

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Tuesday, 23<sup>rd</sup> June, 2020 - Afternoon Sitting**

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

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

**PRAYER****PETITION****IRREGULAR PURCHASE OF NATIONAL BANK OF KENYA  
BUILDING BY UASIN GISHU COUNTY EXECUTIVE**

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, the first petition is mine. However, since I am on the Chair, it will reappear on the Order Paper tomorrow.

*(Petition deferred)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, the second Petition is by Sen. Mwaura---

**Sen. Khaniri:** On a point of order, Madam Deputy Speaker. We are unable to access our Order Papers. It is very difficult for us to follow what is happening. The Order Paper is inaccessible online. Can the Clerk-at-Table give us hard copies?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I urge you to be a little bit more patient. I am told there were last minute changes to the Order Paper, but it will be made accessible to you shortly. If there is delay for more than five minutes, I will instruct that hard copies of the Order Paper be circulated to you.

*(The Deputy Speaker consulted the Clerk-at-the-Table)*

I am informed that the Supplementary Order Papers is available online. Kindly refresh your tablets to access it.

Let us move on to the next Order.

**NOTICE OF MOTION**

## ALTERATION OF THE SENATE CALENDAR

**Sen. Dullo:** Madam Deputy Speaker, I beg to give Notice of the following Motion, today, Tuesday 23<sup>rd</sup> June, 2020.

THAT, notwithstanding the Senate Resolutions made on 27<sup>th</sup> February, 2020 (approval of Senate Calendar), 17<sup>th</sup> March, 2020, 14<sup>th</sup> April, 2020, 2<sup>nd</sup> June, 2020 and 16<sup>th</sup> June, 2020 (alteration of the Senate Calendar) the Senate, pursuant to Standing Order 29 (4) and 31 (3) (b) now resolves to hold a Sitting on Wednesday, 24<sup>th</sup> June, 2020 in the afternoon from 2.30 pm and thereafter proceed on recess and resume Sittings on Tuesday, 7<sup>th</sup> July, 2020.

I thank you.

**The Deputy Speaker** (Sen.(Prof.) Kamar): Let us move on to the next Order.

**STATEMENTS**

Hon. Senators, I will read out the Statements under Standing Order No.48(1). Some of the Members may be out in the extended Chamber.

ROLE OF NHIF IN COVID-19 TESTING FOR HOTEL AND  
RESTAURANT STAFF IN THE COUNTRY

The first Statement is by the Senator of Kakamega County.

**An hon. Member:** He is still in the Impeachment Committee meeting!

**The Deputy Speaker**(Sen.(Prof.) Kamar): Okay, if he still out there, we expect him.

*(Statement deferred)*

Let us move on to the next One by Sen. Halake.

STATUS OF AUTOMATION OF LAND REGISTRIES  
AND GENERAL LAND RECORDS

I hear the Special Committee on Impeachment is still running. So, we will conveniently skip Sen. Halake's Statement.

*(Statement deferred)*

The next Statement is by the Senator for Migori, Sen. (Dr.) Ochillo- Ayacko. Maybe you need to come forward because of your microphone.

INTERVENTIONS BY THE GOVERNMENT  
TO SAVE PUBLIC-OWNED SUGAR MILLS

**Sen. (Dr.) Ochillo- Ayacko:** Thank you, Madam Deputy Speaker. I rise to seek a Statement from the Committee on Budget and Finance regarding the interventions by the Government towards rescuing public-owned sugar mills.

In that Statement, I would like the Committee to state-

(1) How much has been set aside to pay the employees of Sony Sugar Company (SSC) who have not earned their salaries and allowances from March last year to date, the statutory deductions and any benefits that these employees are entitled to?

(2) State when and how much has been set aside to pay farmers who have supplied sugarcane to Sony Sugar Company and have not been paid from March last year to date. Those farmers continue to suffer and they need that pay urgently.

(3) State how much has been set aside to pay other suppliers who have not been paid since March last year. All these payments have not been made to the employees, farmers and other suppliers since March last year. It would be important for the Committee to give us the exact figure in terms of what the Government has set aside to pay these people.

(4) State the sort of fiscal budgetary interventions that have been put in place to rescue these public-owned mills. How much has the Government set aside to ensure that the operations, maintenance and continued running of these public-owned mills go on? How much has the Government set aside so that they do not grind to a halt?

Thank you, Madam Deputy Speaker.

**Sen. Olekina:** Thank you, Madam Deputy Speaker. I rise to support that Statement. As a Kenyan who serves in all different capacities, also as a businessman, I find it a little bit confusing and disturbing that all public institutions which are run like businesses can never be managed effectively.

When you commit that Statement to a Committee, I would like the Committee to go to the extent of analyzing the financial status of those companies and making sure that at least somebody is held accountable. When I hear my good friend Sen. (Dr.) Ochillo-Ayacko asking how much money has been set aside by the Government to pay those employees, it begs a lot of questions. Why is it that the Government has always got to set aside money to pay publicly run enterprises which buy and sell? They get money and they sell!

When you go to a supermarket you will find sugar which people consume that comes from these public mills. I think the issue here is that we depend so much on the Government. We push the Government to a great extent, yet the people who are appointed to run those institutions are the ones who are causing problems to the public.

Madam Deputy Speaker, although I support this Statement, it should be changed to holding those people accountable. It does not matter how long those people who will be investigating will go back, to ensure that if a company is run and it is given money by the Government why is it that every time when it is being rescued, more money has got to be set aside? I do not think the Government should be setting any money aside. We should follow those individuals who run down those companies.

I am very happy to see what the Director of Public Prosecutions(DPP) is doing because today he is going after those individuals who stole about Kshs198 million from the Kenya School of Law (KSL). We should not be pushing the Government even during this period of the COVI-19 to ask them how much money they have set aside. Let us follow those managing those funds and makes sure that whatever assets they have acquired illegally are sold, so that the money is used to pay those people who have not been paid.

I support the Statement, but wish that some of the requests that Sen.(Dr.) Ochillo-Ayacko has put in can be changed to include following up those people who are misusing those funds.

**Sen. Wetangula:** Thank you, Madam Deputy Speaker. I support the Statement by the distinguished Senator for Migori County. In addition to what he has asked, the Committee should also bring to this House the outcome of the taskforce that was set up by the President to look into the woes of the sugar industry that was co-chaired by the Governor of Kakamega County and the Cabinet Secretary (CS) for Agriculture.

Equally important, and Sen.(Prof.) Ongeru can bear me out on this, in 2012, the Cabinet of former President Kibaki approved and wrote off all outstanding public debts to sugar factories in this country. That Cabinet approval was brought to Parliament by way of a Motion by the then Minister for Finance, Hon. Robinson Githae. Parliament approved that debt write-off. To date, the sugar factories still have those debts that were written off by both Parliament and the Cabinet in their books continuing to accrue interest and weighing down very heavily on the value of their assets.

I was amused to hear yesterday the Governor of Kakamega County, who co-chaired the taskforce, is running all over playing politics with the outcome of that taskforce and promising Members of the County Assembly (MCAs) that if they tow his line, he will waive the debts owed by the sugar factories, an authority that he does not have.

Can the Committee look into this? In addition to what the distinguished Senator for Narok County said, probity, accountability and transparent management of public resources is very important. That must be looked at.

The institutions of governance in the country must also look at how public enterprises in which money from the tax payer is sunk every other time are run, so that we do not have public enterprises being gravy trains for individuals against whom no action is taken.

Thank you, Madam Deputy Speaker.

**Sen (Dr.) Musuruve:** Thank you, Madam Deputy Speaker, for giving me an opportunity to support this Statement. I want to commend Sen. (Dr.) Ochillo-Ayacko for coming up with this Statement.

Indeed, it is really frustrating to render a service with all your energy for quite a number of hours, days, weeks and months and then you do not get anything out of it. It is unfortunate that these workers have not been paid since March. They have basic needs, families, school fees and health problems. They have already rendered services, but have nothing to show for it.

In as much as Sen. (Dr.) Ochillo-Ayacko is seeking to ask how much the Government has given, how much is not really important. However, even the amount that

has been given, can it be authenticated? What exactly has the money been spent on? Has it reached the recipients that it was intended for? If the money has not reached the recipients then the taxpayers money has been used wrongfully; it does not matter if it a shilling, two or so.

Some of these people are servicing loans and yet they have no salary. They have so many issues that they need to tackle. There is need for the Committee that is going to deal with this Statement to ensure that an indepth investigation is done, so that we get to know if there is any money that has been given by the Government to be paid to workers, who exactly got the money and why were the workers not paid? What action should be taken? We need to know that there will be justice for this people who provided services.

Thank you, Madam Deputy Speaker, for giving me the opportunity. I support the Statement.

**Sen. (Prof.) Ongeri:** Thank you, Madam Deputy Speaker, for giving me this opportunity to also weigh in on a very important subject raised by my colleague, Sen. (Dr.) Ochillo-Ayacko.

We all know that there are about 12 cash-crops in this country ranging from tea, flowers, wheat, cotton, maize, bananas, coffee, pyrethrum and sugarcane. When these crops do not find a convenient way of farmers being paid, there is tremendous loss in the input of farmers because these are small scale holders who have taken everything that they have from their *shamba* or garden or from small rural plots to the sugar factories. As a result of inefficiencies in the sugar factories, farmers get stranded and they have nothing to get out of the factories.

Secondly, one of the other areas is that the workers within the sugar factory itself are also not paid their salaries or statutory deductions and other allowances that go along with it. Consequently, the factory grinds to a halt causing an economic collapse in that region. There are only regions where you can only grow sugarcane and there are not many other regions within the country of Kenya.

Madam Deputy Speaker, it is, therefore, important to get down to the bottom of all these things. Like Sen. Wetangula said, some of these factories had been supported, economically lifted by the Government at least from 2007 to 2013. The Grand Coalition Government gave them a very big boost. I do not know what happened again that they have not been able to stand to the interest of the farmer, particularly, the small-scale farmer.

Therefore, I support this Statement and we should now look how these companies operate. The chief executives who may not be equal to the task should be taken to task.

**Sen. Cheruiyot:** Thank you, Madam Deputy Speaker; this is a very important issue that has been brought before this House. It is not the first time in this Session that we are speaking about the plight of sugarcane farmers.

As a representative of farmers in this House, I share in the concerns of the Senators who have spoken to this issue and the fact that the Government has not been forthright and forthcoming with regards to how the challenges that are facing the sugarcane industry will be addressed.

Public owned companies are mismanaging this country. It is on a completely different pedestal when you mismanage resources that were meant to pay people who directly supplied crop to a particular factory.

In my county, on the boundary between us and Kisumu, and I know that Sen. Rose Nyamunga knows this very well, we have Muhoroni Sugar Factory, which continues to face the kinds of challenges that are being spoken here by colleagues, Senators. Many of the times when the Government releases funds to pay farmers, farmers hardly ever receive their pay and even after they have supplied, they must at least know one or two people within the management of the factory or someone in the Ministry of Agriculture, Livestock and Fisheries for them to get what is rightfully theirs.

You can imagine, that you toil as a farmer, ensure that you have a good crop, cut it and deliver to the factory, but to be paid is a big challenge. Therefore, I want to propose that the Committee on Agriculture, Livestock and Fisheries, which is seized of two or three Petitions with regards to sugar cane--- The other day, they had a Petition about Kibos Sugar Factory (KSF), where someone was using Government entities. The National Environment Management Authority (NEMA) was being used to fight private business wars and they had shut down that factory. The truth of the matter is that with the failing practices of public owned sugarcane factories, our farmers resort to some of these well-run public entities like Kibos Sugar Factory. However, for reasons that are based on to some of the entrepreneurs that have got good networks in the Government of Kenya, the factories that consider citizens and treat them with the dignity that they deserve are not well taken care of.

Therefore, I propose that the Committee on Agriculture, Livestock and Fisheries do not just do small hurried reports hoping that they can be able to scrap away with the issues that have been proposed, but they should give us a unified Report of what is the status of the sugar industry in this country. Is it worth it to continue telling our farmers to plant sugarcane and that we are going to sort out this problem for them?

Everybody consumes sugar at least in one form or the other and, therefore, it is not for lack of opportunities or places to sell their produce that these farmers continue to suffer, but because of a Government that has refused to listen to the plight of sugarcane farmers. I know that Members of the Committee on Agriculture, Livestock and Fisheries, when they retire to consider this Statement, alongside others issues which have been mentioned, they will give us a way forward. They will also provide a proposal so that we invite those representatives from various Government agencies to come to this House and demand from them that sugarcane farmers are farmers like those of tea and coffee whom we continue to hear about their plight year in, year out. Sugarcane farmers deserve to be treated with respect too.

Thank you.

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

The next Statement is by Sen. Malalah. We will defer it because he is in the Committee on Impeachment.

PROPOSED INCREASE OF EXCISE DUTY ON BEER  
MADE FROM SORGHUM, MILLET AND CASSAVA

*(Statement deferred)*

The next one is by Sen. (Dr.) Ochillo-Ayacko, again. Proceed.

STATUS OF PROJECT FUNDING AND  
IMPLEMENTATION IN MIGORI COUNTY

**Sen. (Dr.) Ochillo-Ayacko:** Thank you, Madam Deputy Speaker. I rise under Standing Order No.48(1) to seek a Statement from the Committee on Devolution and Intergovernmental Relations concerning the status of projects funded and implemented regarding Rongo Township, Awendo Township and Migori Municipality.

In the Statement, the Committee should –

(1) Explain clearly how much money came from the Ministry of Devolution and Planning and related partners to fund development projects in Rongo Township, Awendo Township and Migori Municipality.

(2) State which projects were implemented under that funding and the state of implementation to date.

(3) Explain how much additional funding is expected regarding these projects, so that it is clear and also known to all of us.

(4) Explain when we will have Kehancha Municipal Council because we had it before devolution, but it disappeared. When will we have it so that there is sharing of funding projects across the entire Migori County in an equitable manner for all communities to benefit?

**Sen. Murkomen:** On a point of order, Madam Deputy Speaker.

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

**Sen. Murkomen:** Madam Deputy Speaker, I do not know how such a question is treated because I can get from Sen. (Dr.) Ochillo-Ayacko some of the issues relate to the national Government. However, the question of municipality and all that is defined in law, unless, of course, the Committee would investigate and respond to that, particularly when it is a county that has to make that decision. Anyway, let me withdraw my point of order and leave it to the Committee.

**The Deputy Speaker** (Sen. (Prof.) Kamar): We have corrected it. Since it is going to the Committee, the Committee will advise us when it comes.

Sen. (Dr.) Musuruve, proceed.

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker, for giving the opportunity to air my views on this Statement. The issue that Sen. (Dr.) Ochillo-Ayacko has raised is one that cuts across many counties. Sometimes you find a project is started, but cannot be completed in one financial year. In the next financial year, money is also given out for the same project.

Giving money and grants should be pegged on the outcome, which should be tangible and corroborate the amount of money that has been set aside for a project. If money is set aside and at the end of the day there is no project that can be seen from the money that has been sent, then there was no need of sending the money.

There is need for in-depth oversight of whatever monies go to counties for a project. There is need for a committee to scrutinize and see that money sent to counties is used for the purpose it is intended for, for the sake of ensuring service delivery for wananchi.

I support this Statement, and it should go to the right Committee. The Committee should go there physically to see that the amount of money that was sent corroborates with whatever is tangible in the area.

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

For avoidance of doubt, the first Statement requested by Sen. (Dr.) Ochillo-Ayacko stands committed to the Committee on Finance and Budget.

The second Statement concerning the status of project funding, which we have just dealt with, stands committed to the Committee on Devolution and Intergovernmental Relations.

The next Statement is by the Senator for Taita/Taveta County, Sen. Mwaruma.

**Sen. Mwaruma:** Thank you, Madam Deputy Speaker. I have three Statements. Allow me to go through all of them at once.

USE OF FUNDS BY TAITA/TAVETA COUNTY GOVERNMENT  
TO MANAGE THE COVID-19 PANDEMIC

Madam Deputy Speaker, I rise, pursuant to Standing Order No. 48 (1), rise to seek a Statement from the *Ad-hoc* Committee on the COVID-19 Situation in Kenya, concerning the usage of funds by the Taita/Taveta County Government, to manage the Covid-19 Pandemic.

In the Statement, the Committee should-

(1) Table in the Senate an itemized budget of the Taita/Taveta County Government for the fight against COVID-19 Pandemic in the county, indicating the source of the funds. This is given that some funds are coming from the county and some from the national Government COVID-19 response team;

(2) Provide documentation relating to the tendering process, including the actual dates and the list of beneficiaries of such tenders;

(3) Provide a list of all the suppliers, indicating the directors and the addressees of the respective companies contracted, services rendered and the amount paid; and,

(4) State the number of beds isolated in readiness for admission of COVID-19 patients in the county, indicating their location.

Thank you.

Madam Deputy Speaker, the next Statement---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senator, I would rather we clear that one before you move to the next Statement.

