walioathirika, basi ifanyike kule Elgeyo-Marakwet, Pokot, Tana River, Taita Taveta na kaunti zingine zilizoathirika.

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

**Sen. Omanga:** Asante, Bw Spika. Ningependa kutoa rambirambi zangu kwa familia za West Pokot na Elgeyo-Marakwet ambao walipatwa na janga hili la mafuriko. Kabla kuja hapa, niliona kwenye televisheni katika habari za mchana, kwamba hata kule Trans Nzoia kuna daraja ambazo zimeanguka kwa sababu ya mafuriko.

Vile vile katika Kaunti ya Kericho kuna mafuriko. Kule Ahero katika Kaunti ya Kisumu, watu wamehama na mizigo yao na sasa wako barabarani wanangoja wapelekwe mahali salama.

Mafuriko yamekuwa yakitokea mara kwa mara na kuna sehemu ambazo hazikosi kufurika kama vile Murang'a. Kama Seneta mwenzangu kutoka Taita-Taveta alivyosema, pia kaunti za Tana River na Taita-Taveta hufurika mara kwa mara. Sasa hivi kuna sehemu zinazoathirika kutokana na mafuriko.

Tunafaa kutafuta suluhu ya kudumu. Sisi Maseneta tumesema kuwa tutasaidia watu wa West Pokot na Elgeyo-Marakwet. Hata hivyo, hatuwezi kufaulu pekee yetu. Tunafaa kuwa na sheria na mikakati ya kusaidia watu mafuriko yanapotokea.

Nikiwa ningali ninasoma, aliyekuwa rais, hayati mzee Moi, alipenda kuzungumza kuhusu mmomonyoko wa udongo. Alitaka watu kupanda miti ili kuzuia mmomonyoko wa udongo. Kwa hivyo, tunafaa pia kuwarai wananchi wenzetu kuendelea kupanda miti. Tuwache kukata miti ili kuzuia mafuriko na mmomonyoko wa udongo.

Asante, Bw. Spika.

**The Speaker** (Hon. Lusaka): Nakupongeza kwa kujaribu. As we conclude on that, I should mention that they have so far recovered 15 bodies, 20 people are still missing and the Kenya Defence Forces (KDF) have joined the efforts in recovery. So, the Committee will work on that.

Let us move on to the next Order.

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Speaker, Sir. You did not commit the Statement to relevant Committee formally.

**The Speaker** (Hon. Lusaka): Okay, it is committed to the Committee on Lands, Environment and Natural Resources. They need to move with speed because of what is going on there.

*(The Statement was committed to the Standing Committee  
On Lands, Environment and Natural Resources)*

**Sen. (Dr.) Mwaura:** On a point of order, Mr. Speaker, Sir. I have the same case. You did not commit my Statement to a relevant Committee.

**The Speaker** (Hon. Lusaka): That one is committed to the Committee on Education.

For the one committed to the Committee on Lands, Environment and Natural Resources, we will require an interim report by Tuesday when we resume.

Let us move on to the next Order.

### MOTIONS

#### REDUCTION OF PUBLICATION PERIOD OF THE PANDEMIC RESPONSE AND MANAGEMENT BILL (SENATE BILLS NO. 6 OF 2020)

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I beg to move- THAT, pursuant to Standing Order No. 134, the Senate resolves to reduce the publication period of the Pandemic Response and Management Bill (Senate Bills No.6 of 2020), from fourteen (14) days to four (4) days.

This is a procedural matter, which I do not want to waste time on. I ask the Deputy Senate Minority Leader to second.

**Sen. Malalah:** Mr. Speaker, Sir, I stand to second this Motion. We are alive to the fact that we need to fast-track this Motion, so that we cushion Kenyans during this period of COVID-19 pandemic. It is barely two months after the first case of COVID-19 was discovered in Kenya and we have seen Kenyans being affected. Therefore, it is important for us to consider passing this Motion, so that we reduce the publication period to enable the Bill to come to enforcement.

Mr. Speaker, Sir, extraordinary circumstances require extraordinary measures and COVID-19 presents an extraordinary circumstance. As I second this Motion, I urge Members to support it.

I thank you.

*(Question proposed)*

*(Question put and agreed to)*

**The Speaker** (Hon. Lusaka): Let us move on to the next Order.

#### REDUCTION OF PUBLICATION PERIOD OF THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO.7 OF 2020)

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I beg to move- THAT, pursuant to Standing Order No. 134, the Senate resolves to reduce the publication period of the County Allocation of Revenue Bill (Senate Bills No. 7 of 2020), from seven (7) days to four (4) days.

I request the Senate Majority Whip to second.

**Sen. Kihika** seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Speaker** (Hon. Lusaka): Let us move on to the next Order.

## **BILLS**

*First Reading*

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

*(Order for the First Reading read – read the First Time and  
ordered to be referred to the relevant Committee)*

*First Reading*

THE PANDEMIC RESPONSE AND MANAGEMENT BILL  
(SENATE BILLS No.6 OF 2020)

*(Order for the First Reading read – read the First Time and  
ordered to be referred to the relevant Committee)*

*First Reading*

THE COUNTY ALLOCATION OF REVENUE BILL  
(SENATE BILLS No.7 OF 2020)

*(Order for the First Reading read – read the First Time and  
ordered to be referred to the relevant Committee)*

**The Speaker** (Hon. Lusaka): Hon. Senators, for the convenience of the House, I wish to rearrange the Order Paper, so that we start with Order Nos. 14 and 15, and then come back to Order No.13 for resumption of debate.

Next Order.

**MOTION****ADOPTION OF THE REPORT OF THE MEDIATION  
COMMITTEE ON THE COUNTY GOVERNMENTS  
(AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)**

**The Speaker** (Hon. Lusaka): Where is the Chairperson? You may need a bit of time as you reorganize yourself.

**Mr. Kinyua:** Mr. Speaker, Sir---

**The Speaker** (Hon. Lusaka): Order! Take your seat, Chairperson. I will give you an opportunity.

*(Sen. Kinyua resumed his seat)*

*(Interruption of Debate on the Motion)*

**COMMUNICATION FROM THE CHAIR****COMMITTAL OF BILLS TO THE RELEVANT COMMITTEES**

**The Speaker** (Hon. Lusaka): Hon. Senators, as indicated in today's Order Paper, three Bills have been read a First Time. Standing Order No.140(1) requires that having been read a First Time, a Bill be committed to the relevant Standing Committee. Accordingly, the following Bills are hereby committed to Committees as follows-

The Community Health Services Bill is committed to the Standing Committee on Health.

