

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 24th June, 2020

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

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

PRAYER

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

Sen. Seneta: I do not have a hard copy of the Order Paper. I am not following the business that is being read.

The Speaker (Hon. Lusaka): Sen. Cherargei, kindly, proceed.

Give Sen. Cherargei a microphone.

Sen. Cherargei: Mr. Speaker, Sir, I have checked in the gadgets that we have here, but unfortunately, mine does not have the current Order Paper of the day. I was requesting for your directions, that maybe, you can request the Clerk to supply us with hard copies as they try to sort out the Information Communication Technology (ICT) issues. I think there is a problem.

Some of us do not have a privilege of being on WhatsApp---

The Speaker (Hon. Lusaka): Try to refresh and see if the gadget will display the Order Paper. In the meantime, I can organize---

Sen. Cherargei: You need to appreciate that not everybody is on WhatsApp. For instance, Sen. Maina is not conversant with WhatsApp.

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

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir, the Supplementary Order Paper was posted on the Senate Business Group at 2:34 p.m. We can refer to that as we wait for the systems to come up. We will be able to move.

The Speaker (Hon. Lusaka): That is on WhatsApp.

Sen. (Dr.) Musuruve, what is your point of order?

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, just a suggestion; we normally get this information way before the Senate sitting. You can also make use of a Personal Assistant (PA), so that you can get hard copies. I always come with the hard copy into the Chamber.

I thank you.

The Speaker (Hon. Lusaka): We are working on that.

Sen. Maina, kindly, proceed.

Sen. Maina: Mr. Speaker, Sir, I would like to rise on a point of order. First of all, everybody in this House is conversant and literate in Information Technology (IT). However, right from the beginning, you will remember me saying that WhatsApp cannot be used as an official line of communication. The Senate is relegating itself to some level in the society where we do not command honoured respect. You cannot say that the Order Paper should be put in a WhatsApp for everybody to read and you think that is a sufficient way.

Therefore, Mr. Speaker, Sir, if it cannot be displayed on the iPads we have, let us have the hard copies.

The Speaker (Hon. Lusaka): I appreciate what you are saying. This is just once. We must also appreciate that we are now in a technological era. We must be able to catch up with technology. They are working on it.

I want to indulge the Deputy Speaker, who has a Petition.

Clerk, read the order.

PETITION

IRREGULAR PURCHASE OF NBK BUILDING BY UASIN GISHU COUNTY EXECUTIVE

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir. This is a Petition to the Senate concerning an alleged irregular purchase of the National Bank of Kenya (NBK) Building in Eldoret by the Uasin Gishu County Executive.

Mr. Speaker, Sir, pursuant to Standing Order No. 230 (2) (a), I hereby present to the Senate a Petition from the residents of Uasin Gishu County concerning the purchase of the National Bank of Kenya Building by Uasin Gishu County Executive.

Mr. Speaker, Sir, the salient issues raised in the Petition are as follows:

(a) THAT, Article 227 of the Constitution on procurement of public goods and services providing for a fair, equitable, transparent, competitive and cost-effective system and means of procurement was not adhered to and, therefore, proper sourcing of the NBK building for purchase and use by the County Executive was not undertaken;

(b) THAT, on 19th October, 2018, the County Government in carrying out its due diligence, valued the building at Kshs.568 million, with a breakdown of Kshs.450 million being purchase cost and another Kshs.118 million for improvements.

(c) THAT the negotiating team appointed by the Acting Chief Officer of Lands and Housing settled on Kshs570 million as the purchase price of the building without clear reasons for the increase in the price from that of the valuation by the County Government at Kshs568 million.

(d) THAT, public participation is a requirement by the Constitution, yet no such meetings were held to consult with the residents of Uasin Gishu County concerning the purchase of the NBK building.

(e)THAT, the building is in a poor state of repair and no worthy reason has been given as to why other county properties have been overlooked for the same use intended for the NBK building, and renovation and development or conversion of these other properties offer better value for money, and such options ought to have been pursued.

(f)THAT, given the alternatives available to the County Government for office space, it is clear that a feasibility study was not carried out, and further, there is no evidence of competitive sourcing or bidding, which would have involved a bid for purchase by the County Government. Instead, there was only a single offer, which casts doubts concerning how the offer was arrived at;

(g)THAT, no evidence has been given in the evaluation report on the disposal of the building and sale agreement between the two parties.

