

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 26<sup>th</sup> May, 2020 – Morning Sitting**

*The House met at the Senate Chamber,  
Parliament Buildings, at 10.00 a.m.*

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

### PRAYER

### MESSAGE FROM THE NATIONAL ASSEMBLY

PASSAGE OF THE EQUALIZATION FUND BILL  
(NATIONAL ASSEMBLY BILLS No.43 OF 2019).

**The Temporary Speaker** (Sen (Prof.) Kamar): Hon. Members, there is a Message from the National Assembly, which I will proceed to communicate right away.

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.41 (3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the passage of the Equalization Fund Bill, (National Assembly Bill No.43 of 2019).

Pursuant to the provisions of Standing Orders No. 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

“WHEREAS the Equalization Fund Bill (National Assembly Bill No.43 of 2019) was published vide Kenya Gazette Supplement No. 87 of 18<sup>th</sup> June, 2019 as a Bill concerning county governments in terms of Article 110(1) of the Constitution, seeking to operationalize the Equalization Fund as established under Article 204 of the Constitution and create a framework for provision of services to marginalized areas;

WHEREAS the National Assembly considered and passed the said Bill on Wednesday, 6<sup>th</sup> May, 2020 with amendments in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration.”

Pursuant to Standing Order No.157, which requires that a Bill originating in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order 139, I direct that the Bill be listed for First Reading on Tuesday, 2<sup>nd</sup> June, 2020.

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I thank you.  
Next Order!

## STATEMENTS

### FOOD SECURITY AND GOVERNMENT SUPPORT TO FARMERS

**Sen. Khaniri:** Thank you, Madam Temporary Speaker. I rise pursuant to the provisions of Standing Order No. 47(1) to make a Statement on a matter of national concern, which is the food security situation in the country and Government support to farmers.

Kenya like most African countries is blessed with huge tracts of land and perfect climate conditions for agriculture, yet today, food is very expensive in the country and most families go hungry. It is unfortunate that the once vibrant sugar industry in the country is now on its deathbed. Today, we are faced with shortage of maize, beans and other foodstuffs. As a result, we are forced to import a big percentage of our food.

A country that fails to ensure its food security will definitely perish. Food sustains the nation. In Kenya, agriculture is not only for food, but also one of the most important economic pillars. So important is food security that the current Government has identified it as one of the Big Four Agenda.

The Fourth Schedule of the Constitution of Kenya, 2010, identifies agriculture as a shared function between the national Government and county governments, but have the two levels of government treated it so? Currently, as a country, we are faced with pressing myriad challenges from COVID-19 pandemic, locust invasion, floods and landslides all over, all of which have had negative impact on agriculture.

Madam Temporary Speaker, at the moment, it is sad to read in the newspapers that maize in the National Cereals and Produce Board (NCPB) is rotten and hence, unsafe for human consumption. In Vihiga County today, the NCPB depots in Chavakali and Hamisi are empty.

The colonial government concentrated mainly on export agriculture, a practice we inherited at Independence. Today, Kenya is known to produce the highest quality tea and flowers on the international market. This is good but, additionally, the Government should explore ways of improving agriculture for food security.

While in the recent past there have been concerted efforts to increase the number of dams and establish irrigation schemes such as the Galana-Kulalu, much of these efforts have been shrouded with allegations of corruption and hence, they have not been productive.

I have always been a strong believer of the fact that as a country, we are capable of producing enough food for our consumption and even export, only that the Government has over the years neglected and failed both large scale and subsistence farmers by not having the right policies and incentives.

One of the greatest puzzles is how farmers sell their produce at very low prices, only for the processed products to cost more than double. For instance, a litre of milk from the farmer is at Kshs35, while the same processed milk is sold at Kshs100 per litre. The same case applies for maize. The processing aspect more than doubles the prize.

Madam Temporary Speaker, the current pandemic has greatly affected the supply chain worldwide, but it should, in a positive way, encourage us to produce more food for our consumption. The breadbasket of the Rift Valley, the herders and fishermen have the potential and will to produce the required food, but lack Government support.

Currently, farmers across the country are complaining of high cost of agriculture inputs, including seeds. The once organized NCPB is today a pain to maize farmers. The Committee on Agriculture, Livestock and Fisheries of this House needs to investigate the status of the Grain Reserves in the country, especially at these uncertain times. Counties should also take initiative to train farmers and provide the right incentives to increase food production.

In conclusion, we need to be alive to the fact that, at the moment, the world is in the middle of a crisis and Kenya is no exception. We need to ensure that our fellow countrymen and women have their basic needs now and in the near future. It is a fact that the current pandemic has taken a toll on the economic stability of most families in the country.

A food crisis at the moment is a recipe for riots and disorder. We should ensure that tomorrow's food is planned today, by having the right policy and actual interventions in place. This is the time to support Kenyan farmers in their endeavour to feed the nation and make a living.

Lastly, I encourage Kenyans to keep safe and follow the Ministry of Health (MoH) guidelines during this time.

I thank you.

**Sen. (Dr.) Musuruve):** Thank you very much, Madam Temporary Speaker, for giving me an opportunity to support this Statement by Sen. Khaniri. This Statement is coming at a very handy time. I remember that Kenya is among the African countries that signed the Maputo Declaration, which said that 10 per cent of the national income should go to agriculture.

There is need for the Government to ensure that it is abiding by the international laws and supporting the Maputo Declaration. Food is a necessity that we cannot ignore. Food also ensures that we have a citizenry that is energetic, productive in the mind, socially and emotionally stable, in order to lead this country. There is need for the Government to cushion farmers. No food should rot in stores. In fact, the Government needs to buy all the food that is in the stores and encourage farmers, so that they can continue farming. Farming generates a lot of income for this country. There is, therefore, need for us to see how we are going to cushion farmers.

During this COVID-19 period, we have seen in the media very many people cushioning others with regard to food and all that. Food is scarce especially at this time. There is need to ensure that food security is achieved in this country. There are no two ways, but to ensure that food security is being achieved in order to ensure that Kenya goes ahead.

People in slums such as Kibera and even some farmers are lacking food. During the locust invasion farmers felt a negative impact. There is need to encourage farmers, so that they are not discouraged in any way.

I suggest that this Statement should not just be taken for granted. It should go to the right Committee. The Committee should ensure that it goes to the right office, so that there is implementation. There are instances where very pertinent Statements come to this House, but are not acted on. This should not happen in a country that is concerned about counties. The Senate represents country governments and the interests of the counties. Farmers' interests are our interests and we have to make sure that we support them.

I support.

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

*(There was a technical hitch)*

Thank you. We can proceed, the sound is now okay.  
Sen. Farhiya, please, continue.

**Sen. Farhiya:** Madam Temporary Speaker, shall I continue or just start from where I was. I am not sure at what point they lost me.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Please, start afresh because we may have lost everything.

**Sen. Farhiya:** Madam Temporary Speaker, thank you. Like I had said before, a greater part of our Gross Domestic Product (GDP) is agriculture-based. We cannot afford to slide back in terms of our investment in agriculture and by extension, livestock. We always talk about agriculture and forget livestock.

The other issue is in terms of development of arid and semi-arid areas. Because of population growth that we, politicians, encourage, there is less land acreage available for agriculture. That is part of the reason contributing to the slowing down on agriculture. There is need to discuss that issue candidly.

Madam Temporary Speaker, in terms of investment in arid and semi-arid areas, there is a lot of land available. We know that there are countries that are deserts. Today, we import oranges and some other fruits from places like Israel and Egypt, which are deserts. Our arid lands are not even as bad as that.

There is need to invest there more, so that there is a lot of production to feed this country. If we continue with this trend and given the population growth and weather patterns, even farmers are not able to predict when to plant and harvest. This is because of the impact of climatic changes. Because of all these problems, we need to re-strategize how we handle our agriculture given all those scenarios.

Madam Temporary Speaker, I thank you for giving me this opportunity.

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

**Sen. Chebeni:** Thank you, Madam Temporary Speaker. I support this Statement by Sen. Khaniri. Food security is a great and legitimate concern that we, as a country, need to look at especially now that we have had locust invasion, excessive rains and the Coronavirus Disease (COVID-19) pandemic. It is important for us to think about how we are going to raise our productivity or make our production more intensified.

We also need to think of how we are going to make available farm inputs for our farmers and extension support services. Even as we talk about COVID-19, there is

also need for county governments to develop protocols and guidelines that will guide the sector to make necessary adjustments. We know how COVID-19 has affected the agricultural sector. Therefore, it is important for county governments to come up with good and sustainable guidelines that will guide the sector.

**The Temporary Speaker** (Sen. (Prof.) Kamar: Thank you. Sen. (Eng.) Hargura, proceed.

**Sen. (Eng.) Hargura:** Thank you, Madam Temporary Speaker. I would like to thank Sen. Khaniri for bringing up this issue of lack of concern or focus by the Government on the agriculture sector or the food security in this country. As a nation, we must be in a position to feed ourselves. We have been endowed with good land, enough space and also citizens who are dedicated to food production.

Without clear focus at the policy level, the production will go down as we are experiencing now. We are told that we need to import maize, when we know that in parts of this country, as has been said rightly by Sen. Khaniri, the maize that was produced is already rotting.

Madam Temporary Speaker, in as much as the Big Four Agenda of the President has food security and value addition, it does not seem to be translated to implementation. So, there is need to focus on the implementation aspect. As has been said clearly by Sen. Farhiya, we need to focus on other means of food production. Instead of just concentrating on the rain-fed agriculture, we have a lot of land in the arid parts of this country, which constitutes over 70 per cent of this country.

We need to focus on dry area food production. We need to invest in rainwater harvesting because we lose a lot of rainwater. We have floods and a lot of wastage of water, then, after the rains are over, we start talking of drought, lack of water, water tankering and all that. It is better if we have a clearly thought-out policy, which is properly implemented through to the end.