The County Allocation of Revenue Bill is committed to the Standing Committee on Finance and Budget.

Hon. Senators, Standing Order No.140 (2) provides that despite Paragraph 1, the Speaker may direct that a particular Bill be committed to such a committee as the Speaker may determine. Consequently, I hereby direct that The Pandemic Response and Management Bill (Senate Bills No. 6 of 2020) be committed to the *Ad Hoc* Committee on the COVID-19 Situation in Kenya.

Pursuant to Standing Order No.145, the three committees are required to facilitate public participation on their respective Bills and take into account the views of the public when they make reports to the Senate.

I thank you.

Proceed, Chairperson.

*(Resumption of Debate on the Motion)*

**Sen. Kinyua:** Thank you, Mr. Speaker, Sir. In the interest of time, I will read the resolutions of the Committee.

The Mediation Committee considered the contentious provisions of The County Governments (Amendment) Bill (Senate Bills No.11 of 2017) and the following amendments to the Bill were adopted by the Committee-

*Clause 8*

THAT, Clause 8 of the Bill be amended in the proposed amendments by Section 25 in the new subsection 2, by deleting the words “and county gazette” appearing immediately after the words “Kenya Gazette.”

Mr. Speaker, Sir, on the rationale, the Mediation Committee agreed with the National Assembly amendment since the law on the county gazettes is yet to come into force.

*Clause 11*

THAT, Clause 11 of the Bill be amended in the proposed amendment to Section 31 by deleting in the proposed amendment Paragraph A and substituting---

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

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. I just want to check that this Motion has been appropriately moved before it is discussed.

**Sen. Kinyua:** Thank you, Mr. Speaker, Sir. I beg to move the Motion that resolution of the Mediation Committee---

**The Speaker** (Hon. Lusaka): Just read the way it is written.

### MOTION

ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE  
ON THE COUNTY GOVERNMENTS (AMENDMENT)  
BILL (SENATE BILLS NO. 11 OF 2017)

**Sen. Kinyua:** Thank you, Mr. Speaker, Sir. I beg to move the following Motion-

THAT, the Senate adopts the Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bills No. 11 of 2017) laid on the Table of the Senate on Tuesday, 31<sup>st</sup> March, 2020, and pursuant to Article 113 of the Constitution and Standing Order No. 161 (3) of the Senate Standing Orders, approves the mediated version of the Bill.

Mr. Speaker, Sir, in the interest of time, I will proceed by reading as follows-

*Clause 8*

THAT, Clause 8 of the Bill be amended in the proposed amendments on Section 25 in the new subsection 2, by deleting the words “and the county gazette” appearing immediately after the words “Kenya Gazette.”

Mr. Speaker, Sir, the rationale was that the Mediation Committee agreed with the National Assembly amendment since the law on the county gazette is yet to come into force.

*Clause 11*

THAT, Clause 11 of the Bill be amended in the proposed amendment to Section 31, by deleting in the proposed new Paragraph A and substituting thereof-

- (a) may dismiss a county executive member if the governor considers appropriate and shall give reasons for dismissal.

Mr. Speaker, Sir, the rationale was that the Mediation Committee agreed with the Senate amendment that the County Executive Committee Member (CEC) is a nominee of the county governor and should be dismissed procedurally, but the governor shall not be required to give reasons. At the national level, pursuant to Article 132 of the Constitution, the President may dismiss a Cabinet Secretary (CS), the Attorney-General, the Secretary to the Cabinet, Principal Secretary (PS), High Commissioners, ambassadors, diplomatic and consulate representatives and any other state or public officer whom the Constitution requires of, empowers the President to appoint or dismiss. In such instances, the President is not required to give reasons for dismissal.

*Clause 15*

THAT, the Bill be amended by deleting Clause 15 and substituting thereof Section 44 on the principal Act is amended by-

- A. Deleting subsection 2 and substituting thereof “a person shall be qualified for appointment as a County Secretary under Subsection 1 if that person-
  - (i) is a citizen of Kenya;
  - (ii) holds a degree from a university recognized in Kenya;
  - (iii) has at least 10 years relevant professional experience;
  - (iv) has at least five years’ experience in leadership position at senior management level in a public service or private sector organization; and or
  - (v) meets the requirements of leadership and integrity as prescribed in Chapter 6 of the Constitution.
- B. Inserting the following new Subsection immediately after Subsection 2-
  - (a) the governor shall for purposes of competitive recruitment of a Country Secretary under Subsection 2 constitute a selection panel.
  - (b) The selection panel shall constitute if the following persons-
    - (i) a chairperson not being a public officer;
    - (ii) one person from private sector;
    - (iii) an advocate of the High Court of Kenya who is a member of the Law Society of Kenya (LSK);

- (iv) an accountant who is a member of Institute of Certified Accountants of Kenya (ICPAK); and,
  - (v) one person from an association representing workers.
- (c) the provision of Section 58 (a) shall with most modified as shall be necessary be apply to the recruitment of County Secretary;
  - (d) upon interview, the applicant of the position of the County Secretary;
  - (e) the selection panel shall submit to the governor the names of two applicants who qualify for appointment as County Secretary;
  - (f) the governor shall submit the name of the applicant to the county assembly for approval for appointment as County Secretary by the governor;
  - (g) the County Secretary shall hold office for a term of five years and shall be eligible for reappointment once; and,
  - (h) The County Secretary shall be an ex-officio member of the county executive committee with no voting rights.
- C. Inserting the following subsection immediately after Subsection 3-
- (a) the County Secretary shall be removed from office on the following grounds; inability to perform functions of the office arising out of physical, mental, infirmity, incompetence, gross misconduct, bankruptcy or violation of the Constitution;
  - (b) before removal under subsection 3(a) the County Secretary shall be informed in writing of the reason of intended removal;
  - (c) subsection 3(b) the coalition of appointment of County Secretary will be dismissed by the governor;

The rationale for this is that the Mediation Committee agreed on the modification version of the National Assembly amendment.