I see Sen. (Dr.) Musuruve is ready. I would also want the Chairperson of the Committee on COVID-19 Situation in Kenya to say something, because I think he made a very generous offer this morning to the extent that you many want your question answered right in Taita/Taveta County. This is because if they are open to visit your county, you may wish to. However, I am not trying to direct how he will answer that.

Sen. (Dr.) Musuruve, proceed.

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker, for the opportunity. I would like to comment on the Statement by Sen. Mwaruma. Indeed, it is an important Statement that needs to be through.



Since COVID-19 started and interventions began in counties, it is painful to find that sometimes even items that can be made by local communities like masks are procured outside the county. If we want to ensure communities are engaging with COVID-19 and raising awareness, we need to bring these communities on board. That way, when it even comes to procuring these items, let them also procure what they are able to make.

I have seen quite a number of people and even Persons with Disabilities (PwDs) making masks, but no one to sell to. This is an opportunity for us to buy Kenyan because when we buy Kenyan, we support Kenyans. Sometimes we import things that we are able to make locally.

There is need for counties to ensure that they are giving an opportunity to youth, women and PwDs who can give these services. When they offer the services, they should be paid promptly. If we want to be successful, we must involve the common man in all our agenda. Eventually, we will be successful as a country.

I support this Statement by Sen. Mwaruma. Let us promote Kenya by buying goods manufactured locally. We can only import what we are not able to manufacture in the country.

Let us involve women, PwDs and the youth to distribute grants equitably. There are some people who are idle out there and yet they have talents. Let us tap and nurture the talents of Kenyans.

I thank you, Madam Deputy Speaker.

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

**Sen. Olekina:** Madam Deputy Speaker, I thank you. I rise to support this Statement, but all this goes back to the issue of accountability that we discussed this afternoon. When I read this Statement by Sen. Mwaruma, in between the lines, there are a lot of things which are hidden. The Senator is asking the Chairperson of the *Ad hoc* Committee COVID-19 to provide a list of suppliers, names of the directors and the addresses of the respective companies involved in the distribution of grants. He is also asking for a CR12, so that we know who is using this money. It is a pity that some people want to misappropriate these funds when people are dying. We are supposed to help our people, but others are using it to line their pockets.

Madam Deputy Speaker, this is a very important Statement. I wonder whether the Committee should only concentrate on the money allocated to county governments and not the entire COVID-19 pandemic fund. There is a lot of money involved in fighting this pandemic. Where is this money? We are not seeing these billions supporting poor people in this country.

Madam Deputy Speaker, today in the newspapers, the Cabinet Secretary, Hon. Mutahi Kagwe, whom I respect very much, was captured saying that he will dismantle the cartels in Afya House. One thing that really pains me is that even the masks which were donated to us by Jack Ma have been stolen.

Sen. Sakaja, you have a lot of work. However, I wonder whether the CR12 asked by Sen. Mwaruma will help you. I hope after the Statement has been issued, he will follow up with the Ethics and Anti-Corruption Commission (EACC), or to the Directorate of Public Prosecutions (DPP). If these things are not going to the counties,

where are they going? That is why sometimes some of us used to say that there is no COVID-19. It is just a scheme for people to make money and line their pockets. If money has been donated by Kenyans or other well-wishers around the world to help people stay healthy, it is evil when others mismanage it.

Madam Deputy Speaker, I hope that the good Chairman, the distinguished Senator of the people of Nairobi City County will not answer us this afternoon. We do not want an answer this afternoon. Let him go down there. I am sure all of us will be very happy to get the responses from Taita/Taveta, then we can look at our counties as well.

I thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar: Thank you, Sen. Olekina. Sen. (Dr.) Ochillo-Ayacko, kindly, proceed.

**Sen. (Dr.) Ochillo-Ayacko:** Thank you, Madam Deputy Speaker, this is an issue that must be taken seriously. A lot of money is being devolved ostensibly to fight COVID-19. COVID-19 may be an excuse to misappropriate this money. I support the concerns raised by Sen. Mwaruma, that there is a need to cause county governments, that have been allocated money to fight COVID-19, to show how they are doing it, with whom they are doing it and the processes that have been put in place.

Madam Deputy Speaker, more importantly, the Committee to which this matter is being referred should to tell the House and every Member of this House the systems that have been put in place to ensure that public funds raised from citizens, the National Treasury or county treasuries is not susceptible to being looted and stolen. This is because every county that is represented here is exposed to the same risk.

I want the Committee to which this matter will be referred to come up with an explanation and an indication that there are systems in place to ensure the billions of shillings that go to counties to fight COVID-19 are not exposed to people who are likely to misuse, abuse and, perhaps fail to achieve the objective and the intention for which this money was released.

Otherwise, this is a very good Statement that is worthy of support. I support and congratulate Sen. Mwaruma for raising these concerns.

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

**Sen. Faki:** Asante, Bi. Naibu Spika, kwa kunipa fursa hii kuchangia Arifa iliyoulizwa na Seneta wa Taita/Taveta kuhusiana na pesa zinazotolewa kwa maswala ya kupambana na ugonjwa wa Korona.

Bi. Naibu Spika, wiki mbili zilizopita, tulibahatika pamoja na Kamati ya COVID-19 kusafiri Kaunti ya Isiolo kwa minajili ya kuona jinsi wamejitayarisha kupambana na janga hili. Jambo la kusikitisha ni kwamba hata Ofisi ya Gavana ilikuwa haina nafasi ya kuweza kutu pokea kama Maseneta ambao tulikuwa huko hususani kuanaglia ile miradi ya kaunti kuhusiana na maswala ya Korona.

Bi. Naibu Spika, tulipelekwa katika *police pavilion* ambayo ndugu yetu Sen. Linturi alikuwa akitembelea zamani wakati alipokuwa kijana akijivinjari. Hapo ndipo tuliwekwa kunzungumzia maswala muhimu ya Korona.

Huo ni mfano wa kaunti moja tuu ambayo tulizuru kama Kamati. Inamaanisha kwamba mambo mengi ambayo tunaona katika vyombo vya habari kwamba vifaa

vinanunuliwa, wananchi wanapewa barakoa na kadhalika. Hizi zote ni vitu za kuonyesha tu, lakini kwa ukweli hakuna jambo lolote linatendeka.

Tulizuru hiyo Intensive Care Unit (ICU). Tulionyeshwa vitanda ambavyo vilisemekana vilinunuliwa vipya. Yasemekana vingine ni *automatic*, ukibofia, kinainuka. Daktari mmoja alibofia karibu mara sita ilihali kitanda hiki hakikuinuka. Sisi tulikuwa palepale.

Bi. Naibu Spika, ufujaji wa pesa ni jambo ambalo liko wazi. Jana maafisa wa Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) walikuwa wanalalamika ya kwamba kaunti tano hazijalipa mishahara ya madaktari pamoja na wahudumu wa afya wakati huu tunapambambana na Korona. Ni vipi tutaweza kupambana na Korona ikiwa wafanyikazi hawalipwi mishahara? Daktari anafanya kazi katika hali ambayo ni ngumu. Anajihatarisha maisha yake na ya familia yake. Kwa mfano, anapewa barakoa moja. Hiyo ndiyo anaenda nayo nyumbani jioni. Kesho asubuhi anapewa ya pili.

Bi. Naibu Spika, hili ni swala ambalo Kamati hii inaweze kuchunguza kwa undani na kuhakikisha pesa hazifujwi. Tukisubiri mpaka baada ya miaka miwili, tuje tusome reporti za CPAIC, itakuwa na hasara kwa Wakenya.

Asante, kwa kunipa fursa hii.

**The Deputy Speaker** (Sen. (Prof.) Kamar: Thank you, Sen. Faki. Sen. Shiyonga, kindly, proceed.

**Sen. Shiyonga:** Thank you, Madam Deputy Speaker, for giving me this opportunity to contribute to the Statement sought by Sen. Mwaruma.

Madam Deputy Speaker, this morning, we had a lot of feedback on the COVID-19 situation in Kenya. The Statement raises some eyebrows on how money is being spent to fight the COVID-19 pandemic. We are told there is a lot of money raised by Kenyans. We are also getting grants and other donations. It is evil to see some Kenyans stealing or misappropriating these funds, which are meant to help our people to cope with this pandemic.

What happened to donations from Jack Ma? We were told everything was stolen. Corruption is still there. As Senators, we do not have funds to follow this up, but Sen. Mwaruma has brought forward good issues about the Budget and documentation of tendering whereby so much corruption comes with tendering.

I am very proud because the Cabinet Secretary pointed out that *Afya House* is a rotten house. A few individuals there already know the game and are eyeing the COVID-19 money. If not the COVID-19 money, they know the formula. It sounded like a warning that the COVID-19 money will not be money like no other; it is money for the sick and anybody who steals money from the sick is sick. You will never be a normal person to steal money which belongs to sick people.

We do not know whether treatment of COVID-19 will be available. I am annoyed when I hear that we have a lot of money going to the counties, whereas counties are not prepared to handle this money and host patients. We are jumping from one system to another. We want to admit we have systems but the systems in the health sector have failed us.

Madam Deputy Speaker, tendering in our institutions is done by relatives and friends. We should be careful with the money we are going to pour into COVID-19

programmes, because many people are salivating for it. They are ready to take this money. You can hear from the Committee that was going around, what they heard and witnessed. People cannot be getting rich in Kenya with money that will kill their generation. I know they are not afraid of being fired. I am speaking this with a lot of bitterness because if they do not give us what belongs to Kenya, then let them surrender Kenya.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Murkomen, Proceed.

**Sen. Murkomen:** Thank you, Madam Deputy Speaker. I would like to rise to comment on this Statement that has been brought by Sen. Mwaruma which is very important for all the counties and the country.

First of all, the COVID-19 pandemic has affected all sectors of the economy; our social lives, religious lives in every county. However, as a matter of fact, there is a pandemic inside the pandemic which is corruption. There is lack of accountability when it comes to expenditure related to COVID-19.

When we set up this Committee, I was a very strong proponent of setting up this Committee as the Senate Majority Leader. The Committee's responsibility during the COVID-19 pandemic was to ensure that we push this country to have a joint strategy. My thinking was that, it was not just going to be a Committee of the Senate but we were going to convince - if you look at my moving notes in the establishment of this Committee - the National Assembly to set up a similar Committee so that we have a joint Committee of both Houses.

If you look at a country like the United Kingdom, as soon as the virus was established in their country, they immediately changed the law and have one of the biggest legislation on COVID-19 which is about 120 pages that captures the various legislation that must be amended; from land related issues, small businesses, agriculture and health. If you go to the United Kingdom now, there is one piece of law that guides the country in as far as responding to COVID-19.

The problem with Kenya is that you have a disjointed approach in dealing with this issue. The 47 counties are doing it the way they know; the national Government is doing it their own way. So, you have 48 strategies in a country of only 47 million people having diverse approaches of dealing with the same disease. It is like we have 48 countries in the country. Amidst that confusion, there is no innocence; it is a calculated form of confusion whose intention is to siphon public resources.

I saw the Cabinet Secretary, and I will say it again, that the former Senator Mutahi Kagwe is a person I respect. I am glad he made the statement he made yesterday which is reported in the newspapers today; that he is going to dismantle cartels in the Ministry of Health.

As a matter of fact, this is a country where we are already living in intimidation. Parliament has been intimidated from acting independently. In fact, we should have been the ones guiding the Executive to respond to this pandemic in a particular manner. However, because we have become timid, controlled from the Executive and from outside there, we are not able to act.

How will a Cabinet Secretary, who is an appointee of the executive, take this disease and the corruption pandemic head-on when we all know that the cartels that have

seized the Ministry of Health, everybody knows that they are very powerful, they are highly connected, operate from the highest corridors of power? Some jokes are good since in this country we must tell ourselves the truth. The truth is that, if the Cabinet Secretary was to attempt to deal with the cartels at the Ministry of Health, then he will not last in that office for a day because they are highly connected.

This country, like the former chief Justice said, has been reduced to a gangster republic. It has become like a criminal enterprise, where everybody in the bigger offices have connections to this and the other tender. This is a serious matter.

**Sen. (Dr.) Ochillo-Ayacko:** On a point of order, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. (Dr.) Ochillo-Ayacko, what is your point of order?

**Sen. (Dr.) Ochillo-Ayacko:** Thank you, Madam Deputy Speaker. All of us have listened to the distinguished Senator for Elgeyo-Marakwet talk about cartels and intimidation of Parliament. For the record to be complete in Parliament, would I be in order to ask the distinguished Senator for Elgeyo-Marakwet to name and substantiate who these cartels are? If that statement is not substantiated, then the people who will read this; Kenyans listening to this contribution will believe that some cartels are in control of this place and all of us have acquiesced to that control and are actually being controlled.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Ochillo-Ayacko. Let me correct this, whenever you are around to ride on somebody's Statement you should confine yourself to the Statement itself.

Sen. Murkomen, you should confine yourself to the Statement. If you have any information beyond this, you are free to be a friend of the Committee so that you can provide that information, since, finally, we are going to have the Chair of the Committee to respond and he has not said he is limited in the information.

As hon. Members, when contributing to a Statement that has come from somebody, let us respect the Statement and not add too much. Sen. Murkomen, please wind-up.

**Sen. Murkomen:** Thank you, Madam Deputy Speaker. The question of cartels in this Republic, in the city, the country and the world---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Murkomen, I insist that you do not go away from the Statement because the owner is here and the Committee is going to interrogate it and you are welcome to go to the Committee.

**Sen. Murkomen:** Madam Deputy Speaker, are you worried that I will say something that will annoy the cartels? Since, I am not the first person.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Order, Sen. Murkomen. I am trying to help you not to digress because that is what you are doing and it is not going to be helpful for the Committee. Please wind up.

**Sen. Murkomen:** Madam Deputy Speaker, the issue of COVID-19 cartels is big. You can see the Senator for Taita-Taveta is nodding. The reason why oversight is necessary is to deal with scrupulous corrupt individuals that divert public resources---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Murkomen, we have said this will go to a committee. You can take a lot of information that you have to the committee. Let us not override on somebody's Statement.

**Sen. Murkomen:** Madam Deputy Speaker, I am not overriding. I do not know why you are agitated when I mention cartels in the national Government.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Order, Sen. Murkomen! There is no agitation here, we are helping you. What we are telling you is that the Committee will listen to you. If you have more evidence than what the Chair has, you will give it to them. You have already articulated that the Chair is very able.

**Sen. Murkomen:** Madam Deputy Speaker, I was challenged on a point of order and that is still on record. In the Statement that has been requested, No.2 requires that they should provide documentation relating to tendering process, including actual dates and so on.

I am not the first person to raise the question of cartels because the Senator for Narok was the first person. I beg your indulgence from those who defend the cartels that I make my point here as I conclude.

I do not know why you distorted my thoughts on this. Most importantly, they must come up with a proper legal and oversight framework that this country can use to fight wanton corruption. The COVID-19 should not be used as an excuse to enrich those who are already rich and expose to this disease those who are poor.

Among the people they will interview is definitely the Cabinet Secretary who has gone public to say that his Ministry is full of cartels. When they come back to the Floor of this House, they should give us a way forward on how to deal with the cartels that operate in the highest red-carpeted corridors of power.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): The next one is Sen. (Eng.) Mahamud.

**Sen. (Eng.) Mahamud:** Madam Deputy Speaker, let me also add my voice to this Statement by the Senator for Taita-Taveta. The problem of COVID-19 is with us in this country and the world over. In fact, it is a matter that we should deal with carefully. Unfortunately, members of the public complained that Kshs1 billion that had been allocated was misappropriated and the Ministry acknowledged that fact.

We are told that counties' preparedness is wanting because the national Government is not sending the money the way it is supposed to. A lot of confusion has been created. It is important that we confront this disease in a uniform manner as a country. Supplies are misappropriated and procurement is not done properly. Corruption is a serious issue.

The Statement requested by our colleague from Taita-Taveta raises pertinent issues which the Committee should look at. While doing so, it should be applied to other counties by extension, so that they bring a proper report.

I thank you.

**Sen. Cherargei:** Thank you, Madam Deputy Speaker, for this opportunity. I rise to support the Statement by Sen. Mwaruma.

As the country's infection cases of COVID-19 reach 4,952 and 10 million across the world, it is important that there is transparency and accountability in the management of resources allocated to the fight this disease. I agree that counties do not have a synchronised way of fighting COVID-19 pandemic.

The other day, we heard that the county where the Senate Minority Leader comes from has a challenge of ICU beds just like any other county. I heard the Cabinet Secretary for Health, hon. Kagwe, say that he wants to dismantle the mafia or “Afya” cartels in the Ministry although there are rumours of Cabinet changes.

We are looking at the issue of accountability and transparency. The fight against COVID-19 is not only about the disease. It is also about ensuring that we retain the economic stability of the many young Kenyans who have lost their jobs because of the lockdown and the curfew.

Last Friday but one, the Nandi County Assembly investigated the loss or mismanagement of around Kshs190 million that was meant for the fight against COVID-19 because we have not seen sanitisers and masks. It means that it is a big problem. It is not an issue only for Taita-Taveta because other counties also have a similar problem.