We can have mega dams in the arid parts of the country, which should be mainly for food production. We will then have irrigation schemes near those mega dams and produce different types of foods. We can be food secure, but we are not investing in that. Once in a while, you will hear somebody talking of investments in mega dams or water harvesting, but you do not see it being followed through.

Madam Temporary Speaker, we are in a situation where we have the means, proper climatic conditions and land, but what is lacking is the implementation. As it has been said, let the relevant Committee take it up with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives and the Ministry of Water and Sanitation. We need to know what programmes we have in implementing this food security programme, so that as a country we can be food secure, instead of always thinking of importing food whenever there is shortage.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. (Dr.) Kabaka.

**Sen. (Dr.) Kabaka:** Thank you, Madam Temporary Speaker, for giving me this opportunity to also contribute to this very important subject of food security in this country. A lot has been said, and I do not need to reiterate what has been said, but I have key points that are bound to assist the agricultural economics in this country.

As I speak, I do not think this is the first time that this subject has been introduced. In one way or the other, it has been brought before this Senate and the National Assembly. It is said that a country that cannot feed its own people is bound to perish. This country is on the verge of going that direction, but we can correct it.

Madam Temporary Speaker, maybe you will bear me witness that as a professor in a university, there are a lot of published papers and journals on this subject of the economics of agriculture. This country has done all the best paperwork. The Government needs to do what we call price stabilization in order to ameliorate the problem of the middleman.

It goes without saying that there are so called cartels in this country. Any time any part of this country has a bumper harvest - or a boom as it is called in economics - as opposed to glut, that is the time you see them. They are very smart, have a briefcase, access to capital in the banks, and they get the money. They know the price for the product is 'X', but they can sell it later, after six months or even one year, to the Government at price 'X2.' That way, they make more money.

That is why we are saying that it is high time that, at the time we have the boom, the Government is supposed to buy from the farmers. During the time we have the glut, as we were taught in economics, the Government can now sell to the farmers and its people at a subsidized price. That way, they will kill the cartels.

I also sit in the Committee of Finance and Budget, and I am aware that the Cabinet Secretary (CS) for Finance has some powers and latitude. Any time there is a shortage of maize, cereals or any product in this country, the CS has the power to gazette and allow some window for importation of those cereals. However, more often than not, we have realized that the CS for Finance has not used those powers in the right way. They have abused those powers, and that way, they have opened up a Pandora's Box for those cartels, and they are given the list. It goes without saying, because that list is always gazetted. If you were to search in the company registries, we would have unmasked them.

Madam Temporary Speaker, I remember that you and I, together with Sen. Wetangula, were in the same Committee that was looking into the maize crisis in the Western Region. You were also affected. I remember that we went all the way to Busia. We saw how farmers were not happy with the way the Government handled the state of affairs of the cereals, more so in the Rift Valley. I saw that with my own eyes. They said that that they would even stop growing the maize and go for better produce.

Madam Temporary Speaker, I think it is high time that this Government comes in to look at the issue of the cost of production, which has been mentioned. It is too high in this country; this is because you incur a very high cost of production, just to sell the produce at a throwaway price. This, therefore, defeats logic in economics. There is a problem in this country because in Uganda they produce a sack of maize at a cost of about Kshs300 and sell it at around Kshs1,500. However, in this country you produce at the cost of Kshs1,000 and sell at Kshs900. There is a problem. We need to look into that.

There is also the issue of the use of appropriate technology. Nowadays, we do not have huge tracts of land as it were, which determines the production level as opposed to the appropriate technology, especially in e-agribusiness. Young men, even graduates with Masters and PhDs, have known that there is money in this kind of venture. Therefore, we

need to encourage our youth and graduates to involve themselves in this kind of technology, so that they can boost their sales and the value chain in the international market.

Madam Temporary Speaker, there is also the issue of the reviewing of the historical Nile Waters Treaty, which we need to review here before I settle. We do appreciate that Egypt has not done very much in helping this country. I remember that when I was in secondary school in my village, the first borehole that I saw was dug by the Government of Egypt in a place called Ikatini in Masinga. This is a way to hoodwink the country not to utilize the Nile waters. There are a lot of legal controversies on the Nile waters and matters of United Nations (UN) interpretation on how this Treaty will be used. It has also been given some political dimension.

I remember when Hon. Martha Karua was the Minister for Water and Irrigation, she delved into this matter. She held the opinion that these waters need to be used equally by the States. I also reiterate that the Nile waters do not solely belong to Egypt. The waters belong to all the countries especially the source, more so in Kenya from Nandi Hills.

Madam Temporary Speaker, there is a point that needs to be considered. When I raised it, the Senate Minority Leader said that he had given a certain direction on it. However, I am yet to look at it. There is need to review the issue of land ownership in the country. How much should a capitalist own?

There are people who own Kenya. They own the entire tract of this country. For example, Naivasha to Nakuru is owned by one family yet the land is under-utilized. Sen. Mwaruma will tell you the same about land in Taita Taveta County. Therefore, it is time to put a law. I appreciate that some of those capitalists sit in the Senate and others in the National Assembly.

It is a challenge to pass this law but we should take the bull by the horns. Unutilized land should attract penalties. The Government should not borrow money. This is because the money is with the rich people who own these parcels of land. If they fail to do that, the land can be compulsory acquired and distributed to people who need it.

Lastly, the policy on sub-division of land has not been good. In some parts of the former Central Province and Rift Valley, land is subdivided into the smallest units. We should limit subdivision of land to five acres for purposes of enhancing agriculture.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Please, wind up.

**Sen. (Dr.) Kabaka:** Madam Temporary Speaker, I support this Statement by Sen. Khaniri. It is timely and important especially in the time when we have the Covid-19 pandemic.

It is a wide topic. All the experts who are listening in the universities and Ministries have the paper work that we need to implement.

**The Temporary Speaker** (Sen. (Prof.) Kamar): We have a good number of Statements and we have gone overboard on this one. We have spent more than 20 minutes.

Proceed, Sen. Murkomen.

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

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

**Sen. Sakaja:** Madam Temporary Speaker, you have said that you want one more contribution. Sen. (Dr.) Kabaka had a lot of time. It would have been better if you gave us shorter time so that more people would contribute. So, I urge you to give me an opportunity after Sen. Murkomen.

**Sen. (Dr.) Kabaka:** Madam Temporary Speaker, is the Senator for Nairobi City County insinuating that---

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. (Dr.) Kabaka, you do not need an answer for that. Let Sen. Murkomen speak. I will use my judgement. Please let us take the shortest time possible. We only allow 15 minutes for ventilation when a Statement has come to the House. We have already spent 25 minutes on this Statement alone yet we have a number of Statements coming. So, Sen. Murkomen, please use the shortest time possible so that I can give Senator Sakaja a minute.

**Sen. Murkomen:** Thank you, Madam Temporary Speaker. First, I congratulate Sen. Khaniri for bringing this important Statement. While I was preparing a Statement on strategic food reserve, I was told that Sen. Cherargei had already submitted a Statement on the same. So, one of the issues of great interest to me is a follow up on what Sen. Cherargei will raise. The Government said that it will not continue to buy maize from the strategic food reserve.

Food security is an important issue for this country. Agriculture has been praised to be a serious foreign earner. However, it is appalling that we still import 90 per cent of the rice, 75 per cent of wheat and 10 to 20 per cent of the maize that we consume despite the fact that we have a lot of arable land.

Madam Temporary Speaker, when the Jubilee Administration took office in 2013, one of the things that we promised the people of Kenya was to ensure that we use irrigation for farming and open up the arid and semi-arid areas as places for irrigation. That is why there was an agreement that Badasa Dam in Marsabit will be revived and used for irrigation. Also Aror and Kimwarer Projects were to be put in place.

It is a shame that today, Aror and Kimwarer continue to attract foreign interests. We are paying loans with interest on a project that has been extremely politicized. The Government is paying money to Italians but, at the same time, the people of Elgeyo Marakwet both in Keiyo and Marakwet are not taking the advantage to irrigate the Kimwarer and Aror areas.

We know that in the lower Turkwel area, there is a bit of irrigation in Weiwei. Two years ago, I saw my friend, Prof. Lonyangapuo demonstrate the work that they are doing to irrigate the area. However, they are only operating on less than 10 per cent of the potential of the lower Turkwel.

So, is the Government planning to give us continuous promises about food security or is there a way to coordinate the activities of, for example, Kerio Valley Development Authority (KVDA), which is supposed to implement the Aror and Kimwarer and lower Turkwel projects in coordination with the department of agriculture?

What happens to dams like Badasa and Thwake and what are their potential for irrigation? These are things that must be of strategic and great focus for the country. Unfortunately, for the last three years, this country has been treated to political circus,

competition and infights within the Government at the expense of focusing on delivering to the people of Kenya.

We are now told that the answer to every problem is to have a stimulus package for this and that. From where will we raise the money for the stimulus package and feed over 12 million Kenyans who directly depend on agriculture?

This Statement by Sen. Khaniri is good. However, it must move beyond that. The last part of it challenges the Committee on Agriculture, Livestock and Fisheries to do a proper inquiry.

We have been telling the various committees to come up with reports of various things that they are doing. Do they operate only when we raise Statements or they act *suo motu* to take up such challenges? For example, the question Kenyans are asking is what Kenya will be like beyond COVID-19 in relation to food security. Therefore, the Committee, by its own Motion, without being pushed, should look at this issue and bring a comprehensive report to this House.

Madam Temporary Speaker, we have a Cabinet Secretary (CS) who, on one hand tells Kenyans that he will ensure that food security is achieved while on the other hand, he was quarrelling with his own governor in Meru two days ago about this function being devolved. So, there is passing of the buck between the national Government and county governments.

Agriculture is a devolved function. However, counties receive very little money to carry out that important devolved function.

Lastly, when the formula for sharing resources will be brought to this House, one of the things the CRA did in the draft formula was to categorize certain important sectors that must be funded and agriculture is one of them. We must scrutinize it in this House. Therefore, we must save a certain percentage of these resources to go to agriculture, but must also go for the right interventions in the areas that we require to ensure that there is food security in this country.