Mr. Speaker, Sir, the minutes are attached and the schedules are provided for.

I beg to move and ask the Senate Majority Leader to second.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I would like to second the Report of the Committee as a Member of that Committee and originator of the Bill.

Most of the suggestions that were given by this House have been adopted. A number of others given by the National Assembly have also been adopted, including the absence of a county printer, which we had to remove from the Bill because there is no county printer.

We fashioned the section that deals with the hiring of a County Secretary to tally together with the other existing provisions of the County Governments Act. In the interest of time and to ensure that we address the business that is in the Order Paper, this is a Bill that we had discussed and passed. We are the ones who suggested the changes that are there. The National Assembly suggested a few and there was a consensus. I do not think we should spend more time because we are not reopening debate on the Bill as it is.

I beg to second.

*(Question Proposed)*

**The Speaker** (Hon. Lusaka): As the Senate Majority Leader has said, we are not reopening debate because this has already been discussed.

For the convenience of voting, we will go to Order No.15, and then I will put the question.

### MOTION

ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE  
ON THE COUNTY GOVERNMENTS (AMENDMENT)  
(NO. 2) BILL (SENATE BILLS NO. 7 OF 2017)

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

**Sen. Kinyua:** Mr. Speaker, Sir, I beg to move the following Motion-

THAT, the Senate adopts the Report of the Mediation Committee on the County Governments Amendment (No. 2) Bill (Senate Bills No. 7 of 2017), laid on the Table of the Senate on Tuesday, 31<sup>st</sup> March, 2020, and pursuant to Article 113 of the Constitution and Standing Order No.161 (3) of the Senate Standing Orders, approves the mediation version of the Bill.

Mr. Speaker, Sir, the Mediation Committee considered the contentious provision of The County Governments (Amendment) (No. 2) Bill (Senate Bills No. 7 of 2017). The following amendments to the Bill were adopted by the Committee-

#### *Clause 2*

THAT Clause 2 be amended in the proposed amendment to Section 123-

(A) By deleting the proposed Subsection 8 and substituting thereof the following new Subsection 8-

Where the commission does not recommend the suspension of the county government, the President shall within 14 days of receipt of the report of the commission under Subsection 7, submit to the Speaker of the Senate and the apex intergovernmental body-

- (a) the report and the recommendations of the commission;
- (b) the petition of the suspension of the county government.

(B) In the proposed Subsection 9, by deleting the words “whether or not” appearing in paragraph (a) and substituting thereof with the word “that”.

Where the commission recommends the suspension of the county government, the President shall within 14 days of receipt of the report of the commission under Subsection 7, submit to the Speaker of the Senate-

- (a) a Memorandum stating the President is satisfied that justifiable ground exist for suspension of the county government;
- (b) the report and the recommendation of the commission;
- (c) the petition for suspension of the county government.



Mr. Speaker, Sir, the rationale for this is that the Mediation Committee agreed with the National Assembly amendment, since there is need to separate the instances. Where the President is satisfied with the recommendation for a suspension and when the President is dissatisfied as in Clause 8, the timeline of 14 days was agreed to.

(C). By inserting a new subsection immediately after the proposed Subsection 9-

(a) where the President is not satisfied that justifiable grounds exist for suspension of county government, the President shall within 14 days of receipt of the report of the commission under Subsection 7, notify the Speaker of the Senate and the apex intergovernmental body of his dissatisfaction.

The rationale was that the Mediation Committee agreed with the Senate amendment with regard to submission of the report and the petition, and the National Assembly amendment with regard to the timeline of 14 days and submission of the report and the petition to the apex intergovernmental point.

### *Clause 13*

Upon authorization of the suspension of the county government by the Senate in terms of Article 192(2) of the Constitution, the President shall within 14 days of receipt of the Senate reservation and by notice in the Gazette, suspend the county government for a period not exceeding 90 days or until the suspension is terminated earlier by the Senate, in accordance with Article 192 (4) of the Constitution.

The rationale was that the Mediation Committee agreed with the Senate amendment with regards to use of the word “authorization” since it is consistent with the language of the Constitution in Article 192 (2).

Further, the Mediation Committee agreed with the National Assembly amendment on providing a timeline of 14 days, within which the President is required to act on the Senate resolution.

D.) By deleting “the” in the proposed Section 14.

Where the Constitution does not recommend the suspension of a county government or when the President is not satisfied that justifiable grounds exist for suspension of the county government, the Senate may consider any other recommendation of the commission not relating to whether or not the county government should be suspended, and make a determination on the way forward with respect to those recommendations.

Mr. Speaker, Sir, the Mediation Committee agreed that this amendment by the Senate be rejected, since the Senate is not restricted by the Constitution or the Standing Orders to make recommendation or determination on other matters which are not related to the suspension of the county government.

*Clause 3*

THAT Clause 3 of the Bill be amended by renumbering the last provision under the proposed New Section 129(8).

Upon the termination of a suspension of county government -

(a) the interim county government board appointed under Section 126 shall stand dissolved;

(b) the governor, deputy governor and the Members of the County Executive Committee, the Speaker and the Members of the County Assembly shall resume their functions and continue to receive their benefit in full from the date of termination of the suspension and shall hold office for remainder of their term.

The Mediation Committee agreed with the National Assembly amendment in order to address the error.

Mr. Speaker, Sir, the minutes, schedules and the agreed version of the Bill are attached.

I beg to move and request the Senate Majority Leader to second.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I am privileged to second this Bill, which was sponsored by Sen. Mutula Kilonzo Jnr. The Committee had very robust discussions. Most of the issues that we canvassed were technical issues that were referencing to other Bills. Our intention was also to ensure that the Bill captures the aspirations of the people of Kenya. I would like to second the Motion.

Mr. Speaker, Sir, this Bill will be necessary in dealing with matters of boundaries so that the Independent Electoral and Boundaries Commission (IEBC) and other institutions can apply.

I beg to second.