I can see the Chair is here. In the morning, I heard Sen. Sakaja say that the former Senate Majority Leader, Sen. Murkomen, de-whipped him from a committee but he did well by making him the Chairman of the *Ad Hoc* Committee on COVID-19, so that they look at issues collectively because it is not only about Taita-Taveta. I know they visited Isiolo but they have not visited the North Rift where the Deputy Speaker also comes from.

As they look into this, I urge my brother, Sen. Sakaja, who the other day was cartooned *Kupiga Ngeta*, to also include the North Rift in the programme. These include Elgeyo-Marakwet County that Sen. Murkomen represents and Uasin Gishu County. We also have the Rivatex that is doing a good job. The Moi Teaching and Referral Hospital (MTRH) is one of the key partners in the fight against COVID-19 pandemic in the western part of this country.

Madam Deputy Speaker, we need to fight corruption within the COVID-19 Pandemic because we do not want to have a pandemic inside another pandemic. I believe that the Chairperson and Members of the *Ad Hoc* Committee on COVID-19 Pandemic will give us a way forward to ensure we cushion Kenyans, bring the country together and minimise infections across the country.

Even as we raise the issue of accountability and transparency, we should also celebrate health workers on the frontline who work very hard to ensure that the effects of COVID-19, both economic and health-wise, are mitigated so that we move to the future.

I challenge Sen. Sakaja-led Committee to give us tangible way forward on how counties can harmonise the fight against COVID-19 pandemic but we should not bring corruption pandemic inside the pandemic itself.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Sakaja will be the last one. Let us listen to Sen. Seneta.

**Sen. Seneta:** Thank you, Madam Deputy Speaker, for giving me a chance to add my voice on this important Statement by my colleague, Sen. Mwaruma, from Taita-Taveta.

The issue of transparency and accountability on the funds that have been allocated to the fight against COVID-19 is something that should be done across national and county governments. Quite a lot of monies have been removed from development budgets and taken to the fight against COVID-19. It will be shameful for us, as a country,

if we deny money for development to fight COVID-19 and it is not used by our hospitals and health systems but it ends up in other people's pockets.

Quite a number of counties have also given budget allocations to COVID-19. The counties have allocated some money towards the fight against COVID-19 and that money should be allocated to items and programs that will help the Ministry of Health fight COVID-19.

We have also seen donors and friends contribute a lot of money but we see very little going to the common *mwananchi* in our counties. The Committee that will look at the procurement issue in Taita Taveta should include all the other counties. In today's newspaper, we have been told that the Ministry procured testing equipment that are not up to standard. The procurement process and the quality of items that are going to be bought using this money should be looked at by this Committee.

Thank you, Sen. Mwaruma, for bringing this Statement.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. We will listen to Sen. Cheruiyot before we listen to Sen. Sakaja.

**Sen. Cheruiyot:** Thank you, Madam Deputy Speaker. This is an important issue. I congratulate my colleague, Sen. Mwaruma, for bringing this to fore; what I consider as the tragedy of our times. As the whole world continues to battle this pandemic, some people in this country see it as an opportunity to fatten and line their pockets with resources that could have been used to save the poor ailing citizens of this Republic.

A few weeks ago, the President told the citizens that many counties are unable to set up isolation facilities. That came as a surprise to many of us who have been reading reports on how our counties have used millions of shillings to handle the COVID-19 pandemic. You will recall that when the country declared its first case of COVID-19, many governors dished out LPO's and LSO's to their friends and cronies to supply the various counties with face masks and sanitizers. Most of those products that were bought at exaggerated prices because the governors saw the pandemic as a looting opportunity cannot be accounted for.

It will be important for Sen. Sakaja's Committee to not only look at the issues of Taita Taveta--

*(Sen. Omanga consulted Sen. Sakaja)*

I kindly request Sen. Omanga to allow the Chairperson of this Committee to listen to my request. I know that the Nairobi City County Delegation have a lot of issues to discuss but I beg for the indulgence of the Chairperson.

The Committee should ensure that each Senator receives a report from their respective counties showing how much money has been spent on the COVID-19 mitigation exercise. It will be good for Sen. (Prof.) Ongeru to get a report from Kisii County. He is a long-standing public servant and he will be able to call out his Governor and tell him that the price quoted is either the correct price of the item or it is not. If we do not get the specific reports from our counties, it will be difficult for us to oversight them. This Committee should write to all the 47 counties and ask them to file a report stating the level of preparedness and the amount that they have spent so far in handling the challenges that have come with COVID-19.



I heard people talk of cartels at the Ministry of Health. This morning, I read in the newspaper that the Cabinet Secretary said that his other biggest battle aside from fighting COVID-19 has been fighting cartels at the Ministry. It will be important to hear of the number of cartels at the Ministry. We do have Members in this House who have served as Ministers in the same Ministry. They should tell us how the fellows who are called cartels look like. Every Minister or Cabinet Secretary who has served in that Ministry does talk of cartels in that Ministry. How powerful are those cartels? It will be important for us to know them in order for us to conclude this exercise.

I know that Sen. Sakaja does follow the discussions from Kenyans. There has been a rife debate concerning the items that were donated by the philanthropist billionaire, Jack Ma. Is it true that those items were bought by Government agencies or is it possible to have the Government account and state the number of materials that they received and also explain how they were used. That explanation will put this matter to rest.

**Sen. Sakaja:** Thank you, Madam Deputy Speaker. I want to assure the Members that I have listened to all their concerns including the concern of Sen. Cheruiyot despite the brief interruption by my delegation Member, Sen. Omanga. The interruption was a very welcomed disruption because of the current issues in Nairobi City County.

I want to thank Sen. Mwaruma for raising this issue. It is indeed an important issue and it is what we are dealing with as a Committee. We will share a schedule, with this House, of counties that we intend to visit though we cannot go to all the 47 counties. Our visitation has been on first come first serve but we are sampling the counties. Despite the challenges of getting resources towards the end and beginning of a financial year, I want to assure this House that this Committee has a six---

*(Loud consultations)*

**The Deputy Speaker** (Sen. (Prof.) Kamar): Order, Members. Please, consult in low tones.

**Sen. Sakaja:** Madam Deputy Speaker, we have a schedule of the counties that we intend to visit despite the challenge but I want to assure the Members that given the fact that the Committee has a six-month mandate, we should be able to cover all the counties.

We will respond to the specific questions on Taita Taveta but as we do that, those who have been following our work know that this Committee has given seven progress reports, as of today. In our Third or Fourth Progress Report, this House resolved that every county government and the national Government will give us a monthly expenditure report. That was passed in the Report that this House resolved. It is just for us to follow up through the Office of the Clerk in order for us to at least get the reports of the last two months from our county governments. We will share those reports with each Senator when we get them in order for them to know the amount of money that their counties have received and what they have used on COVID-19 from their own allocation.

Our Committee is engaging the Office of the Auditor General because we want them to do specialized and specific audits on the expenditure and quality. Other than the expenditure reports, we want a performance audit on value for money for this intervention on both the county government and national Government. We have seen

different standards of ICU facilities and different types of beds in different counties. That is why we want to get a performance audit done by the Auditor General. We have already written to them. We are also engaging an independent auditor as per the mandate and authority given to us by our Standing Orders. We also want them to look at that performance.

We are also going to investigate the matter of the Jack Ma Foundation donations because it is an issue that is in the public domain. I am glad that Sen. Cheruiyot has raised it. We need to know how those donations were received, where they went to and how they were used. The Cabinet Secretary is attending a meeting before us next week.

Contrary to what the former Senate Majority Leader said, we initially wanted to work with the National Assembly but they failed to set up their Committee but we have done our work. We have met more than ten Cabinet Secretaries and they know that they must account to us. Two cabinet secretaries had refused to appear before us and we issued summons against them.

We made sure that they know that they must account to us. We issued summons to the two Cabinet Secretaries (CS) who refused to appear before us. They attended the meetings, and they have been complying. We have met more than 160 organizations and stakeholders. As of today, we have held 71 meetings.

The Senator has asked the question of a legal framework on how to manage the pandemic. The Pandemic Response and Management Bill is before this House. I am very disappointed that for the last three weeks, our whips have not been able to help us marshal the numbers to vote on this Bill. The Bill is there, waiting for a Division. Let us vote on it and pass it to the National Assembly.

We have been talking to them and listened to the issues they had earlier. We have made many amendments and done our part. We have looked at over 50 countries across the world and compared with best practice. We have looked at all these jurisdictions. So, I think that it is only right for us, as Senators, to put the question to the Bill in being responsible Members. Let the Bill go to the National Assembly, so that we can say that at least we have set up a framework for dealing with the pandemic that is uniform from the national Government to the county governments.

Madam Deputy Speaker, today, a bit more than 100 days after the first case was reported, we have 4,952 cases of the Coronavirus Disease (COVID-19) in this country. This pandemic is actually growing, but I think that our focus has shifted from it. Even if we sit as a House once a week, we are not giving due attention to the reports by this Committee or even to the legislation that we have proposed to deal with the pandemic.

I have heard the Deputy Senate Majority Leader alluding to us going on a recess. It will be extremely disheartening if we go on recess before we dispense with the Pandemic Response and Management Bill. Hundreds of Kenyans came and gave us their views. This include stakeholders, doctors and nurses across the country. We heard them on the economic side of things and law firms. We have more than 170 submissions.

Please, I urge my colleagues, let us dispense with this Bill and continue oversighting. I want to put to notice the people you are mentioning. I do not know whether there are ghosts called cartels that Sen. Cheruiyot is referring to at the national and county governments. We will not take lightly any misuse of funds. We will name

them. Once we get our reports, I want governors to know that we will give a list of shame on those who are misusing funds and those who are not prepared.

Madam Deputy Speaker, more than 27 counties do not have a single Intensive Care Unit (ICU) facility. In 2020, there is an entire cluster of three or four counties without a single ICU bed, yet last year, we passed Kshs316 billion to counties. This year, we have passed another Kshs316 billion to counties. After seven years of devolution, I think this is inexcusable. We will bring the facts as they are and say what is happening at the Ministry of Health, the Kenya Medical Equipment Supplies Agency (KEMSA), at the Kenya Medical Research Institute (KEMRI) and in our county governments.

Thank you, Sen. Mwaruma. I assure you that we will respond. I think that his county will be one of those that we will prioritize in our next round of visits. We have also missed being around the Coast Region. I think we will do Taita/Taveta, Mombasa, Malindi and Kilifi during the recess with the approval of your office.

Sen. Cheragei has asked about the North Rift. We will come to Nandi, Uasin Gishu – your county - and look at the facilities there, and in the Western Region as well.

Thank you.

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

Senators, it is almost 4.00 p.m. and we are still on Statements. I urge that we take the shortest time possible with the next Statements.

Sen. Mwaruma, you have two Statements. I hope I will allow only two or three contributions around them.

Next Statement.

ADMINISTRATIVE BOUNDARY BETWEEN  
TAITA/TAVETA AND MAKUENI COUNTIES

**Sen. Mwaruma:** Thank you, Madam Deputy Speaker. I rise, pursuant to Standing Order No. 48(1), to seek a Statement from the Standing Committee on Justice, Legal Affairs and Human Rights concerning the administrative boundary between Taita/Taveta and Makueni counties.

In the Statement, the Committee should-

(1) Provide information on the accuracy of the administrative boundary between Taita/Taveta and Makueni Counties;

(2) Provide the map applicable in determination of the boundary between the two counties; and,

(3) State whether the relevant Government agency, the Independent Electoral and Boundaries Commission (IEBC), has published and publicized the accurate boundary between the two counties to forestall any conflicts in the future.

Do I move to the second on?

**The Deputy Speaker** (Sen. (Prof.) Kamar): You can proceed to the second one.

**Sen. Mwaruma:** Thank you.

APPROVED BUDGETS SUBMITTED TO THE COB  
BY TAITA/TAVETA COUNTY GOVERNMENT

I rise, pursuant to Standing Order No.48 (1), to seek a Statement from the Standing Committee on Finance and Budget concerning the approved budgets submitted to the Controller of Budget (CoB) by Taita/Taveta County Government.

In the Statement, the Committee should-

(1) Provide information on approved budgets for the Taita/Taveta County Government submitted to the Controller of Budget for the following financial years; 2017/2018, 2018/2019 and 2019/2020; and,

(2) Provide information on approved supplementary budgets for the Taita/Taveta County Government for the same period.

Madam Deputy Speaker, this could look like a very straightforward Statement, but we have been having a problem establishing whether the budgets that are passed at the county assembly are, indeed, the ones that are uploaded for use by county governments and the County Executive Committee members (CEC) for Finance and Economic Planning. It is a kind of research that we are doing to establish whether the budgets that are passed at the county assembly are, indeed, the ones that are being used by the county government.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar: Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker, for giving me this opportunity. I would like to comment on the Statement that Sen. Mwaruma has brought to the Floor of this House concerning boundary disputes.

The issue of boundary disputes needs to be resolved amicably. I say this because of the future generations. You will find that in a situation where there are boundary disputes, many times it affects economic and social activities. Children in disputed areas end up marrying each other. We also have economic activities taking place in such areas, so there is need for an atmosphere that is conducive for human settlement and interaction.

Madam Deputy Speaker, this issue should not be only in Sen. Mwaruma's case. It should cut across other boundary disputes. In some areas like Maseno, you will find that Luos and Luhya mix and intermarry. If there is any dispute, it should be resolved in a friendly way that will ensure that these communities coexist and continue living harmoniously.

You will also find disputes among the Kalenjini and the Luhya. Sometimes they can arise due to boundaries, but then it should be resolved in a manner that will ensure that we are living peacefully as Kenyans. We are one people, one country, and we must ensure that we are passing this message to our future generations.

Thank you.

**The Deputy Speaker** (Sen. (Prof.): Kamar: Finally, Sen. (Dr.) Ochillo-Ayako.

**Sen. (Dr.) Ochillo-Ayako:** Thank you, Madam Deputy Speaker. I rise to support the second Statement that has been sought by Sen. Mwaruma regarding the budgets that are passed by county assemblies for use by the executives.

It is a known fact that most assemblies have serious sweetheart relationships with the executives. There are budgets that passed out there through public participation and

involvement of Members of the County Assembly. However, when it comes to implementation of those budgets, something else is concocted and implemented.

It would be important and imperative for the Committee to which this matter is taken to ensure that they obtain copies of the HANSARD and even indications from the budget Committee of the Taita Taveta County Assembly so that we know what we are talking about.

In my county, Migori, there was an election a couple of years ago of the Speaker. What was recorded in the HANSARD and what was taken to court, because this matter eventually ended in court, confirmed that there is alteration of the HANSARD.

Madam Deputy Speaker, you know that both the county government and the national Government can only expend money as appropriated and approved by budgets of county assembly. This is a fundamental and a constitutional matter that is likely to take people to very cold and lonely places if it is found that they are acting contrary to the Constitution.

I support this Statement and ask the Committee to which it will be taken to take it seriously because we are trying to treat it as a test case so that we try and find out what is happening in other counties, including my county of Migori. Is my county implementing the budget that was passed originally? Or, due to the sweetheart relationship between the county assembly and the executives, they are implementing something else that could be a love letter?

Thank you, Madam Deputy Speaker, for the opportunity.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you Sen. (Dr.) Ochillo-Ayacko.

Senators, the first Statement on the administrative boundary between Taita Taveta and Makueni counties stands committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

The second Statement concerning the budget approvals for Taita Taveta stands committed to the Standing Committee on Finance and Budget.

Hon. Senators, as we move to the next Statement by Sen. (Dr.) Milgo, I would like to ask Sen. Iman, if she is in the other room, to move forward because she is next.

#### NIXTAMALIZATION OF MAIZE TO CURB AFLATOXINS

**Sen. (Dr.) Milgo:** Thank you, Madam Deputy Speaker.

I rise pursuant to Standing Order 48(1) to seek a Statement from the Standing Committee on agriculture, livestock and fisheries concerning nixtamalization of maize; which means preparation of maize or other grains in which the grain is soaked and cooked in an alkaline solution, usually limewater, after which it is washed and then hulled to curb aflatoxins. This process produces over 600 maize products if it is done.

In the Statement, the Committee should -

(1) Elucidate on the reliability of nixtamalization technology commonly used in Mexico which entails treatment of maize using alkaline solution to reduce aflatoxins.

(2) Explain the potential of nixtamalization in transforming the nutrition of fibre or maize-based food products.

(3) Outline the measures that will be put in place to ensure that the same technology if confirmed to be safe is extended to communities at the grassroots where people are grappling with aflatoxins due to the challenge of storing their maize produce and other grains.

(4) State plans in the higher learning institutions to infuse the technology in the university curriculum in a bid to champion nixtamalization technology transfer across the country and the region.

Thank you, Madam Deputy Speaker.

**Sen. Sakaja:** Thank you, Madam Deputy Speaker. Should I give my Statement or comment on that?

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Sakaja, I saw you requesting to comment on Sen. (Dr.) Milgo's Statement.

**Sen. Sakaja:** No, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): If that is so, then I would like to commit the Statement by Sen. (Dr.) Milgo to the Standing Committee Agriculture, Livestock and Fisheries concerning nixtamalization of maize to curb aflatoxins.