Once again, congratulations Sen. Khaniri. I think our Committee should be able to do what it ought to do.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. I will use my discretion to give Sen. Sakaja and Sen. Wambua one minute each.

Hon. Senators, we have another Statement that is very similar to Sen. Khaniri's from Sen. Cherargei. So, I expect you to take the shortest time possible and revisit some of your issues in the next Statement because it touches on food security as well.

**Sen. Sakaja:** Madam Temporary Speaker, there is nothing useful I can say in one minute. So, I ask you to either give me more time, or allow me to speak on the other Statement.

**The Temporary Speaker** (Sen. (Prof.) Kamar): I will allow you to speak when it comes to the Statement from Sen. Cherargei if you cannot take one minute.

**Sen. Sakaja:** Yes. One minute has gone already.

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

**Sen. Sakaja:** Madam Temporary Speaker, the point I wanted to make which I will still make, is the assumption that when a Statement on agriculture is brought to the Floor of this House, the Senator for Nairobi City County should not speak. There are a lot

of agricultural activities taking place in Nairobi. The population doing agriculture in Nairobi, which includes Embakasi North, Dagoretti South, Uthiru, Ruthimitu, Waithaka, Njiru and Ruai, is bigger than the population of some counties.

So, I insist that you give me enough time to speak about agriculture. This is because food security is the entire value chain, including markets. Kindly guide me on whether I should speak right now or later.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. Sakaja, the Statement that was given was under Standing Order 47(1). It was a Statement on food security. The Statement that is coming is on agriculture. You may find it better to speak on the second Statement. I will give you more time to speak to it. It is number three in the Order.

**Sen. Sakaja:** Madam Temporary Speaker, I am guided.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you. Sen. Wambua, would like to prosecute yours now, or come back when we go to the Statement on agriculture?

**Sen. Wambua:** Madam Temporary Speaker, I can use the two minutes from Sen. Sakaja in addition to one minute. I would do three minutes.

**The Temporary Speaker** (Sen. (Prof.) Kamar): It is okay.

**Sen. Wambua:** Madam Temporary Speaker, I thank you for this opportunity. This is a very important Statement. It is important because the issue of food security, if not properly handled, can easily degenerate into civil strife.

I am reminded that when the Jubilee administration came into the office in 2013, one of the major promises they made to Kenyans was that they were to irrigate one million hectares of land at Galana-Kulalu Irrigation Development Project. It was launched with pomp. The expectation was that 500,000 hectares of land was going to be put under maize and 200,000 hectares of land was going to be put under sugarcane. About 150,000 hectares would be distributed to livestock, fish farming and the like. However, it is disheartening today to note that, that project has collapsed.

One of the most important things that governments across the world do is to ensure they are able to feed their citizens. A government that is unable to feed its citizens loses the legitimacy to even govern. Taking up from where my colleagues have left, on what really needs to be done, I am very sure that the Committee to which this Statement will be directed to look into the issues of irrigation schemes for food crops.

In most cases, the irrigation schemes in this country are for cash crops. It is important to do mass irrigation schemes for food crops. There is a lot of arable land in this country that is lying idle. However, if the Government was to put money in irrigating those pieces of lands, we would have sufficient food to feed our country and export the surplus.

Madam Temporary Speaker, it is very painful to note that we are importing basic foods. For instance, we are importing oranges from South Africa and eggs from Uganda yet there is sufficient capacity in this country to produce enough fruits and food crops to feed our people. I thank my colleague, my friend Sen. Khaniri for bringing this Statement.

I support it.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you very much. Hon. Senators, I would like to use my discretion to bring the Statement from Sen. Cherargei now, so that we have a continuation of debate on food security. His Statement is under the Standing Order 48(1).

Sen. Khaniri, I will not rush to refer your Statement now until we finish with Sen. Cherargei's Statement, so that we can deal with both Statements.

Sen. Cherargei, kindly proceed.

DIRECTIVE BY THE MINISTRY OF AGRICULTURE NOT TO  
PURCHASE MAIZE FROM LOCAL FARMERS

**Sen. Cherargei:** Thank you, Madam Temporary Speaker, for this opportunity.

Pursuant to Standing Order 48 (1), I rise to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries concerning the recent directive by the Ministry that it will no longer purchase maize from our local farmers

In the Statement the Committee should-

(1) State the circumstances that led to the Ministry of Agriculture decision to stop purchasing maize from local farmers without considering the fate of our farmers who depend entirely on the Government for market.

(2) Explain why the Ministry declares the country food insecure every year yet it has no elaborate plans to enable the country to be food secure; instead, it keeps suppressing its farmers.

It has to be noted that the Government has the intention of importing four million bags of maize during this period.

(3) State why the Ministry is currently importing four million bags of maize, including two million bags of white maize and two million bags of yellow maize at a much higher price than that of local farmers yet they are saying they will no longer buy from local farmers.

(4) Explain why the Ministry has failed to cushion farmers during this COVID-19 pandemic period, especially on fertilizer and other farm inputs since the farmers also were seriously affected economically like other Kenyans.

**The Temporary Speaker** (Sen. (Prof.) Kamar): I will give the first chance to Sen. Sakaja.

**Sen. Sakaja:** Thank you very much, Madam Temporary Speaker. You are very wise. Allow me to thank both my big brother Sen. Khaniri for that Statement as well as my small brother, Sen. Cherargei.

Madam Temporary Speaker, the point I was making earlier and what I intend to focus on is the following facts. First, the perception or the idea that agriculture does not take place in Nairobi is a fallacy. There is both urban and rural agriculture. Many parts of Nairobi are rural. If you go to Dagoretti South, Uthiru, Ruthimitu, Waithaka, the entire constituency apart from Ngando, is agricultural.

If you go to Ruai, Njiru and even parts of Westlands and Roysambu, there is a lot of agriculture that is going on there.

We had this debate when we were discussing the formula for allocation of resources and Nairobi was given zero on account of agriculture. Every year, Nairobi County staff do more than 15,000 extension service visits, yet that only satisfies 10 per cent of the demand because of poor funding.

Madam Temporary Speaker, if we are talking about agriculture - Sen. Cherargei was talking about agribusiness - the biggest food market in this country is Nairobi. A lot of what is grown in every county comes to Nairobi apart from what might be exported.

I want to debunk the idea and fallacy that Nairobi is not agricultural. I have farmers in this county who are producing more than 2,800 litres of milk in a day and they operate on land that is less than one acre. Over the years Nairobi has been the best in terms of production of milk and meat. I hope the Commission of Revenue Allocation (CRA) listens because I told them that they cannot score Nairobi zero in terms of agriculture.

Secondly, every agricultural product needs a market. When we talk about livestock, Sen. (Eng.) Hargura will tell you that there is a large section of members of his community in Kiamaiko and Dagoretti market. The abattoirs from Kajiado, Rongai and North Eastern all bring their products to Nairobi. When you do not score Nairobi or consider Nairobi to be non-agricultural, then you are not working on the whole value chain of what agriculture is.

Thirdly, we must talk about storage. If a small investment is made in Nairobi, we will save more than 80 per cent of post-harvest losses by dry and cold storage.

The point I want to emphasize, and I hope Senators will hear me out because we are still going to have the discussion on County Allocation of Revenue Act (CARA) and on the formula; that for agriculture to work in Nandi, Nakuru and Kikuyu, you need Nairobi to have agriculture as a serious function, funded properly and working.

Today, we have containment; we have blocked off Eastleigh. We have Kiambiu slums and many other slums around Eastleigh where people cannot get anything to eat because of what is happening in Eastleigh. Therefore, let us look at food security, end to end. In other countries they say “from farm to fork”. I am saying from the farm to the market because Nairobi plays a key role.

Let the people of Nairobi be engaged in agriculture because the population in those places I have mentioned in Nairobi which are doing agriculture is larger than the population in many other counties by far. I do not want to mention specific counties because Senators will think I am targeting their counties. Let us support them.

Madam Temporary Speaker, I remember in 2009/2010 when His Excellency the President was the Minister of Finance and we were doing financial inclusion for the informal sector, part of it was urban farming. If you go to Mathare today, there is pig farming going on along the river. A lot of the greens that even the Chair takes in her house and even what we eat here in Bunge are from Nairobi.

Therefore, let us think about it holistically. The Cabinet Secretary (CS) of Agriculture came and I told him that when you stop transport in and out of Nairobi and you say food can come in and you assume that food comes in a green truck written “food”, you are wrong. I have market ladies from Kikuyu, Ukambani, Tala and Kangundo who come in Matatus with a few cabbages and chicken. They do not come in a

food truck. When you stop that, the cost of food in Nairobi has now gone up and people cannot feed themselves.

Madam Temporary Speaker, it is very urgent. I hope these two Statements are taken seriously and immediately so as to get some resolution.

Thank you.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. Sakaja. I will give a chance to Sen. (Dr.) Langat. While Sen. (Dr.) Langat is speaking, Sen. Madzayo, please, come forward from the “extension”.

**Sen. (Dr.) Langat:** Thank you, Madam Temporary Speaker for giving me this opportunity to make a comment on this.

I want to begin by saying that it is quite unfortunate that the Ministry of Agriculture is not ready to purchase maize and other food crops from farmers during this particular period of time when, the area where the Chair and I come from is expecting a heavy harvest this year.

It is very fortunate that this year when you go to areas in the Rift Valley like Narok, Uasin Gishu, Bomet and Kericho, there is a lot of hope that there will be a heavy harvest in the maize sector.

When farmers get to understand that during this particular time, the Government is not ready to purchase maize from them, this is like adding insult to injury. If you remember some years back, maize farmers in Kitale and some parts of Rift Valley were so disappointed to the point that they were pouring maize on the roads. This time we must take this one seriously because we are expecting a heavy harvest due to promising rainfall.