(h)THAT, the Petitioners have made efforts to have the matter addressed by relevant authorities, all of which have failed to give a satisfactory response, and none of the issues raised are pending before a court of law, constitutional or other legal body.

Mr. Speaker, Sir, the petitioners, therefore, pray that the Senate intervenes and undertakes an investigation into the matter with a view to ensure that other available options for office space by the County Government of Uasin Gishu are explored before finalizing the purchase of the NBK Building, and that requirements of the Constitution and the Public Procurement and Disposal Act, 2015 are adhered to with respect to a fair, equitable, transparent, competitive and cost effective bidding process.

Mr. Speaker, Sir, I thank you.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order 231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Sen. Olekina: Mr. Speaker, Sir, I rise to support the Petition by the Deputy Speaker. It is about time that we tried to ensure that we set up certain regulations on what defines public participation.

What worries me is that very often, you will hear people complain that there is no public participation, but if it is held and people give their views which are contrary to what is already defined, nothing is done after that. It is noted that so-and-so appeared and said some things. For us to make use and define the words 'public participation,' it behoves us to grade or put a system where when the citizens of this country appear for public participation, it is graded as to the percentage of those who approved the process and those who disapproved it.

I would like to request that the Committee that you will commit the Petition to should think beyond the norms of interrogating the facts, merits and demerits of the Petition. It should also try to advise this House on how we can have a recourse clause in terms of the Petition and the views of Kenyans.

I support.

The Speaker (Hon. Lusaka): Sen. Cherargei, proceed.

Sen. Cherargei: Thank you, Mr. Speaker, Sir. I rise to support this Petition.

As a neighbour Senator, I have been following the issue keenly since it erupted a few months ago. I also have the privilege of knowing Eldoret Town as a neighbouring town to my county, and know where the building is. Since the Members of the County Assembly of Uasin Gishu have been investigating this matter and probing whether there will be value for money in the acquisition of the NBK building because the Uasin Gishu County Government says that they need office space. This issue has been very emotive. The County Assembly has raised a lot of issues and I am happy that their Senator, Sen. (Prof.) Kamar, has brought it to the Senate.

I hope that the responsible Committee, to which this matter will be referred will probe it. The gist of the matter is that this is a warning shot to many county governments who go on a spree of purchasing because of unknown intentions. Under Article 10 of the Constitution on the principles of good governance and National Values, one of the important cornerstones is public participation or the participation of the people in the process in governance issues. The sad part in this issue has been that the people of Uasin Gishu were never involved from the information I have.

Therefore, I hope the concerned Committee that you will direct this matter to will establish and tell this House whether the intention of the Uasin Gishu County Executive in wanting to purchase the National Building within Eldoret Central Business District (CBD) was to create office space or they wanted to buy an asset that does not give value to the people of Uasin Gishu County. Governors and the County Executive should be careful when they want to purchase anything on behalf of the people. Let us always involve the people in the decision making. Let us look at these issues properly, so that we do not lose more money.

As I conclude, it is shocking that the price of purchase and repair were almost equal. Why should you acquire a building that you will use a lot of money to repair? Why would you acquire a building that does not give economic justifiability or any other viability for the people? That matter in my neighbouring county of Uasin Gishu is very emotive.

I hope the House will listen to both Uasin Gishu County Assembly and Executive, so that we use this as a yardstick for future endeavours by other county governments that may want to buy assets on behalf of the counties or undertake any venture that may lead to such issues.

When this matter is directed to a committee, they should deal with it so that the people of Uasin Gishu can rest easy. They did not meet the standards required within the procurement laws. Was the due process followed? These are some of the issues we are looking forward to.

I thank you.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir, for giving me this opportunity to comment on this issue.

Uasin Gishu is my neighbouring county because I am from Kakamega County. In fact, before I go to my home, I pass through Eldoret and I see the National Bank Building. I thank Sen. (Prof.) Kamar for coming up with this Petition.

This House approves money that goes to the counties for purpose of ensuring that money is used prudently and there is service delivery to the common man. It is perturbing that county executives can arrogate power and decide to buy buildings that they have not done public participation on.

County executives should know that when money is taken to the counties, they must have development plans for the year. Was this building in Uasin Gishu County Development Plan? If it was in the development plan, how much was allocated for this building? If it was not in the development plan, then it ought not to have been purchased.