I do not see Sen. Iman. Is she on the way?

#### ALLEGED SECOND WAVE OF DESERT LOCUST INVASION IN THE COUNTRY

**Sen. Iman:** Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order 48(1) to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries concerning the second wave of desert locust invasion in the country.

In the Statement, the Committee should -

(1) state measures put in place to mitigate the measures put in place to mitigate against the second wave of the desert locust invasion in the country, which as experts including the United Nations have warned will be 20 times worse than the first wave.

(2) State how much money government has set aside to fight locust invasion, including funds received from international agencies.

(3) Report on how funds set aside for containment of the first wave of desert locust invasion in the country were utilized.

(4) Outline measures, if any have been put in place, to secure the livelihood of farmers and pastoralists who have been adversely affected by the first wave of desert locust invasion and whose livelihood may be completely destroyed by the impending second wave of the desert locust invasion in the country.

Thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Sakaja, were you going to contribute or you are on your Statement? Please, be patient on your Statement.

**Sen. Murkomen:** Madam Deputy Speaker, it is unfortunate that the Senator wants the Statement and he is not here. However, what is important is for the record and for the Committee.

If you remember, this question came during what is now called the first wave. In that first wave, I do not think the question was exhausted in as far as expenditure on this other pandemic, locust invasion, is concerned.

We put the Chairperson of the Committee in a lot of pressure for him to come back with an answer on this issue. It is not exhausted. I hope that when the Committee retires to come with a report, that report should come together with what was being put in place and focus more on long term strategies that government is putting in place, particularly in funding departments that deal with locusts and other invasion of crops in our country.

Maybe to note, since the situation of COVID-19 came to the country, I have not heard any discussion about locusts. I hope that those locusts evaporated and ran out of the country. I have not seen people reporting on social media like the former Cabinet Secretary, hon. Kiunjuri said.

However, what is important is to ensure that we have a long-term strategy that protects us against locust invasion.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. Murkomen.

**Sen. (Dr.) Zani:** Thank you, Madam Deputy Speaker. This is a very important Statement, and I want to support it. It is important because it preempts a situation and gives us a chance to be proactive rather than be reactive.

I think the part where Sen. Iman is asking for specific figures is key in terms of utilization of funds and accountability of those funds. We know that the agricultural sector has been hard hit, especially because of the vagaries of weather and the Coronavirus Disease (COVID-19), yet it is a very important sector even for our survival. You can imagine a situation where you are going to have locusts again striking. We need to put together all that we have spoken about and all the Bills that have addressed this issue and try to preempt and be proactive, and stop it before it happens.

I support and hope that the relevant Committee will work expeditiously and give us data and confidence that we can handle this.

Thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. Senators, the Statement made by Sen. Iman stands committed to the Standing Committee on Agriculture, Livestock, and Fisheries.

The next Statement if from Sen. Omanga.

DELAY IN THE ISSUANCE OF  
CERTIFICATES OF GOOD CONDUCT

**Sen. Omanga:** Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No. 48 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the prolonged delay in the issuance of certificates of good conduct at the Directorate of Criminal Investigations (DCI) offices and Huduma Centers across the country.

Sorry, I cannot breathe well.

*(Laughter)*

Madam Deputy Speaker, in the Statement, the Committee should-

(1) Outline any measures the Government has put in place to clear the big backlog of Kenyans seeking to get these certificates, given that a good number are not able to get employment as well as many other services, including renewal of Public Service Vehicle (PSV) badges without the important document.

(2) State the health protocols the Government is putting in place to ensure safe and swift processing of the document, in light of the threats posed by COVID-19; and,

(3) State the plans being put in place to ensure the resumption of normal services to Kenyans requiring issuance of certificates of good conduct at Huduma Centers and the DCI offices.

Thank you.

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

**Sen. Cherargei:** Thank you, Madam Deputy Speaker for this opportunity. That is a very critical question since the issue of COVID-19 pandemic and many people have not been able to access critical services from the Government. What shocks is that the Government had started an account called e-Citizen. We would have expected the Government to digitize, so that access to certificates of good conduct, passports, identification cards (IDs), among other critical documents in application of more essential services in the Government should have been more fast-tracked.

If you remember, and it is on the HANSARD, the Committee on Labour and Social Welfare, which I am a Member, tabled a report last year. We had a discussion with the National Police Service (NPS) and the DCI among other agencies that the Kshs1,000 being paid by many young people to get certificates of good conduct should be budgeted for or waived.

Madam Deputy Speaker, most of the young people, when looking for jobs, do not have even Kshs100 or Kshs200 to go for interviews and job hunting or join “Kenya tarmacking network”.

It was very important that we agreed on some of these payments, be it the certificates of good conduct, driving license renewal fees, and acquiring of all those documents. We had tabled that report late last year. Most of these people you are asking certificates of good conduct from are drivers. These are young men who have just been in driving schools. They do not even have Kshs10,000 to pay for driving courses. They need that driving license and that Kshs1000 for certificate of good conduct.

As the Senate, we must provide leadership, noting that over 50 per cent to 60 per cent of the membership of this Senate is the interest group of the young people and women. We must stand with the young people on this. We must look for a way.

Madam Deputy Speaker, I do not know whether Sen. (Eng.) Mahamud is still the Chairperson of the Committee on Finance and Budget. I implore him to look into this issue, so that we can at least waive this Kshs1,000. Even as we reconstitute the Committee, I know that any Senator is capable of being the Chairperson of the Committee on Budget and Finance. It should look into this issue of waiving that Kshs1,000. You can imagine that one of the young people, maybe from Uasin Gishu County, who does not have that Kshs1,000 to go for an interview at Rivatex East Africa Ltd. Let us do something to ensure that we come up with pragmatic solutions to this issue once and for all.



**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Shiyonga, are you on a point of order?

**Sen. Shiyonga:** Madam Deputy Speaker, in the morning session, we had a problem with my fellow Senator here. I know that a few days ago, he had a problem, and I think he has recovered. He has just mentioned that he does not know if Sen. (Eng.) Mahamud is still the Chairperson or not. I do not think if that is the concern. I know that Sen. (Eng.) Mahamud is still our Chairperson of the Committee on Finance and Budget. If he is not, then we should not prompt this matter. We just need to leave it, so that we continue the way we have been continuing other than mentioning.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Shiyonga, let us put this to rest. Sen. Cherargei, please, finish. Let us not override, so that we do not divert the attention of the question.

**Sen. Cherargei:** Okay, Madam Deputy Speaker. I will not override, but will just keep riding on it by saying that we need to agree. I have seen the issue of 4<sup>th</sup> July and 14<sup>th</sup> July when we are resuming international flights. It is the reopening of the economy and critical Government services in line with the Ministry of Health's guidelines of the fight against COVID-19 pandemic.

It is very important that we also give timelines to Kenyans. I can see we are giving timelines to Kenyans who want to fly out of the country. Why are we not giving timelines for 'hustler' Kenyans, who want to go and pick a certificate of good conduct, get an ID, and driving license? Let the Government also be sensitive to these small people in our country, so that they can be known. By 1<sup>st</sup> July, for example, we should open these critical services.

I thank you, Madam Deputy Speaker. I assure Sen. Shiyonga that my aptitude is up to test. When I say something, I know and mean it.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. (Dr.) Musuruve, proceed. Let us try to be brief, honourable Senators because we have two Statements which are very urgent.

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker. I will be very brief. I support this Statement by Sen. Omanga that there is need to ensure that we are making haste, so that youths get certificates of good conduct. I remember at one point in the Committee on Labour and Social Services, we got some youths who came to petition an issue on certificates of good conduct. In most organizations, you will find that interviewers ask for certificates of good conduct.

There is need to ensure that we are not a stumbling block for youths in getting jobs or whatever they may so desire. I hope that the Committee that will deal with this matter will ensure that it is fast-tracked, so that our youths and people seeking for these certificates of good conduct get them in good time.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. Second last is Sen. (Dr.) Lang'at.

**Sen. (Dr.) Lang'at:** Thank you, Madam Deputy Speaker, for giving me this opportunity to make my contribution on this important Statement by Sen. Omanga. In this era of information technology, for just a certificate of good conduct to take months when somebody is in need of it maybe to acquire a job, is very ridiculous. On this particular document, as Sen. Cherargei was saying, most of the people affected are our

youths who have no jobs. More often than not, these are the youths that whenever they get some little temporary jobs, they are asked for this certificate of good conduct.

I know some of them even from my county who have missed opportunities because of this particular very important document taking ages to be obtained. The committee that will deal with this Statement should take it so seriously because it affects our youths who do not have jobs.

Madam Deputy Speaker, one time, we were saying here that the youths in this country are so frustrated and we are sitting on a time-bomb. Most of these particular issues concerning certificates of good conduct require some money, yet these youths do not have money. It is a very serious thing.

We should be doing everything in this country to make sure that our youths, who are heavily unemployed, are at least getting some comfort somewhere. Even the waiver, as Sen. Cherargei was saying, is long overdue.

The acquisition of the certificate of good conduct by our youth should be free.

I support this Statement, and it should be looked into with immediate effect.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Kindly proceed, Sen. Murkomen.

**Sen. Murkomen:** Madam Deputy Speaker, I congratulate Sen. Omanga for being alive to the issues that concern the youth because she is a youth herself in her own rights, even though she was nominated in the women's category.

*(Laughter)*

I wonder why people are laughing. Sen. Omanga is a youth. Why is it impossible for the Directorate of Criminate Investigations (DCI) to digitize the issuance of the certificate of good conduct? If the DCI takes my fingerprints the first time and keeps them in their database, the only thing they need to do is check whether in the middle of that year, I had any changes in so far as my criminal record is concerned, then issue the certificate of good conduct online. This is so that any of us can pay a particular fee if it is required.

We have had debate on the issue of payment for the certificate of good conduct in this House before. Sen. Sakaja brought a Motion at one point to do away with the payment for a certificate of good conduct because, in any case, the DCI is heavily funded. The National Assembly allocated more money to that office, so as to save so many young people the hustle of looking for Kshs1,000 when they cannot even raise Kshs100 for themselves to get a job as an Uber driver.

The Committee that will look into this issue should explore ways of ensuring that the DCI office digitizes the issuance of the certificates of good conduct.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): I can see two more requests from Senators to speak to this matter.

Kindly, proceed, Sen. Shiyonga.

**Sen. Shiyonga:** Madam Deputy Speaker, the Government is in possession of a lot of information regarding Kenyans. The Registrar of Persons has a database that contains everyone's information. Kenyans should not be asked to pay for a certificate of good conduct. Information should be readily available even on the dead. Information on all

Kenyans should be synchronized and made readily available at no cost. The Government has details concerning all registered adults in this country. They can easily locate me if they wanted. I wonder what happened to the personal information we gave when we registered for Huduma numbers that we are yet to receive.

In the interest of time, I beg to support the Statement and urge Government agencies to stop seeking more information from us at a cost.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Kindly, proceed, Sen. Kihika.

**Sen. Kihika:** Madam Deputy Speaker, I rise to support the Statement by Sen. Omanga, who has been a big champion of the youth of this country. The issue of backlog on the certificates of good conduct does affect employment for most of our people in the country because most of youths cannot renew licenses and Public Service Vehicle (PSV) badges without the certificate of good conduct. We are a country that is doing well with technology. We should not be witnessing this sort of backlog when this can easily be done once these people have acquired their national identity cards. The DCI should have information pertaining to all registered adults in their database. When it is time to renew the certificate of good conduct, it should be a lot easier since the DCI already have the fingerprints in the database, believing that fingerprints do not change.

If the DCI has everyone's fingerprints in their database, processing of certificates of good conduct would have been easy in these times of COVID-19. I would like to point out laziness on the part of the DCI as well, seeing that Senate has been having its sittings during these COVID-19 times. We have also witnessed parliamentary group meetings during COVID-19 times. In other words, a lot has been going on during COVID-19 times. I believe that it is not realistic for the DCI to tell us that they have a backlog in the issuance of the certificate of good conduct due to the COVID-19 pandemic.

Madam Deputy Speaker, I urge the Committee that will take up this issue to have the DCI commit to processing the certificate of good conduct faster than they are doing. As other Senators have stated, I remember Sen. Sakaja brought a Motion that was extremely critical to our youth, especially during these difficult times. It is important to have a waiver on the certificate of good conduct fee. This waiver on the fee should be explored and a solution given, so that we are able to waive the fee for the youth, if not for everybody.

I am part of the Inter-Parliamentary Union (IPU), which defines youth as any person below the age of 45. That makes most of us in this House youths. If the certificate of good conduct fees could be waived, it would go a long way in helping our people, especially at a time when money is really scarce.

I beg to support the Statement by Sen. Omanga of Nairobi County.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. Kihika.

Kindly proceed, Sen. Sakaja. You will be the last Senator to speak to this issue.

**Sen. Sakaja:** Madam Deputy Speaker, I thank Sen. Omanga for this Statement. As has been said, she is a very big supporter of the youth agenda and very useful in this City. That is why we call her 'Msupa,' 'Nairobi's finest' or 'Mama miradi'

The Statement by Sen. Omanga is important for two reasons. First, is on the issue payment. I am glad to report that the Committee on COVID-19 Situation in Kenya met with the Inspector General (IG) of Police yesterday. A while ago, our Committee had also

met with the digital taxis drivers, together with the National Transport and Safety Authority (NTSA). The young people who operate as digital taxi drivers said that since they are unable to get their certificates of good conduct, they are being offloaded from their only source of livelihood, which is the digital taxi companies. Due to lack of certificates of good conduct, more than 5,000 digital taxi driver's jobs were at risk and some had already lost their jobs. I am glad to report that, yesterday, the IG of Police announced that he has instructed the DCI to reopen the issuance of certificates of good conduct.

Madam Deputy Speaker, a while back, I brought a Motion on this issue before the House. Sen. (Dr.) Mwaura also brought another Motion in relation to this matter. Further, the Committee on Labour and Social Welfare also brought a Motion against charging young people for everything that they apply. Subsequent to our first interaction, I am glad to note that the Governor of Central Bank said that for the initial check on the Credit Reference Bureau (CRB), Kenyans will not be charged, and he has complied. From our meeting with the Director of Criminal Investigation, he said that if Parliament increases allocation to the DCI, they will not charge people for certificates of good conduct.

This is the time for this House to push for the implementation of that promise. This is because when they came to our Committee, they said if the appropriation that comes from us is enough just to take care of the little cost of printing *et cetera*, then no one should be charged to get a certificate of good conduct.

Today, a young person looking for a job has to pay the Higher Education Loans Board (HELB), to be told that they have no loan, pay the Directorate of Criminal Investigations (DCI), to be told they are not a criminal; pay the Credit Reference Bureau (CRB), to be told that they have no loan default. By the time they have all the documents, they will have paid more than Kshs7,000. It defeats the purpose and logic.

Those are things we will keep pressing on. I urge these young people to go and get their certificates. We had an issue in Kitui when we went there for the Senate *Mashinani* sittings. When we went to the prisons, an issue came out that many prisoners, even when released, are not offloaded. As such, they still cannot get certificates of good conduct.

Once one has served a jail term in a correctional facility then their record does not necessarily need to say they are a criminal apart from for very few crimes. The DCI told us that those crimes include rape and those of such magnitude and must remain on one's record. For normal issues, even some which are just disputes, the record must be cleaned since one has gone through a correctional facility and been corrected.

Thank you, Sen. Omanga for that Statement. Let the Committee strengthen that issue of waving of these fees, especially during the COVID-19 pandemic.

Thank you. I support.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. The Statement sought by Sen. Omanga now stands committed to the Standing Committee on National Security, Defence and Foreign Relations.

The next Statement is from Sen. Cherargei.

ROAD SIGNAGE ALONG  
KAPSABET - ELDORET HIGHWAY

**Sen. Cherargei:** Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order 48 (1) to seek a Statement from the Committee on Roads and Transportation regarding the poor road signage on sections of the roads under construction along Kapsabet-Eldoret Highway.

In the Statement the Committee should-

(1) Explain why the contractor by the name China Wuyi, working on the overpass of Kapsabet Shopping Centre, has not installed proper signage, including proper lighting on the road to warn motorists as they approach the diversion at the construction site, so as to avoid accidents, particularly due to poor visibility.

(2) Explain what measures are being undertaken by the Kenya National Highways Authority (KeNHA) as a supervisor of the construction, especially the North Rift KeNHA, whose offices are based in Eldoret to ensure that the risk to motorists at the Kapsabet Shopping Centre is minimized.

(3) Explain the plans that the Ministry has to expand the Kapsabet-Eldoret-Iten Road, which is too narrow in line with various requests to KeNHA.

As I conclude, I wish the House to note that this is the place where I had a road accident two weeks ago. The place is terrible. The road is narrow and there is no signage at night. For the construction at Limuru, at least there are barriers, signage and lighting, but the China Wuyi that constructs that Eldoret Bypass, which is in your county, Madam Deputy Speaker, has no signage.