We are still experiencing a lot of food insecurity in this country. Where I come from, we have seen a lot of food shortage due to disasters such as floods. It is quite unfortunate to mention that distribution of food in this country is skewed. Sometimes you hear that the government is distributing food in some areas, yet in the area where I come from people are experiencing food shortages, for instance parts of lower Bomet; we have not seen even a kilogram of maize being distributed in those areas.

Therefore, we still need to question the criteria through which the government is using to distribute food in this country. Last week, I was asking the County Commissioner of Bomet if he is aware of food shortage in some areas of Bomet and he told me that he has written an emergency letter to the Ministry concerned but nothing has happened up to this time.

Whenever we hear of food being distributed in some areas, we wonder loud on the criteria being used to distribute food to some areas while some other parts are not being considered.

Madam Temporary Speaker, you and I were in the *ad hoc* Committee which was investigating issues to do with maize. In fact, we are headed in that direction where the country is importing a lot of maize to the tune of four million bags from outside while farmers in Uasin Gishu have a lot of maize and they do not know where to sell it. We are headed back there and sooner or later, we shall form another *ad hoc* Committee to investigate on the same.

We have to take this one seriously; farmers all over are not cushioned. Farmers are left to buy farms inputs such as fertilizers and the rest expensively from various sellers. Agriculture is not being taken seriously in this country. Even though it is a devolved function of the county governments, we still question a lot of issues such as the fact that this devolved function has not been supported very well in terms of funding.

Therefore, we need to take seriously the issues of food security in this country, cushioning of farmers and importation of maize at a time like this when we have a lot of maize in this country; this should have been an opportunity for farmers to benefit from this instead of importation.

We must take this seriously so that we can help our farmers. I want to thank Sen. Cherargei for bringing this one at this particular time.

Thank you, Madam Temporary Speaker.

**Sen. Madzayo:** Asante, Bi. Spika wa Muda. Ninakubaliana mia kwa mia kwamba kilimo ndio uti wa mgongo na pia ninawashukuru ndugu zangu, Sen. Khaniri na Sen. Cherargei, kwa kuleta Taarifa hii hapa.

Itakuwa jambo la aibu kuona kwamba mwaka nenda mwaka rudi, nchi yetu inakumbwa na janga la njaa. Kila siku kila uchao, tukilala na tukiamka, tunaagiza chakula kutoka nje ilihali nchini yetu inajulikana kama nchi ya ukulima.

Tunavyoelewa ni kwamba, ni kweli kabisa nchi yetu ni ya ukulima lakini Serikali lazima iwajibike kuona kwamba wanachukua mazao kutoka kwa wakulima na kuweka katika maghala. Vile vile, Serikali pia isaidie wakulima kwa njia mbali mbali ili wafaulu katika hiyo biashara ya mazao.

Bi. Spika wa Muda, mara nyingi, watu wamekuwa wakisema inabidi tulete mahindi ya rangi ya njano na nyeupe kutoka Mexico na Brazil. Tunaambiwa pia mahindi hayo yana ugonjwa. Sasa ni wakati gani Serikali yetu itawajibika kuona mkulima wa mahindi, majani chai au kahawa, anapata faida kutoka kwa mazao yake?

Tumeelimishwa kuhusu mazao ya shamba na tumeona kwa sasa, ni ufisadi mtupu ambao unaendelea. Maghala yetu yote ya National Cereals and Produce Board (NCPB) hayana kitu kwa sasa. Ndio sababu tunapata taabu. Hata Serikali ikijaribu kupeana chakula kwa watu wasiojiweza ama hawaweza kutoka nyumbani, hasa wakati huu wa janga la COVID-19, inakuwa ni vigumu. Kuna maeneo fulani ambayo yamezingirwa na hakuna ruhusa ya kutoka. Kwa mfano, Old Town kuna wazee na vijana wanaolalamika, kwa sababu, wanataka nafasi ya kujiangalia katika maisha yao.

Utakubaliana nami kwamba kuna ufisadi katika ugavi wa chakula hiki ambacho hata hakitoshi. Hivi sasa pesa nyingi zimepatikana kusaidia Kenya kununua chakula na kuona kwamba wananchi wanaishi vyema. Hata kama hizi pesa ni za janga la COVID-19, utasikia pia kuna ufisadi na watu wanaiba. Lazima Serikali ichukue hatua mwafaka ya kuwakamata na kuwafikisha mahakamani wanaofanya ufisadi ili wajitete huko mahakamani.

Bi. Spika wa Muda, mimi ninatoka Kaunti ya Kilifi ambako tunategemea uchumi kutoka kwa mazao ya shamba. Eneo kama Magarini linajulikana sana kwa maembe matamu kuliko Malindi na sehemu zingine hapa Kenya. Vilevile, eneo Bunge la Magarini liko na mananasi matamu zaidi lakini wakulima wa mananasi na maembe hawapati msaada wowote kutoka kwa Serikali.

Ingekuwa vyema iwapo wakulima wa nanasi, maembe na kadhalika, huko Magarini, wangepata msaada wa kutosha ili kujikimu na hata kusaidia watu wengine.

La kusikitisha zaidi ni kwamba, katika kaunti za Kilifi na Tana River, tulibarikiwa na mradi wa Galana-Kulalu. Leo, ni aibu kwamba ufisadi uliingia katika mradi huo. Rais mwenyewe alipoanzisha Serikali, walikuwa na matumaini makuu kwamba Kenya haitakuwa na njaa tena. Angalia Galana-Kulalu iko wapi leo? Wameiua kwa sababu ya ufisadi. Mradi wa Galana-Kulalu ulichukua ekari kubwa sana; dunia mzima katika eneo la kaunti za Kilifi hadi Tana River. Hata hivyo, utaona kwamba---

**The Temporary Speaker** (Sen. (Prof.) Kamar): Senator, please, note the Report will come back here because this is under Order No.48(1). So, let us be brief.

**Sen. Madzayo:** Asante Bi. Spika wa Muda. Kumalizia tu ni kwamba, lazima tukabiliane na ufisadi wa mazao, kama walivyosema Sen. Khaniri na Sen. Cherargei katika Taarifa yao. Huu ni wakati mgumu na tunapaswa kuona wakulima wamepata faida kutoka kwa mazao yao.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Asante sana. Proceed, Sen. Murkomen.

**Sen. Murkomen:** Thank you, Madam Temporary Speaker. First, I congratulate Sen. Cherargei for coming up with this Statement.

As I said earlier, he beat me to this Statement. I once drafted and presented it to the office of the Speaker but I was told there was a similar Statement by Sen. Cherargei who is a brilliant advocate. I have had many past engagements with him but I do not want to go into that now.

Sen. Cherargei is seeking for a Statement, therefore, for us, is just to ride on it to get supplementary questions that we need. When I heard the Cabinet Secretary (CS) saying that they will not buy maize from farmers for the Strategic Food Reserve (SFR), I was shocked.

In the Statement, I would like to know from the CS, the policy paper that informed the decision to stop buying maize from farmers. Farmers in Trans-Nzoia, Bungoma, Uasin Gishu, Elgeyo-Marakwet, Nandi, West Pokot, Nakuru, Narok and parts of Kericho County have produced a lot of maize to protect this country from food shortage.

Madam Temporary Speaker, there was a reason the Governments of Presidents Kenyatta, Moi and Mwai Kibaki saw it necessary to buy maize from farmers. It was to protect farmers but at the same time, to safeguard the food security of the country. Suddenly, not in the first term of the Jubilee administration but in the second term of the Jubilee administration and particularly, somewhere between 2019 and now, there has been something strange.

I will be forgiven to imagine that there is a strategic attack of persons and farmers who come from certain places in this country and certain counties, which I think goes beyond Government policy; it is political. We need to call it what it is. There have been certain Cabinet Secretaries who have been behaving in a manner like you have to punish citizens to settle scores with Government officials who they work together with.

*(Applause)*

This issue of stopping the purchase of maize from farmers is more than Government policy; it is politics. You are aware that we who come from the North Rift have already suffered enough because of the internal fights within Jubilee over their own political issues. I have always said and insisted that if people have their own fights about 2022, they should leave our farmers and citizens in that area alone and deal with each other; *mundu khu mundu*, like politicians. That is really why we have to call it what it is.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. Murkomen, we do not want you to answer for the Committee.

**Sen. Murkomen:** No, you see, Madam Temporary Speaker---

**The Temporary Speaker** (Sen. (Prof.) Kamar): You have rightfully said that you are supposed to be given supplementary questions for Statements that have come from 48 (1). It is still going to be referred to the Committee because we have raised questions. I think that the Committee will be able to deal with it. However, do not answer for them. They will bring a Report here for our debate. It was very unfortunate that most Senators did not debate last week on the answer that brought up this issue but we are very grateful that it has been picked up. Nonetheless, let us not guide the Committee on the answers.

**Sen. Murkomen:** Madam Temporary Speaker, I am glad that you acknowledge that my submissions are answers, which means that you do not disagree with what I am saying. The only thing that I want to say is that, it is important because I will not be sitting in the Committee when those questions are being submitted.

It is important for the Chair of the Committee and the Members to ask why farmers from that area are being targeted. Is it political? Is there a policy framework? Why is it systematic? That would really answer my question because these things are done in an *ad hoc* manner. Remember, that in your Committee, some farmers have not been paid and they have been profiled. Those farmers were not paid because it was said that they are linked to a certain person and then corruption was used as an excuse. Why target one group, one area and one community for purposes of settling your political scores?

The last thing that I want to say is that, I agree with Sen. Sakaja - and he may want to hear this - that Nairobi City County is one of the counties leading in agriculture. When I read some literature, I was shocked. However, I was even more shocked when I had a conversation with the President sometime, three years ago, and he told me that he had gone to see a farmer in Karen, who is the leading milk producer in the country.

I got some greater interest in trying to find out who he was. I found out that it is, indeed, true that Nairobi has the leading milk producer in the country. Therefore, we should not leave Nairobi out of the conversation on farming.

I want to challenge Sen. Sakaja. Already, your county has the potential to raise a lot of revenue. Most of us come from various counties, we live here and we pay a lot of taxes here. I saw that the 'military government of Nairobi' was asking for Kshs27 billion for this financial year. So, Sen. Sakaja, you need to find a way of engaging the military to see how they can allocate more to farmers.