*(Question proposed)*

**The Speaker** (Hon. Lusaka): Hon. Senators, Order Nos. 14 and 15 are on issues affecting counties. Therefore, we shall proceed to vote on them by Roll Call.

I order that the Division Bell be rung for two minutes.

*(The Division Bell was rung)*

**The Speaker** (Hon. Lusaka): I now direct that the Bar be drawn and doors closed.

*(The doors were closed and the bar drawn)*

**The Speaker** (Hon. Lusaka): We shall now proceed to vote by Roll Call. The Clerk-at-the-Table will call out the names. The Senate Majority Leader and the Senate Minority Leader will vote on behalf of the Senators who signed to vote.

*(The Senators proceeded to vote by Roll Call)*

## DIVISION

### ROLL CALL VOTING

*(Question, that the Senate adopts the Report of the Mediation Committee on the County Governments (Amendment Bill (Senate Bill No.11 of 2017) laid on the Table of the Senate on Tuesday 31<sup>st</sup> March, 2020 and pursuant to Article 113 of the Constitution and Standing Order No.161(3) of the Senate Standing Orders approves the mediated version of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. Iman, Garissa County; Sen. (Dr.) Kabaka, Machakos County; Sen. M. Kajwang', Homa Bay County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. Linturi, Meru County; Sen. Malalah, Kakamega County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwaruma, Taita-Taveta County; Sen. (Dr.) Mwaura, Kiambu County; Sen. Nyamunga, Kisumu County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. (Prof.) Ongeri, Kisii County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; Sen. Wetangula, Bungoma County; and Sen. (Dr.) Zani, Kwale County.

**NOES:** Nil

**ABSTENTIONS:** Nil

*(The Clerk-at-the-Table tallied the results and transmitted them to the Speaker)*

**The Speaker** (Hon. Lusaka): These are the results-

**AYES:** 24

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 24 votes to nil)*

## DIVISION

### ROLL CALL VOTING

*(Question, that the Senate adopts the Report of the Mediation Committee on the County Governments (Amendment)) (No.2) Bill (Senate Bills No.7 of 2017) laid on the Table of the Senate on Tuesday, 31<sup>st</sup> March, 2020 and pursuant to Article 113 of the Constitution and Standing Order No.161(3) of the Senate Standing Orders, approves the mediated version of the Bill, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Prof.) Ekal, Turkana County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. Iman, Garissa County; Sen. (Dr.) Kabaka, Machakos County; Sen. M. Kajwang', Homa Bay County; Sen. Kang'ata, Murang'a County; Sen. Khaniri, Vihiga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. Linturi, Meru County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. Malalah, Kakamega County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mutula Kilonzo Jr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaruma, Taita-Taveta County; Sen. (Dr.) Mwaura, Kiambu County; Sen. Nyamunga, Kisumu County; Sen. Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. (Prof.) Ongeru, Kisii County; Sen. Sakaja, Nairobi City County; Sen. Wambua, Kitui County; Sen. Wetangula, Bungoma County and, Sen. (Dr.) Zani, Kwale County.

**NOES:** Nil

**ABSTENSIONS:** Nil

*(The Clerk-at-the-Table tallied the results and transmitted them to the Speaker)*

**The Speaker** (Hon. Lusaka): Hon. Senators, these are the results:

**AYES:** 33

**NOES:** Nil

**ABSTENTIONS:** Nil

The "Ayes" have it.

*(Question carried by 33 votes to nil)*

I direct that the Bar be undrawn.

*(The Bar was undrawn)*

Let us now go back to Order No.13.

### MOTION

#### NOTING OF FIRST AND SECOND PROGRESS REPORTS OF THE AD-HOC COMMITTEE ON COVID-19 SITUATION IN KENYA

THAT, the Senate notes the First and Second Progress Reports of the Ad-Hoc Committee on COVID-19 Situation in Kenya, laid on the Table of the Senate on Tuesday, 14th April, 2020.

*(Sen. Sakaja on 14.4.2020)*

*(Resumption of debate interrupted on 14.4.2020)*

**The Speaker** (Hon. Lusaka): Sen. Kasanga was on the Floor.

**Sen. Kasanga:** Thank you, Mr. Speaker, Sir. As I proceed to finish seconding the Motion that was moved by my Chairperson, Sen. Sakaja, let me first start by giving my heartfelt condolences and share my empathy---

**The Speaker** (Hon. Lusaka): You have 15 minutes.

**Sen. Kasanga:** Thank you, Mr. Speaker, Sir. Let me pass my heartfelt condolences to the families of the victims of the mudslides. Senate Majority Leader, we shall be there to support you when help is needed.

Mr. Speaker, Sir, already, a week has passed since we started moving this Motion. The Committee has had 22 meetings and a lot has happened. In fact, I request that going forward, we give a bit more priority to these reports as we bring them on the Floor. This is because there are many things that Members need to be seized of, and there is a lot of work for Senators to do in this pandemic period.

On behalf of the Committee, I must thank you for fast-tracking the Motion. I pray that Members will prepare accordingly for the day of debate and also see what the public are also giving us, because we have appended them to the Report. My prayer is that you look through them because there is a lot of information that we are sharing.

As we speak, we have had meetings to do with the first thematic area, which I was trying to highlight on the issues of health. We have already met all frontline workers from the various associations like the Kenya Medical Association (KMA), the nurses, pharmacists and clinical officers. We also met Community Health Workers (CHW).

I thank Sen. (Dr.) Zani for her Bill because serious gaps were identified when we spoke to all these practitioners, especially the CHW.

Right at the county and at a time like this, we, as Senators, must admit that the only best way to fight this pandemic is through prevention.

Hon. Senators, this is where we, as leaders, come in because if we do not sensitise our constituents on the issue of prevention, we will not be able to handle what comes to us.

Mr. Speaker, Sir, we have met with the Council of Governors (CoG) and the County Assemblies Forum (CAF). A lot of gaps have been identified there. I am encouraging Members, even as the card report comes, we want to see what these people have said to us and where they have sought your attention as Senators for your action.