That is why as I was driving from Kapsabet to Eldoret, there was no indication that there is a diversion in that area. This is negligence. The KeNHA, North Rift, has been very negligent. It appears as if the Director General of KeNHA of this Republic is concentrating on one region. I hope that the Committee on Roads and Transportation will be able to address this matter once and for all. There are many young people on motorbikes from your county, especially Kapsabet Trading Centre, who get accidents there because there is no signage.

The KeNHA must own up as a supervisor. Eng. Peter Mundinia should be told that he is not serving only one region, but the entire country.

I thank my family, the great people of Nandi and my colleagues across the House for the many wishes and messages of goodwill during that unfortunate incident. It is because of those messages and prayer *na 'kupewa mate'* that I was able to get on the road to recovery, to continue serving this country and Nandi at large.

**Sen. (Dr.) Musuruve:** Thank you, Madam Deputy Speaker, for giving me this opportunity. I thank Sen. Cherargei for coming up with this Statement. I thank God for giving him that protection such that he is walking very well. At one point, I saw him walking on crutches when he first came to the Senate after the accident. I hope that God will heal him, so that he will not be permanently on crutches like me.

When it comes to issues of road construction, it is not only KeNHA that we need to speak to, but all road construction companies. This is not only in Eldoret, but even in other parts of the country, where we find that there are no visible signposts. For example, in a situation where there are bumps, sometimes they are not visible. There is need to

mark them for the drivers to see. Sometimes, there no signs at all for rumble strips. This is risky for all of us because we use roads every day.

The constructing companies need to ensure that people are aware of such bumps, ramble strips and diversion. When you on the road, you are not sure you will reach your destination. Most of the time, we reach our destinations by the mercies of the Lord. There is need for construction companies to ensure that they do their work diligently and do not use shortcuts in any way.

I hope that the Committee that will deal with this matter will be diligent enough and ensure all our roads have signage. When motorcyclists go over rumble strips while speeding and carrying passengers they are likely to cause accidents. For the safety of all of us, it is important to bring KeNHA and other constructing companies on board and implore them to put signage on our roads.

The Committee needs to ensure that the road constructing companies are doing a good job on our roads in order to save lives in this country.

**Sen. Murkomen:** Madam Deputy Speaker, I thank Sen. Cherargei for that very important Statement. I also thank God that he got well and wish him full recovery from that horrible accident. As he has acknowledged, both sides of the House wished him well and prayed for him.

The issue of the bypass in Kapsaret area was already brought to this House. I thank the Chairperson of the Committee, Sen. Wamatangi, for even visiting the place, but the issues are still pending. At that time, it was issues of compensation.

More importantly is the highway between Kapsabet-Eldoret-Iten. That highway has been mooted for a long period time. As you know, that is a very busy highway.

The traffic from Iten to Eldoret and Kapsabet to Eldoret is high. If you are driving to Kapsabet, for example, with all those corners and valleys, the road is too narrow. This is a priority road. The bypass in Nakuru and the overpasses have been done to ease the issue of traffic in Nakuru Town.

Considering that Eldoret is a highway that takes people all the way to Malaba and you have this other route to Kisumu, I think it is important that the new Director-General (DG) of Kenya National Highways Authority (KeNHa) - I am aware and it was announced that they have a new DG, Mr. Kinoti - should take this project to be a very important priority for that region.

Madam Deputy Speaker, I am writing what I am saying---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Is that a point of order or information?

**Sen. Omogeni:** It is a point of information.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Does Sen. Murkomen want information?

**Sen. Murkomen:** Yes, I would like to be informed.

**Sen. Omogeni:** Madam Deputy Speaker, I just wanted to inform Sen. Murkomen that the new DG is not for KeNHA but for Kenya Urban Roads Authority.

**Sen. Murkomen:** Thank you for that correction. Madam Deputy Speaker, I knew Mr. Kinoti as DG for Kenya Urban Roads Authority for a very long period of time and was mistaken that he was moved to KeNHA. However, be it as it may, it is very important for me to say that the DG there, if it is still Eng. Mundinia, should take that responsibility seriously. We have the Eldoret International Airport, and there are roads

going to Kitale, Malaba, Kisumu, Iten, Kabarnet and through Chepkorio to Eldama Ravine then to Kabarak and Nakuru. So, for that town to be decongested, it is necessary that we have at least a dual road from Kapsabet to Eldoret. It is not very far; it is just around 60 kilometres, but makes a big difference.

I disagree with Sen. Cherargei that it should be that region versus another region. I want to thank the DG and the Ministry for doing what they did in all other regions in the country. Even the highway from here to Murang'a to Nanyuki is something to be appreciated. Even as that is being done, we also request that a lot of effort is put to ensure the decongestion of Eldoret town so that all of our country is properly developed, just the same way---

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Cherargei, you are pressing the wrong button. You are queuing for your own contribution.

**Sen. Cherargei:** On a point of order, Madam Deputy Speaker. I hate to interrupt my Majority Leader by saying that---

**Sen. Farhiya:** On a point of order, Madam Deputy Speaker.

**Sen. Cherargei:** I meant my lecturer, *Mwalimu* Murkomen, who taught me International Law.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Farhiya, just take your seat for a second.

**Sen. Farhiya:** On a point of order, Madam Deputy Speaker. Is it in order for Sen. Cherargei to mislead this House that the Senator for Elgeyo-Marakwet is still the Majority Leader of this House, yet we know that the Senate Majority Leader of this House is Sen. Poghisi from 12<sup>th</sup> of May?

Let me just remind him of the changes that took place in this House. Maybe he was not in the House on that day.

I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Sen. Farhiya, I think that it must have been a slip of the tongue, but he did correct that Sen. Murkomen was his lecturer. I think that respecting a lecturer is a very important thing.

**Sen. Wetangula:** On a point of order, Madam Deputy Speaker. I would want to encourage Sen. Farhiya, whom I have a lot of regard for, not to be too sensitive. The Senator for Nandi never referred to Sen. Murkomen as the Senate Majority Leader. He said 'my majority leader.'

His majority leader is not necessarily the Senate Majority Leader and, therefore, it is not an issue here. He is his majority leader, probably, in his village or in his caucus or wherever.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you. I am seeing Sen. Langat on the screen, but I cannot see his face. Somebody is pressing Sen. Langat's intervention. Are you using somebody's card?

**Sen. Cheruiyot:** Madam Deputy Speaker, I wanted to confirm from Sen. Cherargei whether he meant the Senate Majority Leader or the Leader of the Majority? If he said 'leader of the majority,' then in that regard, he is right with regard to the Majority side.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I do not want us to move back and forth. I think Sen. Cherargei needs more information for his question.

I would like to go back to Sen. Murkomen to wind up because we have taken a very long time. You are not submitting anything.

**Sen. Cherargei:** I was on a point of order.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Yes, you were on a point of order. We need to finish. We have a very important Statement, which I am told is very urgent from Sen. Sakaja. We want to take another five minutes only, then we can proceed.

**Sen. Cherargei:** On a point of order, Madam Deputy Speaker. I heard my good lecturer and I use my words very carefully because he taught me very well. I did not mean that the Director of KeNHa, Eng. Peter Mundinia is not serving the country, but we have seen less of him and his officers in the KeNHa region of North Rift area, which Sen. Murkomen, yourself and I are serving.

I did not mean that he has been selective or discriminative in that aspect. Therefore, my majority leader, I wanted to caution you so that you do not pursue that angle.

Thank you.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Okay, your majority leader has heard.

**Sen. Murkomen:** Madam Deputy Speaker, you know that on the Majority side, we are 34 Jubilee Senators and 17 are from my caucus. So, you can understand what Sen. Cherargei was saying. The leader of the majority, not necessarily the Standing Orders Senate Majority Leader, and you know that there is a paradox in this House; the majority is not necessarily the majority leader.

I want to say that that project is extremely important for us, that is, the dualling of Kapsabet to Iten Road. I will request that when the Committee retreats to find that issue and discussing the bypass in Kapseret, one of the most critical issues - the Senator for Nandi agrees with me; my chairman of legal - that this project is extremely important. It must be dealt with because it connects these three towns.

Iten is not just another town, as you very well know. It is an international city, where international athletes come to train. The athletes have always told me that there must also be a murrum road that is done parallel to the highway that enables them to run, so that they are not forced to run on tarmac because that damages their legs and that is the place where we get the best training.

Thank you.

**Sen. Nyamunga:** Thank you, Madam Deputy Speaker, for giving me this opportunity to add something very brief to the Statement.

I appreciate that the Kenya National Highways Authority (KeNHA) is doing a lot of work. In my sub-county of Nyando, from Ahero to Kisii, there is a major road that is being constructed there.

We have had many issues with Sonel Bonech International Holdings (SBI). First of all, when SBI was working Kisumu-Kericho Road, they did many borrow pits and left them unattended. They were not even properly fenced to protect villagers. Secondly, they are now full. Even the size that should be there to protect people from the overflowing water was never done properly.

That has brought a lot of suffering to our people on Ahero-Kisii Road. The bridge came down recently as result of carelessness. When they were doing a deviation for people to pass as they did the main road, it was never done properly. So, the whole bridge



came down. That has brought a lot of suffering for our area, which is already in a very poor state knowing that Nyando is badly affected by the floods of River Nyando.

I appreciate the work that KeNHA is doing, but they should do much more when they do the roads, so that they do not add suffering to people who are already suffering. They should make sure that all culverts are properly done. Two weeks when I was there, I could not even access my home because a culvert was put and there was a lot of flooding and no access. It is still like that.

We would like to appeal to the KeNHA, that they should do proper supervision. As they do the roads that we need so much, they should make sure that the interests of the people are also taken into account.

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

Sen. Sakaja, your Statement is next.

Finally, Sen. Omogeni, proceed.

**Sen. Omogeni:** Thank you, Madam Deputy Speaker. First, *pole* to my good friend, Sen. Cherargei who was involved in a road accident. It is good to see he is on the way to full recovery.

The issue that Sen. Cherargei has raised is very important. Roads that are managed by KeNHA are those that are ordinarily home to fast moving vehicles. If you do not have proper markings on our highways, you are certainly being negligent as a body, and I mean KeNHA. That is what is contributing to so many accidents on our highways.

On many occasions, I have personally called the Director-General (DG) for KeNHA, Eng. Mudinia, and alerted him to so many contractors who have built very good roads, but left the site before ensuring proper marking and signage.

In one incident, I called him when there was an accident at Sironga. That is the Kisii-Nyamira-Ikonge Road. You can imagine you construct a road, put bumps but no signage at all to warn motorists. Somebody hit that bump, the car went up then down and rolled.

We must urge the Committee that will be seized of this matter to do a serious audit on whether KeNHA as an Institution conducts inspections on the sites to ensure that before a contractor is released, there must be proper marking of the roads and signage on sites. Where there are bumps, people need to be told and where there are sharp corners, there needs to be signage.

I had another issue on Metamaiyo Market where we lost a motor cyclist. You know our young people are engaging in the *boda boda* business. It is not because they did not go to school. They went to school, but they do not have jobs. Therefore, we should take care of these people. If the economy was to improve tomorrow, we will absorb them into jobs where they can earn a living as salaried Kenyans.

May I urgently appeal to the Committee that will be seized of this matter, to do a serious audit on the state of our roads. Where KeNHA is found to be culpable, urgent measures should be put in place to ensure that all our roads are marked. We look primitive when we do fantastic roads, but cannot do such a simple thing as marking them. It is the way somebody said that you give us first class facilities with third class mentality.

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

The Statement by Sen. Cherargei stands committed to the Committee on Roads and Transportation.

Senators, I know we have taken a very long time, but we have a last urgent Statement from Sen. Sakaja. May I inform our Whips that we have lined up seven divisions, which we will skip. That is why I was stopped on Statements. It is because we have seven of them and we cannot do because the Whips have not mobilized well. We hope that you can mobilise for tomorrow. We would like to do our divisions tomorrow.

**Sen. Sakaja:** Thank you, Madam Deputy Speaker. I am glad the Senate Majority Whip is right next to me and we need to get numbers to pass those Bills that are at Division, especially The Pandemic Response and Management Bill.

PLANNED REPOSSESSION OF LAND/HOUSE DEMOLITIONS  
IN LANGATA CONSTITUENCY

Madam Deputy Speaker, I rise pursuant to Standing Order No.48(1), to request for a Statement from the Committee on Lands, Environment and Natural Resources, on the planned repossession of land and demolition of houses in parts of Langata Constituency.

This is considering that the Ministry of Environment and Natural Resources has embarked on an exercise to fence Ngong Forest and reclaim parcels of land. In the process, they are threatening to evict over 20,000 residents and demolish houses in Sun Valley Estate, Forest View, KMA Estate, Langata View Estate, Langat Palace, Royal Park Estate and Shallom Estate. This is very urgent because it is supposed to happen this week.

In the Statement, the Committee should-

(1) Provide a substantive report and official Government position from the Cabinet Secretary for Environment and Natural Resources on the above claims of repossession of land and demolition of houses so as to allay fears and dispel the anxiety and tension among the targeted residents of Langata.

(2) Address the alleged pronouncements by the CS for Environment and Natural Resources that they will fence in the estates and release animals. This has created undue anxiety and tension within the area stated.

(3) State why officials from the Kenya Forest Service (KFS) have been going around these estates issuing verbal notices of the intention to repossess and fence off the land which is despite a Gazettement Notice No.164 issued on 21<sup>st</sup> January, 1998 by the same Ministry, allowing for subdivision and development in the area in question.

Madam Deputy Speaker, kindly, I urge that the Committee is seized of this matter immediately. CSs are now trying to outdo themselves. This CS is on record threatening these residents and making such pronouncement like releasing animals and talking down at Kenyans who have invested and built houses.

I kindly urge that this is directed to the relevant Committee. There are fears that this might even start tomorrow. This is by the Ministry of Environment and Natural Resources under Hon. CS Tobiko.

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

Sen. (Dr.) Musuruve, proceed.

**Sen. (Dr.) Musuruve:** Madam Deputy Speaker, thank you for giving me an opportunity to support this Statement by Sen. Sakaja of Nairobi City County.

Indeed, he has brought an issue that is very important on the Floor of this House. As we speak, many families are currently frustrated. They cannot have their meals and do not know how to behave because of this Statement from the Ministry of Environment and Natural Resources.

In these said places, you will find people took loans and went through the due process to get title deeds. They got the title deeds from the same Government, in fact, from the Ministry of Environment and Natural Resources and even pay city and land rates to the County Government.

Madam Deputy Speaker, this is irony of ironies in this world. No Government can decide to pick money from its own people, if it knows very well that the land that had been acquired is illegitimate.

Madam Deputy Speaker, as we speak right now, there are so many families that are stranded over this issue. They do not know how to behave. They already have loans. There are quite a number of Members of Parliament (MPs) who are also affected with this particular issue. There is need for the right committee to deal with this issue and ensure that we do not anguish our citizens more than it is necessary. This is because so many people are affected.

Madam Deputy Speaker, sometimes the Government rushes to begin demolitions even before doing an investigation. Later on, it is found out that the demolition was not really fair.

There is need for the Committee to relook into this issue and see how to solve it. This is because, as Senate, we are supposed to be the defender of our people. Everyone is looking at the Senate to see how we are going to resolve this issue.

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

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

Madam Temporary Speaker, when you look at Article 43, it speaks very well that there is need to provide security, even for the vulnerable. As I speak right now, the people who are living in that area are already the vulnerable of the vulnerable. They need to be helped. They need to be supported so that we do not do things that hurt everyone. We have to move forward as a country and nation.

Human life is more important. Of course, animals are also important, but there is need to also take into account the fact that human life is very important. The psychological mindset of our people is important for development.

Thank you for giving me an opportunity.

I support this Statement.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I think there is still some interest in this Statement, but our time is also spent. Kindly, just make very few comments.

Sen. Murkomen, kindly, proceed.

**Sen. Murkomen:** Madam Temporary Speaker, we watched the Cabinet Secretary with a lot of shock when he issued that Statement.

I want to thank Sen. Sakaja for coming up with this Statement, strongly to defend his constituents. As Sen. Sakaja is saying, it is over 20, 000 Kenyans who are threatened.

Madam Temporary Speaker, we all know that Sun Valley, Forest View, KMA, Langata View, Langata Palace, Royal Park and Shalom estates, are mostly inhabited by retirees who put their investment of all the time they worked in the Public Service to buying land and building houses in those estates.

As an advocate, I have been involved in doing mainly conveyancing that is related to people purchasing either houses or land, to develop in those estates. I even know colleagues whom we used to teach together at the university, who live in Sunvalley Estate. I can name them since they are close friends. These are people who come from different areas of this country. They took all the resources they had, they went to buy land and developed, but I do not understand how a Cabinet Secretary can just wake up one morning and say that they are going to fence off this property. They are going to remove people when they allocated land to themselves.

In fact, a title deed is processed through a Government process. It is the guarantee of Government processes that makes a title deed a very important document.

**The Temporary Speaker** (Sen. Nyamunga): Sorry Senator, Sen. (Dr.) Musuruve, what is your point of intervention?

**Sen. (Dr.) Musuruve:** On a point of information, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Murkomen, do you need information?