Thank you.

(Applause)

**The Temporary Speaker** (Sen. (Prof.) Kamar): He has already finished and so, there is no point of order.

**Sen. Sakaja:** Madam Temporary Speaker, he has escaped because I really wanted to challenge him on what he has said. If you allow me, he has been saved by the bell but “I will be back”, just like he said.

**The Temporary Speaker** (Sen. (Prof.) Kamar): You will deal with it later. Can we have Sen. Susan Kihika, please?

**Sen. Kihika:** Thank you, Madam Temporary Speaker. I also rise to support and congratulate Sen. Cherargei for this very important Statement that he has brought to the House.

As the Senator of Nakuru, we are also big in farming and that is the major thing that we do down there, in case there are some here who have not visited or are not very familiar with that County.

When we hear such directives that the Government will not buy maize from farmers but will be importing four million bags of maize, it is actually shocking. What I would also want to bring out even as the Committee goes ahead to do the good job of getting to the bottom of this matter is, what would inform such a crazy decision, if I may call it that?

First, we are a country whose one of the Big Four Agenda - if that still exists - is food security. When we have farmers who all year round cultivate their farms and grow maize, really, it is common sense buying from them will be a win-win situation for the farmers. This is not only because they are going to get some money from having farmed all the year round, but also good for the Government because it would be able to have maize, which would go towards food security. We then have a directive that they are not going to be buying maize from farmers. When such a decision is made to get four million bags of maize, yet they have not mopped up the maize in the country, then it is important for us to understand what really informed such a decision.

Surely, there is either somebody that is making this decision, be it at the cabinet level, I am not sure at what level it is made. However, it seems like a stupid decision.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. Kihika, please, check the language that you are using because we want to make sure that we are all within parliamentary language but make our points.

**Sen. Kihika:** Madam Temporary Speaker, it does not seem to make sense. Is that better? It is just a decision that seems immoral, if you ask me. If that is a problem, I do not know which word to use because that is what I mean.

It is one of those things that you cut off your nose to spite your face because, when you have farmers with maize rotting in their farms but the Government is proceeding to buy maize from outside the country; either we are now completely acknowledging and accepting corruption because what else could this really be?

In the alternative, we are punishing some people in some areas because we all know where maize grows in this country. We may not want to acknowledge that but I hope that for once, this Committee can get to the bottom of what is going on so that we can save our farmers because agriculture and farming is one of the biggest pillars of this country.

Thank you.

(Applause)

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you. I do not see any other request on that one---. Sorry, I have Sen. Omogeni.

**Sen. Omogeni:** Thank you, Madam Temporary Speaker. First, I want to join my colleagues in thanking the Chair of the Committee on Justice, Legal Affairs and Human Rights, Sen. Cherargei, for raising this very important question on agriculture.

We are aware that there is this slogan that says that agriculture is the backbone of our economy. I think that the statistics indicate that about 35 per cent of our Gross Domestic Product (GDP) is actually agriculture. Agriculture plays a very key role in sustaining our economy and that cannot be gainsaid.

I think that the policies of our good Government should not just look at economic success but we also want to give happiness to the farmer. I will not be very quick in condemning my good friend, the Cabinet Secretary for Agriculture, Livestock and Fisheries, because I do not know what informed his decision in saying that the Government will not buy maize from farmers. However, whatever policy that we come up with as a Government, it must be geared to ensuring that we make our farmers happy.

Under this new Constitution and under this new Government - and I hope that Sen. Cherargei is listening. At times, banging tables and saying that you will cause hell, may not take us very far. However, sitting down and engaging the Government can achieve a lot for the people you represent.

For the past two weeks, I have had serious engagements with the Cabinet Secretary for Agriculture, Hon. Munya, on issues dealing with tea. Farmers from Nyamira have suffered a lot as they engage in tea farming.

**Sen. Cherargei:** On a point of order, Madam Temporary Speaker.

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

**Sen. Cherargei:** Madam Temporary Speaker, is it in order for my learned Senior, Sen. Omogeni, to state that this way of engaging the Government is wrong? Rather than having tea and *mandazi* in the office of a Cabinet Secretary, is this a wrong way to address the issue?

**Sen. Murkomen:** Madam Temporary Speaker, on a point of order.

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

**Sen. Murkomen:** Madam Temporary Speaker, is it in order for the Senator of Nyamira to try and demean this House that this is not the right way to engage a Cabinet Secretary, and that we should instead have a one on one session with a Cabinet Secretary? We were elected to use this House to address the concerns we have.

More importantly, can the Senator of Nyamira disclose his relationship with the Cabinet Secretary, both as his client and classmate? He cannot advise Sen. Cherargei to take advantage of what he cannot get.

**The Temporary Speaker** (Sen (Prof.) Kamar): Can the Senator of Nyamira clarify? I did not hear him talk of *mandazi* and *chai* though.

**Sen. Omogeni:** Madam Temporary Speaker, just like my good friends, Sen. Murkomen and Sen. Cherargei are my colleagues in the legal profession, the Cabinet Secretary for Agriculture, Hon. Munya, is a colleague in the legal profession. We enjoy the same relationship with my colleagues.

*(Loud consultations)*

**The Temporary Speaker** (Sen (Prof.) Kamar): He is responding to a point of order. Please, allow him to finish.

**Sen. Omogeni:** Madam Temporary Speaker, this engagement by the leaders of Nyamira with the Cabinet Secretary, Agriculture, has culminated in some regulations that have been gazetted by the Ministry of Agriculture, where we are going to have a democratic process of picking the leaders of tea farmers.

We are going to have a good marketing system for our tea and registration clerks in our tea collection centres. This will reduce the suffering that the farmers have been facing, where they have been waiting at tea buying centres for the Kenya Tea Development Agency (KTDA) to collect their tea for several hours.

The point I am making is that Cabinet Secretaries are there to serve people. When you walk into the office of a Cabinet Secretary, you do not need to take tea and *mandazi*. You go to an office sustained by taxpayers to advocate and pursue policies that should be helpful to your people.

In as much as we also want to use this forum, I want to emphasise that we should never create the impression that Cabinet Secretaries are not there to receive agitation and complaints from our people. Those are public offices and they must be open to all of us.

Madam Temporary Speaker, over and above that, I also want to see our Government being innovative. Last November, we travelled with the Chair of the Committee on Health to the United States of America on an exchange programme on agriculture. I was impressed to see the way American people have embraced technology in farming. We went to a family farm in Virginia, which was being managed by a fourth generation from that family. All they have been doing for a living has been agriculture.

Let us also encourage our people to embrace the idea that agriculture can be a good source of income. You do not need to look at white collar jobs. You have heard that there is a farmer in Karen. He had a choice of selling that land and turning it into real estate, like what has happened in Kiambu. All the former coffee farms are now housing estates. Runda used to be a coffee farm. However, he chose to be the largest milk supplier. The Government should be encouraging those engaged in farming to continue doing farming.

In Nyamira, the average land per farmer is about 0.2 hectares, but we are amongst the largest producers of bananas in this country. Year in, year out, lorries drive from Kisii and Nyamira bringing bananas to Nairobi. We want to support the farmers in Uasin Gishu. We know that you are the largest producers of maize and food security is very important and key to this country.

I hope the Committee on Agriculture, Livestock and Fisheries that will be given the opportunity to consider the important issues raised by Sen. Cherargei will come up

with solutions that can help our farmers. If a country does not have food security, nobody is safe. All of us are not safe. This is a very important issue and as the Committee looks into it, I hope that we will also have an opportunity of summoning the Cabinet Secretary, so that he can appear before us as the people's representatives and explain himself.

With those remarks, I support.

**The Temporary Speaker** (Sen (Prof.) Kamar): Thank you very much. We will end there because we still have a Statement, and we skipped the Order on laying of Papers earlier. With those many remarks, I would like to direct that the Statement automatically stands committed to the Committee on Agriculture.

Is any Member from the Committee of Agriculture, Livestock and Fisheries here? We want to negotiate on time. We need an answer as soon as possible. Hopefully, we should have that within the shortest time possible.

I do not see a Member of the Committee. In the absence of a Member of the Committee, the Senate Majority Leader will inform the Committee that we would like to get an answer as soon as possible. Let them also fish from the contributions made earlier under the Statement on Standing Order No. 47(1) from Sen. Khaniri, because it will enrich their discussion.

Hon. Senators, we now go to the last Statement, which is by Sen. Wambua. I have received apologies from Sen. Wetangula and Sen. Loititip.

**Sen. Cherargei:** Madam Temporary Speaker, with your permission, you had approved my two Statements. I am requesting that after Sen. Wambua---

**The Temporary Speaker** (Sen (Prof.) Kamar): We are back to the business in the Order Paper. We gave you special consideration because of the link between your Statement and Sen. Khaniri.

On the Order Paper, we have Statement No.3.

**Sen. Cherargei:** Madam Temporary Speaker, I was requesting for your indulgence if I can read my Statement after Sen. Wambua.

**The Temporary Speaker** (Sen (Prof.) Kamar): I will make that decision at the right time. We have two Papers that must be laid.

#### WELFARE AND EMOLUMENTS OF TEACHERS DEPLOYED AS DEPUTY PRINCIPALS IN KITUI COUNTY

**Sen. Wambua:** Thank you, Madam Temporary Speaker. I am seeing the Chairman for the Education Committee retreating from the Chamber and yet I am standing to request for a Statement on the welfare and emoluments of 103 teachers deployed to serve as deputy principals in various schools in Kitui County since 2016.

Madam Temporary Speaker, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Education concerning the welfare and emoluments of 103 teachers deployed to serve as deputy principals in Kitui County since 2016.

In the Statement the Committee should -

(1) Explain why the said teachers have not been confirmed as deputy principals four years after their deployment in line with a collective bargain agreement entered with the employer, the Teacher Service Commission (TSC).