We also met with pathologists, officials of the National Influenza Laboratory, Kenya Health Federation, and the Cabinet Secretary for Health who we met on Saturday, 18<sup>th</sup> April 2020. He addressed many issues that were brought up from this first thematic area. We must commend and support him for the work he is doing. He made several requests to Senators and Members of the National Assembly on where to come in to help, especially on the issue of monitoring and doing legislative duty of making sure that governors are doing what they are supposed to be doing. There are a lot of gaps there because a lot of counties have still not woken up to the response as it should be expected.

He highlighted five counties that are doing very well when it comes to pandemic response. We have everything in the report and we have to laud the counties that are doing something about it. I have seen the Senator for Machakos who has posted right now that he does not want truck drivers to stop for long along the highways in Machakos area. This is because truck drivers have been identified as a high-risk group of people.

Today, we also met with the Kenya Medical Research Institute (KEMRI) and they gave us a lot of information. We now know about tests, we now know what they are doing about research as well as production of various things, including hand sanitizers and quick rapid testing kits. We have learnt a lot and a lot is going on. You would be very proud to be a Kenyan when you know what first line responders are doing. We also met with the Ministry of Labour, Social Security and Services under the second thematic area.

My fellow Senators, I want to go back to the thematic areas that we had highlighted. I cannot stress more on the importance of you following the five thematic areas that we highlighted because that is the way we are engaging with the stakeholders, both Government and private.

For matters of health which were very lengthy, we have canvassed quite a bit, we have heard from the Ministry. We are still going back to engage further with other stakeholders in the hope that we shall meet with the Cabinet Secretary. We may also canvass any other issues that may arise as we debate the Bill.

Mr. Speaker, Sir, the second thematic area was economic and finance issues. We got a lot of views from members of public and from Senators in the Committee. We are looking to engage with the Cabinet Secretary of the National Treasury and Planning amongst other stakeholders to look forward to see what we can do to cushion Kenyans when it comes to economic issues.

Part of the conversation we had with the Cabinet Secretary for Labour, Social Security and Services is that he highlighted what they are doing in the Ministry.

When we meet with the CS of the National Treasury and Planning, we are looking forward to engage a little deeper. However, a lot has been canvassed in this thematic area in the Bill. If you read about the issues of taxation, the contentious issue landlords and tenants as well as employers and employees, all that is canvassed in the Bill. It is an area

of key concern to a lot of Kenyans. There has been a lot of misconception, but when you read the Bill, you will understand where we are coming from.

Issues of the Kenya Revenue Authority (KRA) that were brought up by a lot of members of public have been canvassed. We are also looking forward to your engagement on them.

On the third thematic area, which was the social and public order of human rights, a lot of views came out on this part. For vulnerable persons and groups, we engaged the Cabinet Secretary for Labour, Social Security and Services on this issue and what they are doing about it. He told us that they are using the *Inua Jamii* platform to disburse the monies that the President was talking about, some Kshs8 billion. We went into detail about this and the gaps that are still there.

Hon. Senators, you are required to be vigilant and ensure that what is happening in your counties is the same as what is in the report we are receiving and to give us much support as we make---

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

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

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, I would like to inform this Committee that when it comes to issues of Persons with Disabilities (PWDs), there are so many who have not registered with the National Council for Persons with Disabilities. During this COVID-19 time, there is a possibility that they might miss out. There is a lot of outcry from them that they have not been factored in. Therefore, there is need to come up with a specific way that will ensure that PWDs are registered---

**The Speaker** (Hon. Lusaka): What is your point of order? Is it a point of order or point of information?

**Sen. (Dr.) Musuruve:** It is a point of information to the Committee.

**The Speaker** (Hon. Lusaka): You are indirectly contributing.

Okay, Sen. Kasanga.

**Sen. Kasanga:** Thank you, Mr. Speaker, Sir.

I want to encourage Sen. (Dr.) Musuruve that she is welcome to join the Committee. We have shared our engagement matrix and she can join us when we are meeting specific stakeholders.

Mr. Speaker, Sir, I know some of those issues were canvassed. Gaps were identified and she can bring the issue to the Committee. If it is a specific issue, she can join us the next time we are meeting and engaging these stakeholders. She is absolutely welcome. Today, Sen. Boy joined us in the meeting. As the Chair said, you just express your interest and you will get an invitation.

Mr. Speaker, Sir, under the second thematic area, we shall be looking at issues of employers and employees as I mentioned before. We shall be looking at learning institutions when we meet with the Cabinet Secretary, Ministry of Education because we need to understand how they are coping and what is their intention going forward, how they expect exams to be done this year, reopening of schools, teaching and all the other challenges that are going to ensue.

We shall be looking at restriction of movement. Sen. Sakaja mentioned from the Statement that was brought today by Sen. Wambua that these are areas that have been raised by members of the public. We intend to canvass them when we meet the Cabinet Secretary for Interior and Coordination of National Government.

Also there is the issue of access to justice. There is a lot of outcry like we heard today from one of the Senators who commented on how the youths are treated when it comes to breaking the curfew rules.

I have seen today on 411 that the Judiciary is not going to have physical meetings, but they are going to do teams. They are going to open the courts through teams. That is some good progress we are seeing in that area.

Mr. Speaker, Sir, from what we have learnt as a Committee, we must stress on Kenyans doing the bare minimums; that is avoiding crowded places, minimize movement, washing hands and social distancing. We must use these measures for prevention. Kenyans must understand that in the event of an outbreak or spreading, the way we have seen in other countries in Europe and Asia, it would be beyond us to cope. That is the reality of things.

The fourth thematic area is access to food, water and essential commodities. That is ensuring the continuous supply of food and other essential commodities at affordable prices. We are worried that as much as we cannot move around as it was stated, we cannot access our workplaces and markets, what will be the fallback plan by Government when it comes to this? We pray that we do not go into a situation that may require a total lockdown. However, should we go there, what is the plan?

These are the issues that were raised by members of the public. We had a submission from Hon. George Kaluma who made substantive submissions, ideas and how the Government could cope with this and many other people.

Persons with disabilities came out strongly on these areas by giving out good ideas on how the Government should manage. We are looking forward to engage further so that we can see the Government's plan and give the views that we are getting.

The issue of transparency in utilization of emergency funds has come up. Everyone wants to know how the funds have been utilized. Is it in fairness? Is it going to the right people? Are the minorities being considered heavily? That is very critical from that thematic area.