**Sen. Murkomen:** Proceed.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, I would like to inform my fellow Senator that he has mentioned colleagues he knows who are living at Sunvalley Estate and other estates, but I would like to inform him also that I am a resident of Royal Park Estate and I am your colleague in the House.

**Sen. Murkomen:** Thank you, very much Sen. (Dr.) Musuruve, if we were to give a chance to many colleagues here, they know family members, or even they themselves live in those areas. I am not talking about us.

Maybe, we still have a chance to go and buy land in Kajiado, or somewhere else and live there. I am talking about citizens of 60 or 70 years who have invested everything they got in Public Service. Remember, some of the public servants who are living there used to earn Kshs30, 000 or Kshs40, 000 when they were serving in the Public Service. They took all of it to get and invest in their homes.

Madam Temporary Speaker, then for unexplained reasons, the Government processed title deeds and then comes to announce that those title deeds are useless, that the place will be fenced off and people will be removed. Now, you have some of the senior citizens who are living there, I have information that some of them are older, some of them have diseases like hypertension. You put them through anxiety that their properties mean nothing. This is ridiculous and absolutely sad.

This is because, if we are going to go that way; that the Government just mentions--- I am really sad because the Cabinet Secretary is a senior lawyer, a person

who has qualified to be appointed as the Director of Public Prosecution (DPP); that he can just---

I know Hon. Tobiko was a top student of land law at the University of Nairobi. That is how he got to---. He was one of the brightest students of the Mr. Okoth Ogendo. I really feel sad that for political reasons, a CS can now leave every reputation he has had in the legal profession to go threaten innocent citizens in Langata.

I really hope that this committee---. Sen. Sakaja, I know your diligence in following up these issues, especially in the Committee. I want you to ensure that you go with Sen. Githiomi and make sure that this issue is settled once and for all so that those who are living there, fending for their families - some of them are still paying mortgages - can now sleep in their houses without anxiety and avoid all these kind of attacks on its own citizens.

I feel very sad that the Government went to demolish houses in Kariobangi. The Government came to tell us that they are planning to put in place a committee to investigate why the Government demolished houses in Kariobangi. This rotation of madness is a circus. It is the theater of the absurd.

I believe in our Committee. If nothing else, I hope this Committee performs like the few committees that have performed in the past to follow something to logical conclusion. If for nothing else, it is also because some of our colleagues live in the same area.

Thank you.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I know this is a very interesting Statement, but kindly, be brief.

Sen. (Dr.) Langat, kindly, proceed.

Are you Sen. (Dr.) Langat?

**Sen. Cheruiyot:** At some point, I saw Sen. (Dr.) Langat seated here, probably he may have come in and changed cards without me realizing. That is what he did without my realization.

**The Temporary Speaker** (Sen. Nyamunga): Okay, go ahead.

**Sen. Cheruiyot:** Allow me to proceed as Sen. Cheruiyot, but he is my neighbour, there is no problem.

Madam Temporary Speaker, I watched the CS, a week ago in bewilderment, explaining to the country so confidently that what he was doing was for the good of the people of this country.

Every time, there is a threat on the balance of rights between individual rights and the rights of the State, individual rights take precedence. If the CS has a legitimate case against these people, at least even in his language and approach, the most decent thing that he would have done, was to first of all investigate, ensure the she finds out on what basis---

I am sure that the people who live in Sunvalley are not bad people. These are sane people. They have gone to school. They know the process of owning land in this country. They must have gone through all those legal processes before they got the titles and built in that particular area. So, for a CS to just show up on a particular day and declare that the title you are holding is null and void, is really unfortunate. Many of us continue to

watch these things unfold in our country. We do not say anything about it despite the fact that we are in position of authority.

I want to remind you that a day and a time will come when you will no longer have the platform that you have right now as a Member of Parliament. Another Government that is not favourable to you will show up at your home and declare you landless.

This current administration is setting a very dangerous precedent. If you have a title deed, for whatever it is worth, until you exhaust all channels of appeal, you should be fought all the way to the Supreme Court for you to determine that for sure the title is fake or not valid before the Government can do anything on your land.

As a House, we must be firm about this new habit where people and Cabinet Secretaries want to appear as if they are powerful, working for the people of Kenya and show up on peoples' private properties and destroy them.

I want to plead with our colleagues who sit in the Committee--- I do not know which Committee will handle this, but perhaps it is the Committee on Lands, Environment and Natural Resources to please use the case of Sun Valley as an example. Let there be a set procedure. Let the citizens of this country know that the Senate of the Republic of Kenya cares for their rights. Let reports be published and let the Cabinet Secretary come before this House and explain to us what logic he is using in deducing the kind of reasoning he was passing to the citizens.

It is traumatising to the people that live there. You wake up today comfortably thinking that you have worked so hard in your life and have a roof over your head. Then, a Cabinet Secretary shows up and says, 'the title you have is fake.' Who can we believe them? If the Government is declaring its own titles fake, then perhaps, the Government itself is fake. I hope that our colleagues who sit in that Committee will do justice to this Petition by our colleague, Sen. Sakaja.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Omogeni, you have the Floor.

**Sen. Omogeni:** Thank you very much, Madam Temporary Speaker, for allowing me to also make a contribution on this very important Statement. If you follow the history of the country, issues dealing with land have caused wars. People have fought because of land.

When we enacted our Constitution, Chapter Five, Article 60 (1), is very clear on issues dealing with security of land rights. Our Constitution is very elaborate that if you want to take away land that is in private hands, it does not require a Cabinet Secretary, and capriciously declares that he is going to take away land that is belongs to Kenyans who have been issued title deeds. That is not the way you run a Government.

When you talk about an estate called Kenya Medical Association (KMA), it has been constructed by doctors and belongs to members of the Kenya Medical Association. These are professionals who have worked so hard to own homes in those estates. We must remind our Cabinet Secretary, who is a member of the club of Senior Counsels in this country that even if he has any grievance against those estates, there is a process that he must follow under our laws.

I want to state, without any fear of contradiction because it is the law that the only body that can go to court and have a title cancelled is the National Lands Commission (NLC). The Cabinet Secretary cannot convert himself to be the NLC.

If he has any grievance or a basis in law that can demonstrate in any court of law that this land where these estates have been built, belongs to Kenya Forest Service, let him follow the laid down procedure. Let him file his claim with the NLC and parties will be given a right to be heard, then a determination can be made. Otherwise, we are going to make title deeds in this country to be pieces of paper. There are people who have mortgaged their homes in those estates.

How are banks going to have confidence in our title deeds if we can allow a situation where a Cabinet Secretary wakes up one day and declares over six estates to be areas covered by forest, while we know that there are Kenyans who own title deeds in those estates? That is not the way to run a country, where we have the rule of law and a Constitution that protects the sanctity of titles. This is something that all law students are taught in Land Law class; that there must be sanctity of a title deed. If we allow this kind of situation to prevail, we are going to place ourselves where we will never allow Kenyans value in title deeds.

There will come a time when you will not walk to any bank to pass over your title to the bank as security for loans. That is not the way to conduct business. I hope that the Committee that will be seized of this matter will go to the root of it. Let those who have titles show that they have. Some are innocent purchasers without any notice. They did a transaction from a willing seller to willing buyer. You cannot condemn such Kenyans and say that you want to repossess their land.

I support this Statement.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I do not want to stop Members from contributing to this Statement because it is very critical. Kindly, be brief and make a point or two.

Sen. Faki, proceed.

**Sen. Faki:** Asante Bi. Spika wa Muda kwa kunipa fursa hii kuchangia Taarifa iliyoletwa Bungeni na Sen. Sakaja, Seneta wa Nairobi.

Bi. Spika wa Muda, Serikali yetu imekuwa ikivunja sheria kwa sababu kila hati miliki ya ardhi inatolewa kulingana na sheria. Kwa hivyo, haiwezi kupokonywa yule mmiliki bila kufuata sheria. Wakati Waziri anatoa taarifa katika vyombo vya Habari kwamba atavunja ama kuweka ua katika nyumba za watu ambao wana hati zao, ina maana kwamba Serikali inasababisha kupuuzwa ama kuvunjwa kwa sheria, na hilo ni swala ambalo hatungeweza kulikubali kama Bunge, kuendelea kufanyika. Kila mtu anafaa apewe fursa ya kutetea ile hati ameweza kuipokea vipi? Je, ni vipi aliruhusiwa kujenga? Kuna shirika kama *The National Environment Management Authority (NEMA)* ambayo inafaa kuzingatia kabla ya kujenga. Unazingatia masharti unayopewa na *NEMA* ambayo inatakikana kujua kuwa hapa ni mahali pa msitu ama maji kupita na watu hawaruhusiwi kujenga.

Bi. Spika wa Muda, kama ilivyotanguliwa kusemwa, wengi walijenga pale kwa sababu wamekuwa na matumaini kwamba itakuwa makaazi yao ya siku za usoni. Iwapo watawunjiwa hivi sasa, ina maana kwamba watu wale watahindwa kumiliki makaazi na watakuwa ni watu ambao wamerejea nyuma kimaisha kwa muda mmrefu.

Katiba yetu inatoa haki ya kupewa malazi ama nyumba na Serikali. Mpaka sasa, haijaweza kuzingatiwa na kutekelezwa. Ikiwa Serikali inapokonya watu makao na ardhi

zao, ina maana kwamba sisi tutakuwa tunaishi kama *masquatter* kwa muda mrefu ambao utakuwa na malengo ya Katiba mpya hayataweza kufikiwa.

Naunga mkono Taarifa hii na ile Kamati husika ihakikishe kwamba swala hili linafuatiliwa kwa haraka ili watu wasije wakapoteza makaazi, kama vile wamepoteza huko Kariobangi na kwingineko.

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

**Sen. Wetangula:** Thank you, Madam Temporary Speaker. This is a very important matter. A title deed in any jurisdiction is sacrosanct. Nobody can wake up and say, 'this title deed is to be done away with.' There was a time a Cabinet Secretary made a careless statement that title deeds were mere pieces of paper, which brought a lot of problems in this country.

If, indeed, the Cabinet Secretary says that the land belongs to the Forest Department, his starting point should be: At what time was it alienated, who was in charge of the forest department and how was it alienated when the Forest department was in charge? That is where they should start and prosecute those who did that. The KMA estate is owned or rather was constructed and developed by doctors. You cannot say that doctors grabbed land from the Forest Department; they must have purchased this land from somebody.

As a lawyer, a purchaser for value without notice gets good title. The Cabinet Secretary cannot just wake up in the morning and say that he is going to revoke titles without due process. If there is any case, and I suspect he has not, let him go to the NLC or the Lands court - we have the environmental and lands court - and prosecute his case.

If the Government wants to revert any land to the forest, yet it is the same Government that issued title deeds and approved settlements and drawings for construction, then the Government has a duty to compensate adequately and promptly anybody being dispossessed.

We do not want to have rule of the jungle in this country, where you just see bulldozers coming and putting down your property without any regard as to whether you have bank loans or whether you have invested your entire savings of life and pension and somebody so uncaring just comes and tells you that is Government's land. Government is people and people are government. We should protect our people against any arbitrary use of power by anybody in power.

I thank you.

**The Temporary Speaker** (Sen. Nyamunga): As Sen. Seneta prepares to make her comments, I would like to ask Sen. (Dr.) Kabaka to make his way to the Chamber.

**Sen. Seneta:** Thank you, Madam Temporary Speaker, for allowing me to also add my voice to this important Statement. Issues of land are very sensitive. Land is a constitutional right. For the Cabinet Secretary to have pronounced this, he should have first looked at who issued title deeds to those people. That is where he should have started from.

The other issue is institutions that allowed those people to build on forest land. Most of the time land buyers become victims of failure of institutions. That is why we have people who were allowed to settle on land meant for sewerage for years. Why were they allowed to build on it and who allowed them to be given title deeds for land that was supposed to be used for a sewerage system?



The committee that will look into this particular Statement should tell us those institutions that have failed to tell buyers not to build on or buy particular pieces of land because they belong to certain parastatals, Ministries or individuals. Otherwise, many Kenyans will continue to suffer. This is because you can buy a piece of land along the road and you are not told it is a road reserve. You are allowed to build then after settling for years investing a lot of money, you are told that you are on a road reserve. I think we should go for those people who have failed to do their work instead of going for the Ministry that is demolishing people's houses.

I support this Statement.

**The Temporary Speaker** (Sen. Nyamunga): Thank you Senator. Finally, we will have Sen. Wambua. Senator, I am sorry it was meant to be Sen. Wambua and not Sen. (Dr.) Kabaka.

**Sen. Wambua:** I thank you, Madam Temporary Speaker, for this opportunity to contribute to the Statement by Sen. Sakaja.

I will say only three things. First, it is unfortunate that a Government that is keen on increasing the number of people that own houses has a Cabinet Secretary saying that they will demolish houses and acquire land for reasons that can only be explained by the Cabinet Secretary.

The people that live in Sunvalley and KMA estates followed due process. I know this because I am a member of the African Inland Church (AIC) and we have a church in Sunvalley Estate. I know that people followed due process to acquire land and erect their buildings.

The second thing I want to say about this matter is that matters land are the province of the National Land Commission (NLC). The core mandate of the Cabinet Secretary for Environment and Forestry is to ensure environmental conservation.

We are speaking at a time when this country is suffering great loss of forest cover. What the Cabinet Secretary should be doing is to look for those forests that are being destroyed and come up with programmes for proper re-forestation. If he does not know some, I will direct him to some forests in Kitui. We will show him where we can go and plant trees.

Lastly, Madam Temporary Speaker, the people who own property in these estates are servicing loans. They have taken loans and other credit facilities on account of the titles that were issued by this Government.

I want to call the Cabinet Secretary to order. If he has decided to do what is called compulsory acquisition of property, there is a procedure to follow and the people should be compensated fully and promptly. In the absence of that, the Cabinet Secretary must be called to order.

I thank you.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, that was a very important Statement.

I would like to refer this matter to the Committee on Lands, Environment and Natural Resources. I do not know if the Chair or the Vice Chair is here. If they are not yet in place, it will be communicated to the Committee that it is very critical and we want a full report on this.

*(Sen. Sakaja stood up in his place)*

Sen. Sakaja, I thought the Statement was yours?

**Sen. Sakaja:** Yes, Madam Temporary Speaker. I just want to urge that as you give direction, because the Chairperson of the Committee on Lands, Environment and Natural Resources is not here, Sen. Kang'ata who is the Majority Whip is here.

Madam Temporary Speaker, from your powerful Chair, if you give him instructions to ensure that the Chairman deals with it within the next few days, I will be ever grateful.

**The Temporary Speaker** (Sen. Nyamunga): Senate Majority Whip, this is a very important Statement. The Committee does not have a Chair. We would like you to take this matter seriously. We need responses brought here in seven days. Will that be appropriate? Is that okay?

**Sen. Kang'ata:** Yes.

*(An hon. Senator spoke off record)*

**The Temporary Speaker** (Sen. Nyamunga): We will come back on 7<sup>th</sup>. So, it should be brought back then.

**Sen. Wetangula:** On a point of order, Madam Temporary Speaker. While I appreciate your direction, I think it will absolutely imperative that this House directs the Clerk to write to the Cabinet Secretary and caution him against any precipitate action against these estates, awaiting his possible appearance before the House. If we do not do that, there is a risk of green bull-dozer moving in and destroying people's property like we have seen done elsewhere.

So, the Cabinet Secretary should be informed that this House takes a very dim view of what he is doing and he must stop it, pending his appearance before a committee of this House.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Members, I think we will go that direction and order that there should be no further actions taken on this land because it is bringing a lot of suffering to the people of Kenya. We will give the Committee up to 7<sup>th</sup>. When we resume, the report should also be ready. It is so directed from this powerful Chair.

Let us go to the next Order.

Looking at the numbers, I do not think that we can go through the divisions. Therefore, we will defer Order Nos. 8, 9, 10, 11, 12, 13 and 14.

## COMMITTEE OF THE WHOLE

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

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL  
(SENATE BILLS NO. 38 OF 2018)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL  
(SENATE BILLS NO. 9 OF 2019)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

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

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

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

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

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

*(Committee of the Whole deferred)*

**MOTIONS**

PROVISION OF CEMETERY, FUNERAL PARLOURS  
AND CREMATORIA IN ALL COUNTIES

THAT, AWARE THAT under Article 61 of the Constitution of Kenya, land in Kenya is classified into three categories, public, Community and private land;

FURTHER AWARE THAT, public land is vested in both the County and National Governments and is managed on their behalf by the National Land Commission, and that Article 62 (2) clarifies the distribution of public land between the two levels of government.;

COGNIZANT THAT, the Fourth Schedule of the Constitution delegates cemeteries, funeral parlours and crematoria as a function of County Governments;

CONCERNED THAT, cemeteries in the Country are filling up, and counties are finding it increasingly difficult to identify land to allocate as “public” for use as a cemetery with the knowledge that any cemetery or burial-place that is crowded and therefore dangerous to health is defined as constituting a nuisance in the Public Health Act;

NOW THEREFORE, the Senate calls upon the county governments to ensure that funds are allocated in the County Annual Development Plans for FY 2020/2021, towards the planning and development of cemetery, funeral parlours and crematory facilities.