(2) State when the affected teachers will be confirmed as deputy principals.

(3) State why the salaries of the affected teachers have never been adjusted to that of their current position as deputy head teachers.

(4) Explain why the said teachers have not been paid their special duty allowances for the last four years following their deployment as deputy principals and further state when the allowances will be paid in full.

(5) Confirm that the affected teachers will not be disenfranchised from promotion to full principals when vacancies arise owing to their current woes as they have already satisfied the minimum requirement of three years of service in their deployment positions to be eligible for promotion.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for giving me this opportunity to support this Statement by Sen. Wambua. Teachers play a salient role in the life of children from early years all the way to primary, secondary and universities. The role they play needs to be acknowledged and honoured. We need to promote them.

When I was a teacher with the TSC, teachers were encouraged to enroll for further education. Once they completed their degrees, they were promoted. It was an incentive for teachers to progress in their career. This made many teachers to enroll for Bachelors and Masters' degrees for those who had not attained that level of education. It is unfortunate this time, the TSC is insensitive to their plight. There is need for these head teachers to be promoted.

The TSC is reluctant in terms of responding to teachers' issues. For example, next month it might retire a deputy principal with disabilities in total disregard of the PWD policy that stipulates that they retire at 65 years. We have written to them, but they have not responded. There is need for the TSC to take issues of teachers seriously. We would not be where we are if it were not for the effort of teachers. The TSC should respect and honour the role played by teachers in this country.

When it comes to promotion of teachers, I urge TSC to be fair. I know of teachers in the western parts of Kenya who were supposed to be promoted many years ago, but they have not been promoted. They enrolled in universities and graduated with bachelors and others with Masters degrees, but they are still teaching in primary schools. Their salaries have not been adjusted accordingly. It is wrong for an employer not to acknowledge the efforts of an employee.

I agree with the Senator, that these deputy principals need to be promoted and their salaries adjusted accordingly. As I said, they should respect the PWD policy and not retire the deputy principal next month. I have been talking about that teacher and my chairperson of the Senate Committee on Labour and Social Welfare Sen. Sakaja is aware of it. It is unfair for them not to listen to the Senators because we represent everybody in this country. There is need for fairness to all workers as they do their work in this Republic.

**Sen. Faki:** Asante, Bi. Spika wa Muda kwa kunipa fursa kuchangia ombi la Taarifa kutoka kwa Seneta wa Kitui, Sen. Wambua. Maswala ya elimu ni muhimu sana kwa vijana wetu ambao wanasoma. Ni jambo la kusikitisha kwamba TSC imezembua katika kulipa marupurupu ya walimu ambao wamepandishwa vyeo kuwa naibu wa walimu wakuu.

Shule nyingi za sehemu za mashambani kama vile Kitui na kwingineko, wanafunzi hawafanyi vizuri katika mitihani yao kwa sababu walimu hawana motisha ya kusomesha. Hii ni kwa sababu hawapati marupurupu yao mapema ili waweze kuwa na hamu ya kufundisha wanafunzi wao.

Shule nyingi ambazo ziko katika maeneo ya mashambani zimesahaulika kivifaa na kiwalimu. Katika shule hizo matokeo ya mitihani ya kitaifa huwa si bora. Taarifa hii imeletwa katika wakati muafaka. Suala hili haliko Kitui pekee yake, liko katika sehemu nyingi ambazo waalimu kama hao wamenyimwa vyeo na marupurupu yao. Aidha marupurupu wanayopata hayaambatani na vyeo hivyo. Kwa hivyo, hamu yao ya kufanya kazi haipo.

Iwapo suala hilo halitachunguzwa vizuri ina maana kwamba nchi nzima wanafunzi watapata hasara kwa sababu walimu wanaowasomesha hawana motisha. Naomba kamati ambayo itashughulikia suala hili iingilie ndani na isisimame Kitui pekee, bali Kenya nzima ili liweze kutatuliwa mara moja.

**Sen. Omogeni:** Madam Temporary Speaker, Sir, this issue of fair labour practices is not just a concept that we are plucking from the air. Article 23(1) of the Constitution states in mandatory language that employees have a right to fair labour practices.

Even without going to the details, there is no way one can describe what the Senator of Kitui has brought to this House as fair labour practice. We cannot keep somebody in an acting position, as I have heard him read the Statement, for the last four years. We cannot keep somebody in a position of employment where we do not remunerate that person for over one year. That is certainly unfair.

When the Committee retreats to consider this issue, they should pick out the issue of constitutional violations by the TSC. I do not know why we mistreat teachers and they are the ones we entrust with our children from when they are seven years old, some five years, until they become early adults. We should be fair to them.

Unfortunately, this problem is not just in Kitui. I had a case of a teacher in Nyamira who has been waiting for promotion for the last 10 years. We are not being fair to our teachers. I hope there will be a candid discussion between this Committee and the officials at the TSC, so that we stop treating them in a very inhumane manner. We are all what we are because we went through some nurturing by teachers somewhere.

Madam Temporary Speaker, you are a former teacher and, therefore, we must rein in the TSC and remind them that we want to see change of attitude from them.

I support.

**Sen. Boy:** Asante sana, Bi. Spika wa Muda, kwa kunipa fursa hii. Nchi hii ina shida sana kuhusu mambo ya walimu. Shida hii si Kitui pekee yake, bali hili ni suala la Kenya nzima. Utakuta kama hao walimu anaosema Seneta mwenzetu wa Kitui, kwamba, mtu anafanywa kuwa kaimu mwalimu mkuu kwa miaka minne au mitano. Mwalimu

huyu halipwi *Hardship Allowance* na wanafanya juu chini kuhakikisha kwamba, watoto wetu wanasoma vizuri.

Kwa nini walimu hawa wanabaguliwa katika nchi yetu? Kwa nini hawapati marupurupu yao kuambatana na kanuni za TSC? Katika kaunti yangu ya Kwale, ndipo pabaya zaidi hata afadhali kwako wewe Kitui. Kuna walimu karibu 25 wameleta ombi kwangu kulalamikia tatizo kama lili hili. Wengine wamekuwa naibu walimu wakuu karibu miaka kumi na marupurupu ya *hardship* hawapati.

Posho ya ugumu hawapati, ilhali kazi wanazofanya ni kubwa sana kuhakikisha watoto wetu wanapata elimu. Kwa hivyo, ninaunga mkono Taarifa hii. Taarifa hii itakapoenda katika Kamati ya Elimu, ninatumaini kwamba, watakaa chini na kutafuta njia kwa haraka sana kuhakikisha kwamba, hawa walimu ambao Taarifa yetu imesoma hapa waweze kupandishwa daraja mpaka kule juu.

Asante sana. Ninaunga Taarifa hii mkono.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Asante. Finally, Sen. Sakaja, proceed. Please, let us be quick again.

**Sen. Sakaja:** Madam Temporary Speaker, it is very rare for committee chairpersons to ask for work. I wish this Statement was directed to my committee because this is a labor issue. We have various institutions that think labor laws such as Article 41 of the Constitution, the Employment Act, the Labor Relations Act, the Teachers Service Commission (TSC) Act, and other different legislations are suggestions. They are not suggestions.

I confirm that I responded to the concern that was brought by Sen. (Dr.) Musuruve. I have written to the TSC on behalf of that teacher. It should not be that, for a teacher to get their rights, they need to know someone; that they need to look for their Senator or Member of Parliament (MP) to write a letter.

Madam Temporary Speaker, I really wish that you would direct this to my committee because I really want to deal with those people. I am asking that you give me this. We have county governments that think statutory remittances are an option. We have people who treat our workers so badly and think that they are doing them a favor yet they are giving invaluable service to Kenyans. In as much as Sen. Wambua wants this to go to the Committee on Education, please, give this one to the Committee on Labor and Social Welfare and I will deliver and deal with it within less than two weeks.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Welcome, the Chairperson of the Committee on Education. While you were away, there was a suggestion that the Statement from Sen. Wambua goes to the Committee on Labor and Social Welfare.

The Chairperson of the Committee on Labour and Social Welfare is claiming it 100 per cent; that it is not so much a TSC issue but an employment issue. While you settle down, let me ask Sen. Wambua to make a statement on that variation that has been requested from the Floor and then we conclude because we must go to other business of the House also.

**Sen. Wambua:** Madam Temporary Speaker, thank you. I will stand guided. There is no question that this is a labor issue. It is a labor issue within the education sector. What the principals from Kitui County want is an expeditious resolution to their problem.

If the Chairperson of the Committee on Labor and Social Welfare is so enthusiastic about getting to the bottom of this matter, I will be more than happy to request that we direct that Statement to the Committee on Labor and Social Welfare.

In any case, the Chairperson of the Committee on Education retreated from the Chamber when the Statement was being read. There may be no much interest in him dealing with this matter.

**The Temporary Speaker** (Sen. (Prof.) Kamar): The Chairperson of the Committee on Education, I hope you have read the Statement.

**Sen. (Dr.) Lang'at:** Thank you, Madam Temporary Speaker. First of all, I was not retreating to run away from this particular Statement. I was just going to receive a call. However, I want to say that I think this Statement falls squarely within the Committee on Education. However, because it is a matter also to do with labor, I would like to request that the two committees deal with it together.

**The Temporary Speaker** (Sen. (Prof.) Kamar): I know we have had problems with collaborations on the issue of quorum. The quorum gets lifted and then the Members do not come in. It is true that in this Statement, the first question is about confirmation of deputy principals by TSC. It touches on collective bargaining agreement that swings back to labor.

The teachers have not been confirmed then the salaries of the affected teachers have never been adjusted which goes back to education. If only the two chairpersons could confirm they can work together, it would be very helpful. However, we need to agree on the lead committee.

Yes, Sen. Farhiya.

**Sen. Farhiya:** Madam Temporary Speaker, we have had joint committee meetings. That is a challenge and the matter will fall through the cracks. In my view, this is a labor issue. Let us just take it to the Committee on Labor and Social Welfare.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you very much. So be it. Let us take it to the Committee on Labor and Social Welfare. Sen. Sakaja, we give you 14 days maximum, to get this one back to us. However, please, work with the Committee on Education so that you deal with the TSC issue.