How are donations being handled? A lot of suggestions on a central handling of donations are coming out. We are waiting to hear from the Ministry on how they are going to handle that.

There is also the issue of access to food, water and other basic commodities. Since people need to wash their hands regularly, is water available in every corner of this country? Those are some of the basics.

There is the issue of food security for the vulnerable people and households. Today, I saw in *The Star* Newspaper that if we survive the Coronavirus Disease (COVID-19), we are likely going to die of lack of food. Lack of food will be our pandemic in this country. Hon. Senators, we need to be seized of these issues.



Some of the other things are like the supply chains of essential commodities and consumer protection, to make sure that where there is food, it is available. The Government has made good strides on that. We know that essential services such as food are still flowing within the counties. Therefore, we need mapping of food donations and distribution of relief food, so that we do not have cases of crowding; where people are rushing off and end up hurting each. There is a lot in that section.

Mr. Speaker, Sir, one important area is sustaining the sanitation services. That one came out very strongly. The waiver of utility bills is a very interesting area of contention. We expect that the Government will look for a way to cushion Kenyans when it comes to utility bills and social protection programmes as well. There are very many areas on this.

There is statistics and institutional framework for coordination of anything to do with the vulnerable persons. There are also measures to control plant, livestock diseases and ensure continuity in food production, which is a very important issue under this thematic area.

The fifth thematic area is on support services and crosscutting issues. Starting with public awareness programmes, the Government is trying very hard when it comes to this. We are called upon, as leaders, to spread the word what the Government is giving, so that we send the right message to protect our people. That needs a lot of consistency. The information needs to come up clearly, and we need to avoid the misconceptions. We have to be at the forefront, to clear up if there is any misinformation that is out there.

The issue of transparency and accountability when it comes to management of the fund falls under this key area. Addressing stigma becomes very critical. Already, we are seeing COVID-19 being stigmatized. This is an issue we discussed at length with the Cabinet Secretary, Ministry of Health on how they are going to deal with it. This is because we shoot ourselves in the foot when we do not message properly and people are now stigmatizing each other. You might find somebody getting stoned, beaten up or attacked because he or she has COVID-19, but it should not be that way. Coordinated youth led awareness creation came out very strongly from the members of the public; that the youth should be used in messaging.

On Information Communication Technology (ICT) matters, communication and infrastructure, again, our Committee has met successfully because of ICT. It looks like the new way of life that is coming. We need to embrace it as a House and leaders. The Government is also beginning to embrace ICT, since all our meetings with the CSs and all the others have been online and been successful. Handling issues of security among others are areas that shall be considered.

Internet access, privacy, data protection and communication of taxes, human rights issues, networks, connectivity and technological innovations among other things become very critical.

**The Speaker** (Hon. Lusaka): Your time is up.

**Sen. Kasanga:** Mr. Speaker, Sir, as I wind up and second, I urge that we lead and prepare accordingly. We look forward to the third report, which will be sent to you since we missed the time to bring your team today.

Mr. Speaker, Sir, I beg to second.

*(Question proposed)*

**The Speaker** (Hon. Lusaka): I will give each Member five minutes, starting with Sen. (Dr.) Zani, who was the first, then Sen. Malalah, Sen. (Prof.) Onger, Sen. Olekina, Sen. Omogeni and Sen. Kihika.

**Sen. (Dr.) Zani:** Thank you very much, Mr. Speaker, Sir. I stand to support this Motion. They are actually two reports from the *Ad Hoc* Committee on COVID-19 Situation in Kenya. I would like to start by thanking the Senate and the Senate leadership, and the *Ad Hoc* Committee on COVID-19 to be specific, for the work that they have done.

It has been very extensive. They went out and started this work at a very critical time for this country. It also gave us a chance as the Senate, and generally as Parliament, to infuse our thoughts and ideas into a situation and how to resolve it.

Mr. Speaker, Sir, the reports are very comprehensive. The second Report is moving towards the Bill, which has already been published. That is a very good outcome, since it gives us a deliverable and something we can action on.

The Report starts with a very extensive background, the establishment of the Committee itself. It moves on to give various case studies from the United States of America (USA), Mexico, Australia, Italy and Denmark, which gives us the basis.

Mr. Speaker, Sir, the basis and some of the actions that have been taken by the various countries in this Report can be used as a borrow point for what we can do. I want to specifically look at a country like Mexico, for example, where Kshs3 billion has been put into research, Kshs2 billion into prevention and Kshs1 billion for medical supplies. This is the way to go. I think when Sen. Kasanga was seconding this Motion, she mentioned the importance of the funds, the contributions that are going into that fund, some of the areas in which that money can go to, accountability, the funding and the feeling of knowing that something is happening.

Mr. Speaker, Sir, I just want to go briefly through some of the issues that have been raised. The five thematic areas are very clear, visible and important across the board. I would like to start with the issue of cash transfers, which is very critical.

We seem to be approaching and trying different ways of sending money to the vulnerable. One method that I came across in these cases studies is the issue of cash transfers. If it is possible to identify where this money should go to, the issue of cash transfer can be solved very easily, since we have M-Pesa providers who can do that.

Mr. Speaker, Sir, the other issue that I think is critical is that probably we have to infuse some of the messages that are already going out to the public. For example, since we have the message of 'Stay at Home,' we can strengthen it by not only telling people to stay at home, but say, for example, "stay at home and gargle with hot water and salt" or "stay at home and use lemon." We have to go back to the traditional preventive methods that we know very well like steaming ourselves. This will also help various communities to prevent the spread of COVID-19, since they have already been doing that.

On the issue of masks and masks etiquette, we could have on the frontline of the newspapers a clear message indicating about how to use the masks and where to get the

masks from. It was alarming the other day when it was seen on social media that there is a possibility of these masks being recycled.

On health issues generally, the issue of quarantine and social distancing is also important; ensuring that, that is maintained very clearly. I have already mentioned about the cash transfers, and the other issue is the stimulus package for micro, small and medium sized enterprises. That needs to be infused. I think that this Committee can help by giving us very clear indicators of what has been done from the various recommendations. We will move to the Bill, but since this Committee is able to interact with the various stakeholders, this can come out clearly.