*(Motion deferred)*

**The Temporary Speaker** (Sen. Nyamunga): We will now go to Order No. 19.

*(A Member spoke off record)*

We will rearrange that. We will come back to Order No. 15. For now, let us go to Order No. 19.

REJECTION OF PROPOSED APPOINTMENT OF HON. RACHEL  
AMESO AMOLO AS A MEMBER OF THE PSC

THAT, taking into consideration the recommendation of the Standing Committee on Justice, Legal Affairs and Human Rights, in its Report on the proposed appointment of Hon. Rachel Ameso Amolo as a Member of the Parliamentary Service Commission, laid on the Table of the Senate on Tuesday, 16th June, 2020, pursuant to Standing Order 71, and cognizant of the provisions of Article 127(2)(d) of the Constitution, Section 9 of the Parliamentary Service Act and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, the Senate rejects the proposed appointment of Hon. Rachel Ameso Amolo as a non-Member of Parliament Commissioner to the Parliamentary Service Commission.

**Sen. Faki:** Thank you, Madam Temporary Speaker. Upon consultation with the Members of the Committee, I wish to defer this Motion to a later date.

**The Temporary Speaker** (Sen. Nyamunga): Senator, that is allowed. We will defer that but we ask that it be listed for tomorrow. We do have a sitting tomorrow. The Motion is deferred till tomorrow, afternoon, at 2.30 p.m.

*(Motion deferred)*

Next Order.

**The Senate Minority Leader** (Sen. Orengo): Madam, Temporary Speaker, I am a Member of this Committee but we cannot treat the Business of the House anyhow. When something appears in the Order Paper, there must be a basis or justification to withdraw it or rearrange it. This Motion relates to a constitutional commission. Therefore, it will be highly irregular knowing how people are behaving elsewhere when it comes to issues of dealing with constitutional processes. We are involved in a constitutional process. This is what we are required to do under the Constitution and that is to establish the commission.

In fact, other commissions are established in a different way but this one has to be established by Parliament. Unless we are given a valid reason, people elsewhere may think that Parliament is not meeting its constitutional mandate. I would have probably moved the Motion if I was assigned to do so. If there is no justification, then the Motion fails. That is what happens when an Order is called and it is not moved. If the Motion is not moved, there should be a justification for us to interrogate if there is sufficient reason to do so.

**Sen. Wetangula**: Madam, Temporary Speaker, it is alright. In my many years in Parliament, I have not seen or heard of a situation where an intended Mover of a Motion casually stands up and says that 'I defer the Motion' without giving any explanation then goes ahead to sit down. In fact, the power to defer any Motion does not lie with the Member who intends to move it.

The Senate Minority Leader has said, and I do agree with him, that this is a constitutional body that we are dealing with. We have taken oath to defend and uphold the same Constitution. This is the Commission that employs and pays our salaries. It is the same Commission that runs Parliament and it has to be fully constituted at any given time for it to discharge its mandate. Any procrastination on the matter, in this House, is unacceptable.

This Motion has been brought in the House. The Chair has given it preference over the other House Business and I am sure that she did so after very due consideration. I am sure that the Chair skipped all the other Orders on the understanding of the importance of this Motion and the importance of the subject at hand as said by Sen. Orengo.

If the intended Mover of the Motion, having been given an opportunity and priority over all other Businesses is unable to move the Motion, then the Motion collapses. We can then move on to something else other than holding the House at ransom over a matter so important such as this.

I urge you to reject that request and if the Mover is not ready to move the Motion, let the Motion collapse and we know the consequences of that collapse.

**Sen. Wambua:** Madam Temporary Speaker, this is astonishing. The Report that the Senator for Mombasa County was supposed to move on the Floor today, is here. The Report is signed by the requisite number of Members. We have patiently waited to debate this Report. You have assigned time for this Report to be debated just for the Senator for Mombasa County to ask for the postponement of the debate when he is called to move the Motion. That is ambushing the Chair and the Members. I urge that we do not set a bad precedence.

There are Members of that Committee who are in the House and they can move that Motion and second this Report. The mood in the House is that the Members are ready to debate this Report and vote on it. I pray that you give directions because we want to meet tomorrow to transact this Business yet we will not have Business for tomorrow. We need to manage our time.

**The Senate Minority Leader** (Sen. Orenge): Madam, Temporary Speaker, I am sorry that I am coming back to the Floor. I want to point out the importance of this particular Motion. This is a Motion under Part XIII, which are designated as special Motions. So, it is not an ordinary Motion, but a special Motion. The Special Motions are defined in Standing Order 69 (1) (a).

It says:

“For purposes of this Part, a Special Motion is one—

(a) that seeks a resolution of the Senate to approve an appointment or re-appointment in accordance with Part XIV (*Approval of public appointments*);

An office in the Parliamentary Service Commission (PSC) is a public appointment.

Madam Temporary Speaker, if you look at Part XIV, which is found on page 51, from Standing Order 70 to 71 on the committal to committees, these decisions are time bound. We cannot sit on it. If you look at it, from when the Clerk receives it, in 7 days or 14 days the matter should be over.

For this reason, I continue to urge that we need to get this matter out of the Order Paper by making a resolution.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Murkomen, make your comments brief.

**Sen. Murkomen:** Madam Temporary Speaker, again, approving a member who will preside over the management of the welfare of Members of this House is a very important Motion, but I do not mind when Motions are postponed because it has been done before. In fact, Sen. Orenge has ever requested for postponement of Motions that were time bound. However, when he did, it was with reasons.

Sen. Faki just stood and said that after consulting some Members of the Committee, he wants the Motion to be postponed. There is nothing that guarantees this House that he will not stand tomorrow and say: “Having consulted the stars and the moon, let us postpone it to the next day.” There must be credible reasons for postponement. It cannot just be an ambush to the Speaker. If it was serious reason, he would have approached the Chair way before to explain, then he would have the Floor to make an explanation.

Changes are coming. Maybe Sen. Faki is designated to be something, but he is letting himself down even before those changes arrive. He needs to seize the moment and

demonstrate that he can move the Motion. As he knows, his colleagues are here. We have Sen. Kihika, Sen. Kang'ata, Sen. Orenge and Sen. Wetangula. They are eager to debate. They are members of his Committee. Whom of them would he consult if it was not Sen. Orenge?

**The Temporary Speaker** (Sen. Nyamunga): Sen. Sakaja. Please make your comments brief and then we will give Sen. Faki the final chance.

**Sen. Sakaja:** Thank you, Madam Temporary Speaker. I will make them not just brief, but also heavy. Following what the Senate Minority Leader has said, this is a time bound Motion and a special Motion under Standing Order 69(1) (b) which must be disposed of by the Senate within 14 days of the Notice of Motion being given.

As of now, if you look at our Standing Orders, we have not gone to Standing Order 15, meaning that there is no guarantee that we are sitting tomorrow. Because of that, assuming that we will sit tomorrow, it is actually anticipating debate on a Motion that has not come there. It will be very irresponsible for us as House to assume that we will casually meet this constitutional deadline that is in our Standing Orders by assuming that this House will approve that we meet again tomorrow before we go for recess for a month, which is longer than the 14 days that is required.

Madam Temporary Speaker, this is the last day that we have until we have gone to that other Motion that is proposing another sitting tomorrow and a recess for one month. As of now, there is no sitting tomorrow. There is a recess. So, we are bound to get this done today.

**Sen. Faki:** Thank you, Madam Temporary Speaker. First of all, you had made a ruling that the matter is deferred until tomorrow. I do not know whether that ruling has been rescinded because, in your first ruling, you said that it is deferred until tomorrow. The reason why we are seeking a deferral is the fact that there was no Secunder for the Motion.

I had consulted Sen. Cheragei, who is the Chairperson of the Committee, but he indicated to me that he had already been de-whipped. I consulted Sen. Orenge, and he indicated to me that he is opposed to the findings of the report. Therefore, he cannot second it. I consulted Sen. Kihika and she told me she is also opposed to the findings of the report. Therefore, she cannot second the Motion. The last person I consulted is the Senate Majority Whip, who indicated to me that he is not prepared to second the Motion this afternoon. That is the reason why we are seeking a deferral until tomorrow.

Madam Temporary Speaker, I am ready with my notes. I can move the Motion and let the House debate it. I have no property in this Motion.

**Sen. Murkomen:** Thank you, Madam Temporary Speaker. This is exactly why I was pushing for reasons. From the reasons given by Sen. Faki, it is now clear that more than five Members of that Committee are not comfortable with this Motion. It is a clear indication that properly speaking, it has flopped in the Committee. How it found itself here is a miracle.

One way in which a Motion collapses is by failing to have a seconder. Sen. Faki should just move. If he does not have a seconder, then we will make that decision from there. I beg the Senator of Mombasa, through you, that he seizes this moment to demonstrate his skills.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Nyamunga): I think that we have heard several comments from Members. Since the Senator is here and he says that he is ready to move, can you go ahead and move the Motion?

*(Applause)*

### MOTION

#### REJECTION OF PROPOSED APPOINTMENT OF HON. RACHEL AMESO AMOLO AS A MEMBER OF THE PSC

**Sen. Faki:** Thank you, Madam Temporary Speaker. I beg to move the Motion-  
THAT, taking into consideration the recommendation of the Standing Committee on Justice, Legal Affairs and Human Rights, in its report on the proposed appointment of Hon. Rachel Ameso Amolo as a member of the Public Service Commission (PSC), laid on the Table of the House the Senate on Tuesday, 16<sup>th</sup> June, pursuant to Standing Order 71, and

COGNIZANT of the provisions of Article 127 (2) (d) of the Constitution, and Section 9 of the Parliamentary Service Act (2019) ---

*(Loud consultations)*

Madam Temporary Speaker, I am entitled to be heard in silence.

**The Temporary Speaker** (Sen. Nyamunga): Hon Members, can you consult in low tones? I concur with Sen. Faki. Kindly consult in low tones.

**Sen. Faki:** COGNIZANT of the provisions of Article 127 (2) (d) of the Constitution, and Section 9 of the Parliamentary Service Act (2019) and Section 3 and 8 of the Public Appointments (Parliamentary) Approval Act (2011), the Senate rejects the proposed appointment of Hon. Rachel Ameso Amolo as a non-Member of Parliament commissioner to the Parliamentary Service Commission (PSC).

Madam Temporary Speaker, the PSC is established---

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

**The Temporary Speaker** (Sen. Nyamunga): Sorry, Sen. Faki. What is your point of order, Sen. Cheruiyot?

**Sen. Cheruiyot:** Madam Temporary Speaker, sorry to interrupt, my good friend, Sen. Faki, but I just want to confirm if it is in order and if it is true that the Committee on Justice, Legal Affairs and Human Rights is referring to Sections of the Parliamentary Service Commission Act (2019), an Act which they themselves have led this House in taking to court and pleading before the High Court of this country that in the establishment of that particular Act, the proper procedures of passing an Act of Parliament were not followed.



That Bill concerns both Houses of Parliament, yet it was only considered in one House. So, this Committee leaves me confused. On one side, they are with us in court arguing that that Bill ought to have been brought before this House and in considering this matter, they are now quoting it.

What is the official position of the Committee on that particular Act?

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

**Sen. Faki:** Madam Temporary Speaker, if I may, the fact that it is still a law in our statutory books, we are bound to follow it until it is annulled.

The PSC is established under Article 127 of the Constitution and is responsible for among other functions, providing services and facilities to ensure the efficient and effective functioning of Parliament.

Article 127 (2)(d) of the Constitution provides that the Commission consists among others, one man and one woman appointed by Parliament from among persons who are experienced in public affairs, but are not members of Parliament.

At the Sitting of the Senate held on Tuesday, 2<sup>nd</sup> June 2020, the Senate Majority Leader tabled the Report of the Parliamentary Service Commission on the nomination of Hon. Rachel Ameso Amollo for appointment to the position of Member of the Parliamentary Service Commission under Article 127(2)(d) of the Constitution.

Thereafter, the Hon. Speaker of the Senate committed the matter to the Standing Committee on Justice, Legal Affairs and Human Rights to vet and consider the suitability of the nominee for appointment and submit its reports to the Senate within 14 days.

The Committee carried out the vetting exercise pursuant to provisions of the Constitution of Kenya 2010, the Public Appointments Parliamentary Approval Act No.33 of 2011, the Parliamentary Service Act No. 22 of 2019 and the Standing Order No.71 of the Senate's Standing Orders. This included notifying the public of the nomination of Hon. Rachel Ameso Amollo for appointment to the position of Member of the Parliamentary Service Commission and inviting written memoranda on the nominee's suitability for appointment to the position.

The Committee further received clearances in respect of the nominee from the Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), Directorate of Criminal Investigation (DCI), Higher Education Loans Board (HELB) and a duly licensed credit reference bureau (CRB).

Pursuant to Section 6 of the Public Appointments (Parliamentary Approval) Act No.33 of 2011, the Committee held their approval hearing in public on Monday, 15<sup>th</sup> June 23, 2020. The Committee thereafter adopted and tabled its Report on Tuesday, 16<sup>th</sup> June 2020.

In vetting the nominee, the Committee considered among others:

- (1) The nominee's academic credentials, professional training and experience.
- (2) The nominee's personal integrity, tax compliance and potential conflicts of interests.
- (3) The procedure used by the Parliamentary Service Commission to arrive at the nominee
- (4) The constitutional and statutory requirements relating to the office in question.
- (5) The suitability of the nominee for the appointment proposed.

- (6) Having regard to whether the nominee's abilities, experience and qualities meet the needs of the Commission.

Madam Temporary Speaker, having considered these requirements, the Committee found the nominee not suitable for appointment to the position and, therefore, recommends that this House rejects the appointment of Hon. Rachel Ameso Amollo to the position of Member of the Parliamentary Service Commission under Article 127(2)(d) of the Constitution.

Before I proceed to outline the reasons why the Committee rejects the nomination of Hon. Rachel Ameso Amollo, allow me to state that the Committee did not find any issue with the nominee's academic credentials, professional training, tax compliance and potential conflicts of interests.

Further, the Committee did not find any faults with the procedure used by the Parliamentary Service Commission to arrive at the nominee. The detailed findings of the Committee in this regard are found in page 19 of the Committee's Report.

Instead, the basis on which the Committee arrived at its recommendation for the Senate to reject the nominee was derived from the Constitution as statutory requirements relating to the office in question. In particular, the Committee found that the nomination did not meet the requirements of Articles 127(2)(d) and Article 250(4) of the Constitution and Section 9(1) of the Parliamentary Service Act No. 22 of 2019.

Madam Temporary Speaker, I shall proceed to discuss these grounds; Qualification for appointment as a non-Member of Parliament Commissioner to the Parliamentary Service Commission under Article 127(2)(d) of the Constitution. The Constitution under Article 127 establishes the Parliamentary Service Commission and provides for its membership and functions.

Article 127(2)(a) provides for the Hon. Speaker of the National Assembly to chair the Commission with an additional seven (7) Members appointed under paragraph (c)(i) and (ii) from among the Membership of Parliament.

Article 127(2)(d) then provides for appointment by Parliament of one man and one woman appointed by Parliament from among persons who are experienced in public affairs, but are not Members of Parliament.

While this provision does not expressly bar former Members of Parliament from appointment as Members of the Parliamentary Service Commission, under Article 127(2)(d) of the Constitution, it was the considered view of the Committee that the two positions reserved for non-Members of Parliament were intended to bring into the Commission an outsider view, not clouded or influenced by having served as a Member of Parliament.

The question that the Committee was confronted with is what did the Constitution envision by a non-Member of Parliament? To answer this question, the Committee looked at other provisions in law where positions are reserved, either in the Constitution or the Statute, for non-insider members or representatives of the public to serve in Constitutional Commissions and Independent offices.

Article 171 of the Constitution establishes the Judicial Service Commission which is the closest equivalent to the Parliamentary Service Commission in terms of provisions of facilities and services to one of the three Arms of Government.

Under Article 171(2)(h), the Constitution provides for the appointment to the Judicial Service Commission of one woman and one man to represent the public, and expressly excludes lawyers from appointment to the Commission under that Provision.

The import of this is that all serving and retired judicial officers, including judges, magistrates and advocates are barred from appointment to the Judicial Service Commission to represent Members of the public.

One example from the Statute is the Independent Policing Oversight Authority (IPOA) which is established under the Independent Policing Oversight Act No. 35 of 2011. Section 10(2)(e) thereof excludes from the appointment to the Board of IPOA any person who is a serving police officer or retired from such an office within the five (5) years immediately preceding commencement of this Act.

The import of this is that one must either be an outsider to the Police Service or have retired from the police service before the year 2006, which is five (5) years before commencement of the Act to qualify for appointment to the IPOA board.

Coming to the position in issue, which is appointment of a non-Member of Parliament Commissioner to the Parliamentary Service Commission, the Committee noted the emerging practice to nominate and appoint former Members of Parliament to serve as non-Member Commissioners to the Parliamentary Service Commission.

In the current Commission, for example, the non-MP of the Commission served as a Member of the National Assembly up to August 2017 following which he was nominated and appointed to the Parliamentary Service Commission in 2018. The Current nominee, Hon. Rachel Ameso Amolo served as a Member of the National Assembly until August 2017.