Even if it was in the development plan, it is very clear that there has to be public participation. You engage people even at the grassroots for them to decide whether they will accept the project. The project also has to bring returns to the people and not ruin people's pockets economically.

A lot of money was used in purchasing the building and a lot of money is also supposed to be used in repaying it. There is no need for buying a dilapidated building because that is causing more suffering to the people of Uasin Gishu.

I want to say before this House that Sen. (Prof.) Kamar has brought out an important issue. The people of Uasin Gishu tried to pursue this matter. They tried to reach out to the authorities but they were ignored. When people on the ground are ignored, that is when we come in as a Senate because we represent the counties and their interests.

We also represent wananchi. Wananchi should know that if people do not listen to them, they can come to the Senate because we are ready to listen to them and sort out the issues, so that there is service delivery to *wananchi*. That is why we are paid.

I support.

Sen. Wetangula: Mr. Speaker, Sir, allow me also to join the Deputy Speaker in supporting the Petition. In the Committee of Finance and Budget of this House, for two years, we have been grappling with the issue of how to guide counties in acquisition of properties and construction of structures that they require.

We have had situations where, for example, the former Governor of Wajir built a beautiful headquarters at Kshs240 million yet we have other counties that are unable to finish their headquarters at a cost of Kshs700 million within the same jurisdiction.

Mr. Speaker, Sir, to begin with, the National Bank Building which even you know is very old and derelict, it has been unkempt. It is an outrage to buy a building and spend an equal sum of money to renovate it; money that probably would have been used to construct a better building.

Secondly, Eldoret, now waiting to become a city, I understand, was the headquarters of Wareng County Council. With massive property that they own, they do not need to buy a derelict National Bank Building to have offices. We all know that they have a lot of property.

Thirdly, under the Public Finance Management (PFM) Act, probity in the management of public resources is not an option. Public participation under our new Constitution is not an option. Were the people of Uasin Gishu County asked to accept or comment on the need to purchase this old derelict building as opposed to putting their

resources to other more people-oriented activities, including but not limited to supporting farmers, schools and hospitals, among others?

The Committee that will look at this should also reflect on the need for this House, like Sen. Olekina has said, to quickly finish up with the issue of public participation and engrave it in law to guide counties.

In my own county, there is a group of people set up in every centre as public participants. Whenever there is an issue of public participation, they are just taken to a room, paid an allowance and minutes recorded that public participation has taken place. I am sure this is happening in many other counties because it is not just in my county.

We need to set a threshold on who is a public participant, what is expected of public participation, what is the format of public participation outcome and approval of any required purchase or activity, so that money is put to good use. In fact, the way we are going, the biggest threats to devolution are governors because of misuse of public resources.

Mr. Speaker, Sir, you know of our case of a Kshs1,000 jerry can costing Kshs10,000 and it is business as usual and nobody talks about it. When wananchi raise the issue, the governor has the audacity to spend even more public resources to engineer collection of signatures ostensible to dissolve the county government because he has been asked to explain how he spent public resources. This is outrageous behaviour, this House must rein in rogue governors, so that public resources go to where they are meant and are used properly for the benefit of the people.

I support the Petition.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I support the Petition but there is mischief in what Uasin Gishu County is doing and I think I should bring it to your attention.

This Senate approved the cost of county headquarters to roughly around Kshs580 million maximum. What Uasin Gishu County has done is very cleverly but not too clever, to purchase a building for around Kshs570 million but the catch is not the purchase. The catch will be the money they are going to spend doing red carpets, expensive leather seats, air conditioning, massage parlours and possibly saunas for the governor. It is a clever way of avoiding the resolution of the Senate in terms of the cost of construction. The Committee on Finance and Budget has done this.

Mr. Speaker, Sir, you will recall that just the other day, several counties petitioned the Senate to lift their ceiling on the construction cost of buildings. Sen. Wetangula is right when he says that we can use Kshs500 million or less. I am of the view that one can have a magnificent building with approximately Kshs350 million or less. I do not want to direct you, but I think that this should be taken to the Committee on Finance and Budget where a resolution has already been made. We can get to the bottom of this. Governor Chepkwony got into trouble for doing something of this sort.