The issues of social, public order and human rights, protection of vulnerable groups, for example, women and girls and abuse that might happen during this time and learning are very critical. Probably, we should be able to link with educational institutions, to ensure that online teaching is going on very well and congratulate many institutions that have already put this into place.

The fourth thematic area, that is access to food, water and other basic commodities is very key. One of the messages that should be going out very clearly is that agricultural impetus should still continue in areas where planting can go on. As Sen. Kasanga said, we might find ourselves facing the problem of starvation after COVID-19.

In the area of support services and crosscutting areas, the issue of prevention of infection is very critical. We need to find and infuse voice for these messages to be heard very clearly.

I support, Mr. Speaker, Sir.

**Sen. Malalah:** Thank you, Mr. Speaker, Sir. I congratulate the *Ad Hoc* Committee led by my brother, Sen. Sakaja. I will go straight to the thematic areas that they have raised. On the area of health, we have seen the Cabinet Secretary (CS) for Health giving out different directions as to how the public is supposed to carry out itself. There is this issue of being mandatory for one to put on masks in public places. Today, in Kakamega County, the Governor has decreed that anybody who is found not putting on a mask in a public area will be arrested and quarantined for 14 days. In as much as we support this directive, I think that this is a catch twenty-two situation for our people.

These masks come at a cost and most of our people live below the poverty line. We have people who earn Kshs100 in a day. The cost of the mask is around Kshs50. You are left to wonder whether that citizen will prioritize buying the mask or food. I, therefore, call upon the respective county governments not to issue threats to *wananchi*, but to provide masks to them.

(Applause)

I want to call upon Governor Oparanya not to arrest citizens of Kakamega, but to purchase masks and give them for free. It is the responsibility of the Government to cushion *wananchi*, especially during these trying moments.

On the thematic area of finance, we have seen county governments misappropriating funds. We have allegations of county governments taking advantage of

this situation and taking advantage of emergency ways to misappropriate funds. I want to call upon the Committee on Public Accounts and Investments of the Senate, and the respective county assemblies, to look deep into the appropriations of funds at the county level and they must bring to book all those officers at county level who are trying to misappropriate funds.

I have already convened a meeting with the Committee on Public Investments and Accounts of Kakamega County and we are looking in depth on how the County Government of Kakamega is spending the Kshs110 million allocated to fight this pandemic.

As I said earlier, it is the responsibility of both the national Government and the county governments to cushion *wananchi*. In the United States of America (USA), on the 18<sup>th</sup> of March, the US Parliament passed the first Coronavirus Aid Package, which was signed into law. In the United Kingdom (UK), the Health Secretary came up with emergency legislation. Therefore, it is important for this Committee to expedite the process of coming up with a legislation. I want to call upon the National Assembly to quicken the process of passing this legislation so that we can have a legal framework that harmonizes ways in which we are going to fight this virus.

I was in support of us shortening the period of publication of the Bill; a case in example, is the Parliament of Ghana that on 1<sup>st</sup> April, 2020 they had a proposal from the Constitutional, Legal and Parliamentary Affairs Committee, which was adopted by Parliament and on 2<sup>nd</sup> April, 2020 it was passed. Therefore, it is our responsibility, looking at other jurisdictions; let us quicken the passage of a legal framework that will give clear direction on how we are going to handle such a situation both current--- I am also futuristic.

Mr. Speaker, Sir, I support.

**Sen. Kihika:** Thank you, Mr. Speaker, Sir; I also rise to support this Motion by the *Ad Hoc* Committee on COVID-19.

First, I would really want to congratulate them on the very good work that they have done in putting together the Report; actually, two reports.

Looking at the Report, the kind of work that they have done has been extremely thorough and this has also been added on to by the discourse that has been going on in the country within the Senators. You can see that they involved so many different stakeholders and also looked at what other jurisdictions or what other countries are doing about this global pandemic.

I am thankful for the work that they have done and also the timing that this work has been done. If these measures are considered early on, then we may be able to get our people saved from this pandemic instead of having a situation where we were not prepared when it really hits leading to many people suffering from it. We have seen that in Italy and USA. As we continue seeing it, we become very concerned because as an African country and a country whose level of resources cannot compare to that of the first Worlds such as Italy or USA, we can see what kind of a crisis this can be. So, for the Committee to have done this sort of work, it will help cushion when we get there, but

hopefully, we do not get there but in the eventuality that our numbers rise, then we are prepared as a country.

On cash transfers, that is a very important direction to go because, as we know, if the numbers increase and there is need to put a larger population in the country under quarantine; to lock down different towns or cities, then we are truly going to be forced with the issue of providing for those who are not able to provide for themselves in the course of that specific time. It may not necessarily be the case right now because we are still operational up to 7.00 p.m. as a country, but it may come a time, and I hope that we do not get there, but it might be possible that that happens. Just to add on to that issue of cash transfers, maybe the Committee can also look more into what became of the *Huduma Namba* because we know that those were able to mop up the country a bit better than anything that we have had before. That would provide us to know who are really our vulnerable population such that when we have cash transfers, it will go to those who really need it.

Clearly, the issue of food will come into play, be it providing for those who are not able to provide for themselves, they are just having a shortage as the market forces lead to commodities becoming fewer than the need of the population. So, this data is important.

As the Committee continues, because I am sure that we are moving on to the Bill progressively, it is also important to take into account human rights issues. Most of us are familiar with what is trending in the social media of a driver who had gone to a county and the trip originated from Nairobi. He was not aware that he was positive and was not on medication. He has now been confirmed to be positive. So, it is important that as we continue and get to a point where we really want to contain the pandemic, we also do not abuse human rights. I think that it has gotten a bit better from when we began the curfew at 7.00 p.m. Then police officers were using a lot of force. I believe the situation is now better.

Mr. Speaker, Sir, we continue to monitor so that we ensure that as a country, we are prepared and that the rights of our people are not trampled on due to the pandemic.

Thank you.