**Sen. Sakaja:** Madam Temporary Speaker, I do not want to seem like I am trying to take work from the Committee on Education. If you look at our Standing Orders---

**The Temporary Speaker** (Sen. (Prof.) Kamar): Order, Sen. Sakaja! It is not about you taking anything. It is about a considered opinion out of contributions from Members. It has nothing to do with you taking anything.

**Sen. Sakaja:** Madam Temporary Speaker, when you spoke, you said whether the chairpersons can work together. I am just responding to that. I have no problem.

**The Temporary Speaker** (Sen. (Prof.) Kamar): No, I have made a ruling that it is in the hands of the Committee on Labor and Social Welfare, but we would like to encourage the Committee on Education to work with you as friends of that committee because we do not want the quorum hitches when we combine committees.

**Sen. Sakaja:** Madam Temporary Speaker, I accept you have made a ruling, but kindly just allow me to finish before you stop me because you have not heard what I am saying.

**The Temporary Speaker** (Sen. (Prof.) Kamar): I do not want to hear you raising issues after I have ruled.

**Sen. Sakaja:** Madam Temporary Speaker, I am not debating your ruling.

**The Temporary Speaker** (Sen. (Prof.) Kamar): So, what is it that you want in addition?

**Sen. Sakaja:** Madam Temporary Speaker, I am affirming your ruling. I am assuring you that in less than 14 days, I will have dealt with it and the Chairperson of the Committee on Education will be invited to my meetings. I will finish it very quickly.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Okay, thank you. That is affirmation.

Next Order.

We go back to Order No. 5.

Proceed, the Senate Majority Leader.

### PAPERS LAID

#### THE RAILWAY CITY DEVELOPMENT AUTHORITY ORDER

**Sen. Dullo:** Thank you, Madam Temporary Speaker. I beg to lay the following Paper on the Table of the Senate today, Tuesday, 26<sup>th</sup> May, 2020.

The Railway City Development Authority Order, Legal Notice No. 88 Of 2020.

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

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. The next Paper to be laid is by the Chairperson of the *Ad-Hoc* Committee on COVID-19 Situation in Kenya.

**Sen. Sakaja:** Thank you, Madam Temporary Speaker. You are ever so gracious. I beg to lay on the Table of the House the following Papers –

#### THE SEVENTH PROGRESS REPORT OF THE AD-HOC COMMITTEE ON COVID-19 SITUATION IN KENYA

#### REPORT ON THE PANDEMIC RESPONSE AND MANAGEMENT BILL (SENATE BILLS NO. 6 OF 2020)

We have taken several concerns from Kenyans and we have proposed very significant amendments. Members will be very well informed if they go through this Report because ideally we are going to the Committee of the Whole House in the afternoon.

Thank you.

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

**The Temporary Speaker** (Sen. (Prof.) Kamar: Thank you, Senator. The Division on the Second Reading of the Pandemic Response and Management Bill (Senate Bills No. 6 of 2020) will be in the afternoon.

Next Order.

Hon. Members, for the convenience of the House, I would like to defer Order Nos. 8, 9, and 10.

### **BILLS**

#### *Second Reading*

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

*(Bill deferred)*

#### *Second Reading*

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

*(Bill deferred)*

#### *Second Reading*

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

*(Bill deferred)*

Next Order.

#### *Second Reading*

THE NATIONAL DROUGHT MANAGEMENT AUTHORITY  
(AMENDMENT) BILL(NATIONAL ASSEMBLY  
BILL No. 6 OF 2019)

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Members, we have consulted on this Bill and I would like to defer it to the afternoon.

*(Bill deferred)*

Next order.

(Second Reading)

THE REPRODUCTIVE HEALTHCARE BILL  
(SENATE BILLS NO. 23 OF 2019)

**Sen. Kihika:** Thank you, Madam Temporary Speaker. Pursuant to the provisions of Standing Order No.141 (1) of the Senate Standing Orders, I beg to move that The Reproductive Healthcare Bill (Senate Bills No.23 of 2019) be read a Second Time.

This Bill seeks to ensure that each level of Government prioritizes reproductive health by imposing obligations on them to ensure the availability of reproductive healthcare services, including requiring them to provide adequate financial resources in their respective budgets to meet the obligations.

Article 43(1) (a) of the Constitution of Kenya guarantees every person the right to the highest attainable standard of health, including the right to reproductive healthcare.

Part 2 of the Fourth Schedule to the Constitution, as read together with the First Schedule to the Health Act, further obligates county governments to manage health delivery at Level 1 through Level 5 hospitals.

Although Section 6 of the Health Act (2017) provides that every person has the right to reproductive healthcare, the following gaps have been observed.

(1) The roles of the county government *vis-à-vis* those of the national Government with regard to provision of reproductive healthcare are not well defined; a situation that has resulted in inadequate resourcing of reproductive healthcare by either level of government.

(2) The country is yet to establish a legislative framework to regulate assisted reproductive health services.

(3) There is need to protect the rights of persons of child-bearing age by outlawing sterilization of persons without prior consent of parents.

(4) There is need to establish a framework through which adolescents can receive age appropriate reproductive healthcare services.

(5) There is also need to crystalize the gains of the Executive Order that led to issuing of free maternal health to ensure the continued gains in respect to the improved maternal mortality ratio.

Madam Temporary Speaker, by virtue of Article 2 of the Constitution, Kenya is obligated to ensure adherence to international treaties that she has assented to. Kenya assented to the International Covenant on Economic, Social and Cultural Rights in 1972 and the Convention of the Elimination of all forms of Discrimination Against Women (CEDAW) in 1984.

Both conventions obligate the partner states to ensure physical and mental health to its citizens, access to specific education information to help ensure the health and wellbeing of families and access to adequate healthcare facilities, including information, counselling, and services in family planning.

Madam Temporary Speaker, Kenya has committed to the Agenda for Sustainable Development. In particular, Kenya has committed to target goal No.3.7 and undergo goal No.3 to good health and wellbeing. In this regard, Kenya has pledged to ensure that by

2030, she will ensure universal access to sexual and reproductive healthcare services, including family planning, information and education, and the integration of reproductive health into national strategies and programmes.

Kenya has also committed to target goal No.5.6 and undergo goal No.5 to gender equality. In this regard, Kenya has pledged to ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the programme of action of the International Conference on Population and Development, the Beijing Platform for Action and the outcome documents of review conferences.

Madam Temporary Speaker, to highlight some of the provisions of the Bill, Clause 4 sets out obligations of the national Government to include-

(b) provision of necessary resources for productive health healthcare services in national referral hospitals;

(c) collaboration with county governments in expanding and strengthening the delivery of reproductive healthcare services in the respective counties.

(d) formulation and implementation of a comprehensive national strategy and plan of action to promote the realization of the right to reproductive health care, including provision of adolescent friendly reproductive healthcare services.

Under Clause 5, county governments are required to *inter alia*-

(b) allocate, in the county budget, the funds necessary for the provision of reproductive healthcare in the county health system;

(d) facilitate access to reproductive health services;

(e) undertake, at such intervals as the respective county executive committee member shall determine necessary, an assessment of the reproductive health needs and gaps in the county and formulate and implement strategies to address the said needs and gaps for the full realization of the reproductive health needs in the county;

(f) formulate and implement county specific strategies and programmes to inform persons of reproductive age of their right to access reproductive healthcare services;

(g) provide age and development appropriate reproductive health services in the county health system and facilitate access to confidential, comprehensive, and non-judgmental reproductive health services by such persons;

Madam Temporary Speaker, Clauses 6 and 7 of the Bill seeks to ensure that -

“The National and county governments shall put in place mechanisms to facilitate access to family planning services and counselling services”.

According to the 2014 Kenya Demographic and Health Survey, births per woman have continued to decrease from 8.1 births in 1977 to 3.9 births in 2014.

According to various newspaper reports, infertility in Kenya is on the increase and is possibly one of the reasons for the reduced fertility rate. Moreover, some reports show that women who have been diagnosed with infertility face stigma and increased risk of gender-based violence.

For this reason, it is important for the country to have in place mechanisms to assist such women and families who would still like to have children.

It is in this regard that Clause 9 of the Bill seeks to ensure collaboration between the national Government and county governments to provide affordable, accessible and acceptable and quality assisted reproduction services.

Clause 9(4) states that:-

“An assisted reproduction health care provider shall before commencing the provision of assisted reproduction treatment —

(a) provide all concerned parties with the information necessary to enable them make an informed choice and give informed consent, and in particular, information on-

- (i) the various assisted reproduction methods available;
- (ii) the chances of success of the various options;
- (iii) the advantages, disadvantages and the risk of the various options; and,
- (iv) the cost of treatment and the facilities where the treatment options are available”

Madam Temporary Speaker, in order to safeguard the parties who wish to undertake assisted reproduction, Clause 14 provides for surrogate parenthood agreement.

The clause provides that the agreement must be in writing and include adequate provisions on the contact, care, upbringing and general welfare of the child that is to be born.

The child’s position in the event of death-

- (i) death of the commissioning parents, or if married, the death of one or both of the commissioning parents before the birth of the child; or
- (ii) separation or divorce of commissioning parents who were married before the birth of the child.

Madam Temporary Speaker, further in order to protect the interest of the child that results from assisted reproduction, the Bill requires that a commissioning parent or commissioning parents, as the case may be, should –

- (i) have attained the age of 25 years and should not be above the age of 55 years;
- (ii) the commissioning parent or commissioning parents should be suitable to accept the parenthood of the child that is to be conceived;
- (iii) understands and accepts the legal consequences of the agreement and the rights and obligations arising therefrom.

Madam Temporary Speaker, the clause also sets out the surrogate mother should-

- (i) be above the age of 21 years;
- (ii) understands and accepts the legal consequences of the agreements, her rights and obligations thereof.