The import of approving the nominee in this case will mean that the Parliamentary Service Commission comprises of eight (8) serving Members of Parliament and two immediate former Members of Parliament. This, in the considered view of the Committee runs counter to the spirit of the Constitution and defeats the purpose for which the two positions were established.

On this basis, the Committee, therefore, found that the nominee was not suitable for appointment to the Commission under Article 127(2)(d) of the Constitution at this time.

Composition and appointment of Members to Commissions and independent offices: The second ground on which the Committee recommends that the Senate rejects the nomination of Hon. Rachel Ameso Amollo to the Parliamentary Service Commission is the question of regional and ethnic diversity in the Commission and the representation to the greatest extent possible of the people of Kenya.

The Parliamentary Service Commission is one of the Commissions and independent offices listed under 248(2) of the Constitution. In respect, the provisions of Chapter 15 of the Constitution applied. Article 250(4) therein provides as follows:

“Appointments to commissions and independent offices shall take into account the national values referred to in Article 10, and the principle that the composition of the commissions and offices, taken as a whole, shall reflect the regional and ethnic diversity of the people of Kenya.”

Madam Temporary Speaker, one of the aspects that the Committee was required to investigate---

*(Loud Consultations)*

I cannot go on if the Members are loudly consulting.

**The Temporary Speaker** (Sen. Nyamunga); Hon. Senators, kindly take your seats and be attentive. This is a very critical Motion that we are discussing.

**Sen. Faki:** Madam Temporary Speaker, one of the aspects of the Committee---

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

**The Temporary Speaker** (Sen. Nyamunga): Sen. Sakaja, what is your point of order?

**Sen. Sakaja:** Madam Temporary Speaker, I have just heard the Mover, my good friend and a Member of my Committee on COVID-19 Situation in Kenya, Sen. Faki, saying that one of the aspects for which the Committee felt that this nominee is not suitable, is where she comes from. This is by saying there is need for diversity. This nominee---

**The Temporary Speaker** (Sen. Nyamunga): Sen. Sakaja, do you not think that we should leave that one for discussion on the Floor of the House?

**Sen. Sakaja:** No, Madam Temporary Speaker. I am on a point of order. The Standing Orders say that a Senator must be responsible for a statement of fact. Is it the position of the Committee on Justice, Legal Affairs and Human Rights (JLAHRC)? This is because Hon. Ameso comes from Western Kenya, but she is replacing somebody who is from Western.

Is it the position of the JLAHRC that the Parliamentary Service Commission was not properly constituted before this appointment? It is good for us to know that, that is the opinion of the Committee. Even previously with Commissioner (Dr.) Mumelo, is it the opinion of the JLAHRC that the PSC was not properly constituted?

**The Temporary Speaker** (Sen. Nyamunga): Sen. Faki, continue.

**Sen. Faki:** Thank you, Madam Temporary Speaker. One of the aspects the Committee was required to investigate during the vetting exercise under Section 7(b) of the Public Appointments (Parliamentary Approval) Act was whether the proposed appointment complied with the Constitution and statutory requirements relating to the office in question. In this case, the Committee observed that-

(a) The immediate former female non-Member of the PSC---

**The Temporary Speaker** (Sen. Nyamunga): What is your point of order, Sen. Were? We need to make progress.

**Sen. Were:** Madam Temporary Speaker, the Mover of the Motion did not indicate to us initially or to you that he will read that report word by word. Being that he is moving, he should summarize the moving and call somebody to second. Otherwise, he is reading the report word for word yet he did not get your permission.

**The Temporary Speaker** (Sen. Nyamunga): Senator, it is within the rules that you do not read a report word for word. It is important that the best you can do is to summarize. We are going to add you three more minutes to conclude moving.

**Sen. Faki:** Madam Temporary Speaker, I will summarize. This is the juiciest part of the report. If I may summarize, it was found that-

(a) The immediate former female non-Member of the PSC came from Bungoma County in Western Kenya;

(b) One of the sitting Members of the PSC is also coming from Western Kenya in Vihiga County, and Hon. Rachel Ameso comes from Kakamega County in Western Kenya; and,

(c) There are several other regions and ethnic groups in Kenya who do not have representation in the PSC. This include Upper Isiolo, Lower Eastern, Luo Nyanza, *et cetera*.

The Committee, therefore, was of the opinion that in order to comply with Article 254 of the Constitution, the vacancy of the PSC shall be field by someone not from that region and ethnic group.

Madam Temporary Speaker, finally, the qualifications for appointment as a Member of the PSC under Article 127 2(d) of the Constitution are found at Section 1(9) of the Parliamentary Service Act No. 22 of 2019. Therefore, it requires such a person to possess at least ten years' experience in public affairs. In this case, it was found that Hon. Rachel Ameso Amollo had only five years' experience having served as a Member of Parliament (MP).

*(Loud consultations)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, kindly be patient with the Mover.

**Sen. Faki:** Madam Temporary Speaker, in the circumstances, the implication of this is that the PSC will be required to submit a fresh nominee to the Senate and the National Assembly within seven days from amongst the persons who were shortlisted and interviewed by the Commission.

I beg to move. I invite the Majority Whip, Sen. Kang'ata to second the Motion.

**Sen. Kang'ata:** Madam Temporary Speaker, I do not second this Motion.

*(Laughter)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I think that is the end of that Motion. It is dead and that is the end of it.

*(Motion defeated and declared "dead" due to lack of a Seconder)*

Next Order.

Sen. Kang'ata, kindly move your Motion.

## MOTION

### ALTERATION OF THE SENATE CALENDAR

**Sen. Kang'ata:** Thank you, Madam Temporary Speaker. I beg to move the following Motion for alteration of the Senate Calendar (Regular Session) for the Fourth Session-

THAT, notwithstanding the Senate Resolutions made on 27<sup>th</sup> February, 2020 (Approval of Senate Calendar), 17<sup>th</sup> March, 2020, 14<sup>th</sup> April, 2020, 2<sup>nd</sup> June, 2020 and 16<sup>th</sup> June, 2020 (Alteration of the Senate Calendar) the Senate, pursuant to Standing Order Nos. 29(4) and 31(3)(b) now resolves to hold a Sitting on Wednesday, 24<sup>th</sup> June, 2020 in the afternoon from 2.30 p.m. and thereafter proceed on recess and resume sittings on Tuesday, 7<sup>th</sup> July, 2020.

The reason I am moving this Motion is because, first, we have major business that is still yet to be processed by this honorable House. One of the businesses includes the reshuffling of the committees. Secondly, we still have the issue of the Third Generation Revenue Sharing Formula. We have made every effort to bring those two major businesses before this House. However, due to factors beyond us, we have been unable to do so. Therefore, we would like to get this extra sitting and we shall endeavor to ensure those two major businesses are concluded before we go on recess.

Madam Temporary Speaker, remember we have what is called the County Allocation of Revenue Bill which is yet to be passed. Our counties are yet to receive monies. It is the plan of the Government that whatever counties we will receive in this financial year should be subjected to the Third Generation Formula. The deadline for doing so is 31<sup>st</sup> June, 2020. Taking all that into account, we thought of seeking the permission of this House that we extend. We have a fresh sitting tomorrow so that we resolve those two major issues.

I beg to move and ask the Senate Minority Leader to second this Motion.

**The Senate Minority Leader** (Sen. Orenge): Madam Temporary Speaker, I beg to second the Motion. Just as we went to the previous Order, you had indicated the many Orders that were put aside in order to enable us deal with that particular Order and Motion relating to the adoption of the report of the Standing Committee on Justice, Legal Affairs and Human Rights for appointment of Commissioner to the PSC.

As a result of that, nearly five to six Orders were skipped for good reason. From Order No. 18 onwards again, there are several other businesses that we did not deal with. There is a lot of pending work that has not been accomplished.

Madam Temporary Speaker, there is a lot of work that has not been accomplished. It will be unwise to go on recess since a lot of the work has been pending since the beginning of this Session and has not been dealt with conclusively. We are coming to the end of June which means that half of the year is gone. If business is carried over to the second half of the year, a lot will be carried into the next Session which means next year.

With those remarks, the Majority Whip has given sufficient justification for altering the calendar so I beg to second.

*(Question proposed)*

*(Question put and agreed to)*

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

**BILLS***Second Reading*

THE NATIONAL DROUGHT MANAGEMENT AUTHORITY  
(AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILLS NO. 26 OF 2019)

*(Sen. Dullo on 9.6.2020)*

*(Resumption of debate interrupted 23.6.2020 – Morning Sitting)*

**The Temporary Speaker** (Sen. Nyamunga): The Bill had already been moved, so it is open to debate.

Kindly proceed, Sen. (Dr.) Zani.

**Sen. (Dr.) Zani:** Madam Temporary Speaker, I stand to support this Bill. This Bill seeks to amend the National Drought Management Authority Act of 2016. Drought, floods and all the other catastrophes fall under a very important part of legislation. It has been said many times before in this House that it is important to mitigate and ensure that we manage catastrophes well. However, all that is impossible without funds.

The National Drought Management (Amendment) Bill (National Assembly Bills No. 26 of 2019) seeks to amend certain specific aspects of this Act to bring it in sync with the expenditures that are very critical.

The enactment of this Bill seeks to occasion expenditure of public funds to be provided for through the annual estimates. These funds should go to the Authority.

In the initial Act that is being amended, no clear provision has been made for the money and how it will be used. So that amendment just seeks to ensure that money that is put into the fund can be well utilized.

The National Drought Emergency Fund Regulations under the Public Finance Management Act, 2012 also cover aspects of the Bill that therefore, allow this money to be appropriately used.

It has only four clauses and is, therefore, very short. The main specific aspect for this Bill and its importance in terms of amendment is at Clause 18 where it clearly indicates that-

18(a) “The funds of the Authority shall be as such monies that maybe appropriated by Parliament.”

It is giving power to Parliament so that the Authority can have funds and be effective.

18(b) “Such monies as may accrue to or vest in the Authority in the cause of exercise of its powers or performance of its functions under this Act.”

18(c) Such monies including fees as may be payable to the Authority pursuant to this Act or any other written law and

18(d) “Such grants and donations, gifts or bequests as may be given to the Authority.”

This Bill is from the National Assembly. It is, therefore, a money Bill. It is always very important in a Money Bill to make such provisions because this is where many organizations, councils and groups are not able to satisfactorily do what they are meant to do if they do not have funds. This is the fate.

Unfortunately, money Bills have to originate from the National Assembly. We have had situation where we have had very good ideas about the effectiveness of specific areas that legislation points out to, but it becomes very difficult for us to legislate directly on that.

This legislation is from the National Assembly. Therefore, that amendment is in order. Then it allows for the definition of a fund and the definition of that fund being put in place and for that money to be used.

As this amendment is made, the Board in the initial Act is already in place and that provision still holds. It is very important that the funds that go to the specific Authority are appropriately used for what they are meant.

I know time and time again in many of the cases, we have scenarios where we have authorities, but when it comes to the accountability of the monies then that becomes complicated.

We are hoping that through this amendment, the National Drought Management Authority will get the teeth so that they can bite. They will get the teeth so that they can be proactive and able to forecast the country and plan adequately.

When we talk about the weather and its vagaries, especially drought, it points to the social and economic chaos that can come as a result of that not being managed effectively. For example, because of unplanned situations like drought, suddenly, you find yourself in a position where things are going wrong. If it is in the field of agriculture, your plants are dying and the harvest you expected cannot take place.

Madam Temporary Speaker, as I said, this is a very short Bill. It just aims to amend the principal Act specifically by clearly indicating where exactly the funds will come from. I think that will be helpful for the Authority in the long run to manage its affairs.

I support.

**The Temporary Speaker** (Sen. Nyamunga): I call upon the Mover to reply.

Senator, I think that Sen. Farhiya has got something brief to say before your reply.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker. From the outset, I support these amendments. Creation of funds for this Authority will enable the response to droughts and disasters faster than they normally do when they rely on other entities for funding.

This is also the same Authority that created Hunger Safety Net Programme, which was run under them. The Hunger Safety Net is a very clear programme with well targeted and good systems that is done through banks. Some of the data of the Hunger Safety Net is outdated. If they had their own funds, they would have been able to review that list, so as to bring it to sync, since it is very fast.



This Authority also gives funding to Non-Governmental Organizations (NGOs), which goes to the account of the NGO despite the fact that it comes from the donor. If they have their own funds, their oversight will be enhanced and that gives them leverage.

I had a lot of to say, but for the sake of time, let me just support for now.

**Sen. Seneta:** Thank you, Madam Temporary Speaker, for giving me a chance to add my voice to this very important Bill.

From the outset, I want to support the National Drought Management Authority (Amendment) Bill, which intends to amend the principal Act to create a fund for this particular mandate. Most of the time, we are faced by drought as a country and need a fund to put in place measures to enable us to mitigate drought and save the country at such times.

I really support that we put a framework on how to implement this Fund and also on how to get it, as Parliament and a country.

I support.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senators who have contributed.

I now call upon the Mover to reply.

**Sen. Kang'ata:** Madam Temporary Speaker, first, allow me to apologise to the Hon. Senators who have been whipped to briefly respond to this Bill, reason being that we want to conclude this Bill before the end of business today. The reason is that, one, it is a National Assembly Bill, which needs to be processed as soon as possible. Secondly and most important, currently, we have a problem, which somehow can also draw funds from this Authority. Without these amendments going through, there may be a problem in the process of drawing funds from the Authority.

Basically, the Government has had very good contributions from various Senators today and also previously. Those ideas will be taken into account in the Committee stage. The concerned Ministry also notes that there are more areas that can be improved in this Bill. This is a very short Bill. Therefore, some of those ideas may be crystallized in other areas. Even if we are not able to incorporate every idea in this very short Bill, the Government affirms that it has taken note of those averments.

Secondly, we shall take into account the importance of this Bill in managing various forms of drought. We are aware that droughts can affect various regions. Whether North Eastern, Coast, Central or even Western Kenya, we do have this problem of drought. Therefore, when we amend this Bill as proposed by this Bill, we shall ensure that this National Drought Management Authority can receive money from Parliament or from donations. Currently, the law as it is does not allow this Authority to do so.

Thank you, Senators for the contributions. I beg to reply and also ask for the Division to be held at a later date.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I think that brings us to the end of that debate on the Bill. The Division will be listed tomorrow. However, it will depend on whether we will have the numbers or not, because I have seen the urgency of the Bill. If we will have numbers, we will have the Division.

Next Order.

*Second Reading*THE PROMPT PAYMENT BILL  
(SENATE BILLS NO.3 OF 2020)*(Sen. Farhiya on 2.6.2020)**(Resumption of debate interrupted on 9.6.2020)***The Temporary Speaker** (Sen. Nyamunga): Sen. (Dr.) Zani, proceed.*[The Clerk-at-the-Table consulted the  
Temporary Speaker (Sen. Nyamunga)]*

Sen. (Dr.) Zani, sorry. I did not have this information. It was Sen. Farhiya who was on the Floor when the House adjourned. So, let us give the opportunity to her to continue moving. I think it is still in the moving stage.

**Sen. Farhiya:** Madam Deputy Speaker, thank you for allowing me to continue moving the Bill.

The Bill proposes to put in place procuring entity to ensure priority is given to the payment of outstanding debts to the supply of goods and services for procuring entity. In this respect, the Bill provides that in determining which dates shall be given priority in a procuring entity shall have regard to dates upon which payments fell due and payments done chronologically.

Madam Deputy Speaker, there will be a register. When somebody has supplied goods or services, all documentation and certification is ready and the invoice is certified to be ready for payment, it is then registered. The next process then follows.

The payment by a public entity will be according to priority of how those invoices arrived. It will not be like the current system where 10 per cent is paid prior, who is the relative of who and who had vested interest in that payment and then it is prioritized. Often in counties, we have seen even supply of wares being prioritized because somebody has vested interest.

Given that delay of payment of public contracts is usually compounded by dispute in terms of contract, the Bill proposes that where procuring entities disputes an invoice, the procuring entity shall, within 14 days, return the invoice to the supplier. The procuring entity shall identify in writing any defects in the invoice and require the supplier to correct them.

Madam Deputy Speaker, the importance of that provision is the fact that sometimes somebody can just put your payment under the cupboard in the pretext that it has not met the requirements of the invoice. This then causes further delays. This now cures the mischief where someone uses defective invoice as a reason to delay supplier payment.

There is also ensuring implementation of provisions of the law. The Bill provided that where supply has delivered an invoice to the procuring entity and the accounting or

responsible officer negligently, maliciously or without reasonable cause, fails to return the invoice as provided or---

**The Temporary Speaker** (Sen. Nyamunga): Sorry, Senator! You have a balance of 47 minutes once the Bill is listed again next time.

### ADJOURNMENT

Hon. Senators, it is now 6.30 p.m. time to adjourn the House. The Senate stands adjourned until tomorrow, Wednesday, 24<sup>th</sup> June, 2020 at 2.30 p.m.

The Senate rose at 6.30 p.m.