**The Speaker** (Hon. Lusaka): Your time is up. I will seek your indulgence because we have to adjourn at 5.30 p.m.

**Sen. (Prof.) Ogeri:** Thank you, Mr. Speaker, Sir; I am going to be very clear.

This is a pandemic. A pandemic requires a robust approach in dealing with this kind of situation. We must look at the cause, effect and consequences of this pandemic. The cause is the Coronavirus. It is a virus that is virulent and can attack. If it goes to the extreme consequences, it can cause death. That is why we have seen massive deaths in some of the countries where the virus has not been properly controlled. Therefore, we have all the means, as Kenyans, to stop this pandemic. Its course of determination is about 14 days. If we strictly follow the guidelines that have been given by the Ministry of Health and the Government, we should cut off this pandemic and stop it once and for all. It will decrease its intensity and therefore, it will not spread from one person to another. That is step number one.

If we do not do so, the effect is that we will be sick. It will get to the lungs and cause problems. Therefore, we will have to bring in very expensive labour and professional groups with ventilators and other things to treat the people. That is an extreme end. We can avoid this level of action if we do the first basic elements of prevention, listening and doing the right thing.

Finally, what will be the consequences? We will have massive deaths with the consequences of the economic collapse of this nation. You have seen already that there is collapse in sense that people are unable to engage in the daily activities which generate their economic livelihoods because they live on the cash economy basis and they cannot survive.

My plea to each and every one of us is that we can stop this pandemic effectively by observing personal hygiene, for example, handwashing and eating healthy foods. There are certain foods that promote immunity because they are immune boosters. There are local basic elements which have high levels of Vitamin C, for example, local vegetables, fruits and other products that we till in the land. The native foods have a lot of these elements that will help us including those that contain Zinc that also helps in boosting the immunity. Therefore, we can eat this because they are available in our gardens. Why can we not do it?

Young people should do not joke around as if there is some level of new music that has come up that you want to dance to and the kind of social revelries that will cause havoc and difficulties for the society. Therefore, I request them to obey the curfew because it is for the general and common good of the families.

Finally, there is now a new element that we have to contend with that is the psychosocial element. We need to deal with stigma. We should advise Kenyans that if they follow the results within 14 and a maximum of 21 days, it will be over and there will be no social stigma and everything will be back to normal.

**The Speaker** (Hon. Lusaka): Sen. Olekina, I give you three minutes, then Sen. Omogeni will reply.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I will quickly go to the point. First, I commend the Committee for doing such a wonderful job. The recommendations are quite large. I wonder when they will all be implemented.

I want to comment on the economic aspect. One which is critical is on the cash transfer to the elders. We realized that yesterday, there were text messages which were sent out that people are receiving Kshs8,000. I wonder when the pastoralist's communities would receive this money.

I request the Committee to find a way to trickle this down to the chiefs, ward administrators and Members of County Assemblies (MCAs) for them to assist in identifying all the elders that are supposed to benefit.

We just received a 411 that says that COVID-19 Fund has raised Kshs1.2 billion, including Kshs10 million from media houses as part of the contribution.

I will emphasis the issue of transparency. It is important for us to understand how this money will be spent. When we ask these questions, nobody wants to give us the answer. We have seen different counties coming up with different plans. It is important

for these counties to be coordinated. Someone asked yesterday, how comes Machakos County is able to set up these hospitals in the stadium and other counties are not able to?

As a Senate, we need to know how this money is appropriated. This is the House that will deal with the division of revenue so that all counties can have a concerted effort.

Finally, a county like Narok has local and international borders. I understand that tomorrow, the Committee will be meeting with the Cabinet Secretary for Interior and Coordination of National Government, Dr. Matiang'i. It is important for us to understand how they are stopping the movement in international borders, for example, in Olpusimoru in Narok County where traders are coming in.

We have seen that numbers in Tanzania are going up. So, it is important that not only local borders are protected, but also international borders which no one is talking about.

Mr. Speaker, Sir, I commend the Committee for the good work it has done.

I wish that the Kenya Revenue Authority (KRA) will find a way to work with local industries. For example, Keroche Breweries is a company that has been beaten up. There are many other local companies. There are recommendations of people waiving rent--

**The Speaker** (Hon. Lusaka): Your time is up. Proceed, Sen. Omogeni.

Sen. (Dr.) Musuruve, I am sorry. We will have to adjourn in the next three minutes.

**Sen. Omogeni:** Mr. Speaker, Sir, as a Member of the Committee, I was given a task of saying something about The Pandemic Response and Management Bill. However, time will not allow. So, I will do that next time.

I want to respond to the issue that has been raised by, my good friend, Senator for Narok County. We had a meeting yesterday with the CS for Labour, Social Security and Services. He informed us that the short message (SMS) that is sent to our senior citizens about Kshs8,000 is a backlog of Kshs2,000 that is due to be paid to the elderly citizens every two months.

Mr. Speaker, Sir, we raised the issue of the danger that our senior citizens are exposed to of being told to go banks where there is a lot of crowding. In fact, I raised a concern about what happened in Nyamira and Keroka yesterday where people were rained on. They were told to wait outside as they were called one by one to receive the money. We agreed with the CS that going forward, they should be paying these citizens using the alphabetical order. For example, those whose names begin with A-B, on Monday and C-D on Tuesday, so that we do not have a situation of over-crowding in the banks

We also agreed that the registration of senior citizens happened two years ago. So, there is need to do another campaign for fresh registration. He promised that in July of the next financial year, we should re-line our senior citizens for fresh registration so that more people are beneficiaries.

On the issue of involvement of chiefs and MCAs, the CS informed us that the last time they tried to involve chiefs, they were deducting money that was due to our citizens.

Where a person is supposed to be paid Kshs2000, they were paying them Kshs1500 after deducting Kshs500.

So, he informed us that there is no other form of payment that they can use for now other than banks. However, we proposed that going forward, they should use M-Pesa as way of payment so that we do not create a situation where people queue in banks.

Mr. Speaker, Sir, my time is over. I hope that next time, I will get more time.

I reply.

*(Question put and agreed to)*

### ADJOURNMENT

**The Speaker** (Hon. Lusaka): Hon. Senators, it is now 5.30 p.m., time to interrupt the business of the Senate. The House, therefore, stands adjourned until Tuesday 28<sup>th</sup> April, 2020 at 2.30 p.m.

The Senate rose at 5.30 p.m.