**Sen. Madzayo:** Hoja ya nidhamu Bi. Spika wa Muda.

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

**Sen. Madzayo:** Singependa kumwingilia dada yangu Sen. Kihika katika Mswada wake ambao ni muhimu sana. Lakini, nilikuwa naomba ungefanye uamuzi. Kuna Seneta wengi hivi sana, zaidi ya saba ambao wako katika ukumbi ule uko nje. Hapa ndani tukiangalia, kuna nafasi nyingi ambazo wanaweza kuja wakakaa hapa, kwa upande huu an upande ule.

Je, ni haki ikiwa wale Seneta wataketi kule ilhali nafasi iko ndani ya Chumba cha Seneti? Badala ya kuenda na *list*, kama mtu amechelewa, hata kama nusu saa, badala ya wengine kuketi kule na nafasi ziko hapa ndani ya Chumba cha Seneti, ingekuwa bora

ikiwa wewe ungeweza kutoa uamuzi na kusema kwamba wale waliochelewa wataketi kule na wale ambao wako ndani, wameshafika na wako kwenye ukumbi, waje waingie ndani ya Bunge la Seneti.

Asante, Bi. Spika wa Muda. Kama unaweza kunifanyia uamuzi, ningeshukuru sana.

**The Temporary Speaker** (Sen. (Prof.) Kamar: *Asante Seneta*. The protocol that we have received denies us that opportunity. This is because *kama Seneta amekalia kiti, mwengine hawezi akakalia kitu hicho* for the day. We are protecting ourselves. *Ndio maana Spika anakaa hapa* for two and half hours, *vile nimekaa*.

*Kwa hivyo, ni sababu ya health protocol. Tunajua wengine wameenda chai na wanarudi.*

I want to encourage the Members who are in the “extension” to be patient. When they want to contribute, we will still ensure that they contribute. The problem is the protocol. We do not want to share seats. Once you have sat in a place, nobody else should sit on your chair for that session. So, for the Morning Session, where you are, sit there and you will sit there in the Afternoon Session.

If only Members who have been delayed could inform us early enough that they will not be in for the Session, then we can bring other Members in. once they come in, they do not go back to sit on the other seats. It is the protocol that we have from the Ministry of Health which all of us must obey.

Sen. Kihika, please continue.

**Sen. Kihika:** Thank you, Madam Temporary Speaker. Clause 18 of the Bill sets out the conditions under which the surrogate parenthood agreement may be terminated.

Clause 21 of the Bill seeks to ensure that-

(a) the commissioning parents or commissioning parents are named as the parents of the child in the birth notification, certificates and any other official document that requires the names of the parents of the child.

(b) the provisions seek to ensure that the child acquires the citizenship of the commissioning parents.

Furthermore, the provisions seek to ensure that the child acquires the citizenship of the commissioning parent or parents.

Clause 39 of the Bill seeks to amend the Births and Deaths Registration Act in order to ensure that children born through the surrogacy agreement are registered as children of the commissioning parent or parents.

Madam Temporary Speaker, in July 2013, the Government committed to fund a free maternal healthcare programme. As a result, more women were able to access the services of skilled health providers. This could be one of the reasons the maternal mortality ratio decreased to 362 deaths per 100,000 live births in 2014 from 488 maternal deaths per 100,000 live births in 2008.

In a bid to crystallise the gains of the free maternity programme, the Bill under Clause 24, provides that the national Government and county governments collaborate to provide free antenatal care delivery services and postpartum care in all healthcare facilities in the national health system.

A review of the concluding observations on the Second Periodic Report of Kenya adopted by the Committee at its 50<sup>th</sup> Session that was on 6<sup>th</sup> to 31<sup>st</sup> May 2013, shows that the Committee Against Torture raised concerns on the occurrences of forced and coerced sterilisation of HIV/AIDS positive women and women with disability.

The Committee urged the State to strengthen its efforts to investigate the allegations of involuntary sterilisation or other harmful practices in connection with reproductive health, and identify and punish those involved in such practices.

Further, the Committee on the Elimination of Discrimination Against Women raised issue with the failure to protect the health, sexual and reproductive right of women with disabilities, including the practice of forced sterilisation.

The Committee recommended that the State should protect the rights of women and girls with disabilities, ensuring that they have equal access to *inter alia*, healthcare and other basic services; protect women and girls with disabilities from all forms of violence and ensure that the perpetrators are prosecuted and adequately punished; and, abolish the practice of sterilising women and girls with disabilities by force and provide remedies for the victims.

On the Committee on Elimination of Discrimination against Women in their concluding observations in consideration of the issues raised by the Committee; Clause 25 of the Bill seeks to ensure that a sterilisation procedure is not carried out without a written consent from the patient. A health professional who carries out a sterilisation in contravention of the provisions of the Bill shall be guilty of an offence and be liable to five years imprisonment or a fine of Kshs2 million, or both.

Madam Temporary Speaker, Clause 28 of the Bill states that before termination of a pregnancy under the Act, informed consent must be sought from the pregnant women, the guardian of a minor who is pregnant or the person with mental illness or a supporter or representative of the person with mental illness, where the person with mental illness is not able to give consent.

Clause 32 of the Bill seeks to ensure that the national Government collaborates with the county governments to ensure that adolescents have access to adolescent friendly reproductive healthcare services that should be age appropriate.

The clause lists adolescent friendly reproductive health services to include among other things; age appropriate mentorship; spiritual and moral guidance; counselling on abstinence; safe abortion and Sexually Transmitted Infections (STIs); vocational training; and, training in livelihood and life skills.

Further, Clause 33 of the Bill seeks to ensure that the health professional obtains parental consent for adolescents aged below 18 years before giving adolescent friendly reproductive health services.

With those few remarks, I beg to move and call upon Sen. (Dr.) Musuruve to second.

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

Sen. (Dr.) Musuruve, proceed.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for giving me a chance to second the Bill that has been brought to the Floor of this House by Sen. Kihika.

There are many issues in our society affecting women and young girls. We read in the newspapers cases where teenage and adolescent girls are impregnated. We hear of fetuses being thrown into toilets by the young mothers. Last week, I saw in the media a mother who had thrown her baby into a pit latrine. There are several cases of babies stolen from hospitals. Sometimes medics have colluded in such heinous arrangements. Further, we have read real cases where husband and wife partying ways simply because they do not have a child.

Most of those issues are now being addressed in this Bill. I congratulate Sen. Kihika for coming up with such a noble Bill. The Bill will minimise issues of couples separating for not having children and adolescents being cajoled into getting pregnant, not knowing what to do and then end up throwing away their babies because of lack of knowledge.

Madam Temporary Speaker, if this Bill can be implemented, we will reduce such cases. It will also reduce cases where you find women with disabilities are raped and get babies without their consent and do not know what to do with them or where to go. This Bill is addressing such issues.

Kenya, among other African nations, signed the Abuja Declaration of 2001. African governments asserted and agreed that they will put aside 15 per cent of the national revenue into health improvement. Kenya being a signatory is mandated by international laws to ensure they honour the Abuja Declaration. What Kenya signed in the Abuja Declaration 2001 will cascade to county governments. This is because they have also been mandated by this Bill to ensure they take reproductive healthcare as an issue of great concern.

This Bill also comes in handy to putting into effect Article 43(1)(a) of the Constitution that says that everyone has a right to the highest attainable standards of health. So, if it is implemented, we are going to defend our Constitution in terms of service delivery to everyone even to the counties. That is our mandate as a Senate.

Madam Temporary Speaker, the objects of this Bill are very clear in terms of provision of the right to the highest standards of reproductive healthcare, provide the right to make decisions with regards to reproductive healthcare and for connected purposes. When it comes to reproductive healthcare not many people, especially young girls, are aware about their reproductive system. They do not understand themselves and sometimes they get into problems because they do not know that they have a right to reproductive healthcare.

This Bill is actually seeking to reduce mortality and morbidity rates in the country. If this Bill takes effect, then we are going to have very few cases of women dying during childbirth or giving birth to severely disabled children and who cannot survive out of the womb. Therefore, if it is followed to the letter, we will avoid such scenarios.

It is the obligation of the national Government to implement this Bill because health is one its Big Four Agenda. We are in support of the Big Four Agenda, but it cannot be implemented without resources. Resources have to be set aside and taken to the counties.

The Bill talks about having referral hospitals for maternal healthcare. This maternal healthcare needs to cascade also to the counties such that we also have referral hospitals in the counties. We should ensure that it sees the light of the day.

The Bill comes out clearly to say that both the national Government and county governments should engage in research. Research is very important. There is need to do research to find out why mothers die while giving birth and why we are having teenage pregnancies. The “why” questions and gaps can be answered by the ongoing research. Research identifies the gap areas and proposes remedies to the existing problems.

Even as we are talking about reproductive health, research and innovative way, there is need to work closely with universities in the area of research. The Government should fund universities and students to carry out research in this area with an aim of arresting the existing gap areas.

There is need for county governments according to this Bill to sensitize families on family planning because there are some people who may not be aware of family planning. Sensitization on family planning will also help in reducing population in the country. The county governments need to set aside money in their annual budgets for the purpose of ensuring maternal health care and creating awareness on maternal healthcare. There is also need to mobilize resources.

Healthcare is important because when citizens are not healthy, they cannot be productive. Everyone needs to be healthy in order to move on as a country. The role that women play in this country from the early age as a girl through adolescence and to womanhood cannot be ignored. So, there is need to ensure that they are being taken care of from an early age, adolescence stage and---

### ADJOURNMENT

**The Temporary Speaker** (Sen. (Prof.) Kamar): Order! Hon. Senators, time is up. This brings us to the end of our morning sitting. Sen. (Dr.) Musuruve, you have a balance of 10 minutes to continue seconding when we come back in the afternoon.

Hon. Senators, it is now time to adjourn the business of the House. The House, therefore, stands adjourned until today, Tuesday, 26<sup>th</sup> May, 2020, at 2.30 p.m.

The Senate rose at 12.30 p.m.