There is a possibility that the building bought by the county at Kshs568 million, without involving the public, is a ramshackle building. It begs the question of priorities because when we went to Eldoret, we noticed that Moi Teaching and Referral Hospital (MTRH) was in a dire state and it had no equipment.

The other question that the Senate ought to investigate is whether this was a priority at the time when we are having COVID-19? This is a simple matter that the Committee on Finance and Budget can bring a report very quickly. Thank you. I support.

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir. The fact that this Petition has come to the Senate properly contextualizes its investigation.

As one of the Senators has said, the Committee on Finance and Budget has overtime dealt with such matters and it would probably be the best Committee to look at this. I know that ceilings have been put over time to control and ensure propriety of the use of cash in the counties though the counties are now cleverly trying to go around it. The irregularity raised in the Petition will be discussed when it is properly contextualized in the Committee that the Speaker will assign.

I am happy that it is going to be done in public. We will not only be looking at Uasin Gishu County but the other counties can also follow and learn that the Senate can see whatever they are doing. I am sure that this has caused a lot of disruption for the people who are in the National Bank and those who had to leave. It is that sort of disruption that has caused anxiety among the people of Uasin Gishu.

The provisions of public participation are very clear in the Constitution across various articles including Article 118 which is specific to the legislation. The fact that the Public Participation Bill is not in place does not necessarily mean that the tenets of this constitutional provision should not be put into place. Yes, it is true that many counties have turned public participation into a static thing but it would help avoid many of the problems that we have seen over and over again.

I support this Petition for it will not only solve the issues in Uasin Gishu County but the lessons learnt can be replicated in other counties. It will also send a very strong message from the Senate about its oversight role of the expenditure of monies in the counties.

Sen. (Eng.) Maina: Thank you, Mr. Speaker, Sir. I stand to support this Petition. When a county says that they want to spend over Kshs500 million to purchase a building, one would ask if they have already fulfilled other priority obligations. You would be tempted to ask if the dispensaries in that county have proper technicians and drugs. I do not think so.

The easiest way to syphon money is through buildings. That is why many counties are prioritizing construction of roads or buildings. Those constructions are actually becoming the conduit of failure of devolution.

This Committee should go further and look at that county's budget. They should establish the amount that has been spent on education, farming and health before they get to the money that the county is planning to spend on buying the building. We know that elections are approaching and this is the time for people to look for extra money for that purpose. That is the reason as to why we will have such projects and many more. That amount; Kshs500 million, is not pocket change. It is half a billion. We have heard of the big monies in this country, and Kshs1 billion is a lot of money. If you were to put it in this Chamber for you to be picking Kshs10,000 everyday, it will take you about 267 years to finish that money. Therefore, it will take you close to 140 years to finish

Kshs500 million. We are talking about a colossal amount of money which can do a lot of things.

The Committee should go deeper when it looks into this matter. Public participation is a fallacy in all the counties. All they need to do is to call a few people who are either like-minded or people who do not care and ask them to sign a paper that they have agreed with the project. Such people's concern is the *per diem*. In fact, it leaves you wondering how public participation is done.

This Senate should be given proper facilitation for oversight. We were told that there was some Kshs2 billion that was to be given to us. Every Senator should have an office where they can employ proper personnel who can follow these things other than just setting committees to look at petitions. That will help us get the reports. We have now been left with the responsibility of passing budgets but most of us have a great moral weight in our hearts. We do pass huge budgets yet we know that we are passing it for somebody to go and buy another big car, add another wife or open an account abroad. We have been reading about these things. We have heard of people who have put Kshs2 billion for their children abroad and no action has been taken against them. This House was supposed to oversight and take action before these things happen.

Some of us have very heavy hearts because of the plunder that we have seen in this country. We have seen plunders in our own counties. Recently, a temporary toilet was constructed using iron sheets in my own county using Kshs3 million and there was a ceremony to open it. There were billboards showing that it was a County Government project. The billboard had the pictures of the Governor and the Member of the County Assembly (MCA). That was an insult to the people. The people actually pulled it down. These are the kind of things that we are seeing.

I know that Kshs500 million can be used to build the best house or palace. One does not even need Kshs500 million to build a Chamber. One can build a Chamber that will serve people with Kshs150 million.

Uasin Gishu County Government has been there since time immemorial. There are old men who were more honorable and made good decisions. They were meeting in the old Chamber. Why does the Executive of Uasin Gishu County want to buy a huge building?

Mr. Speaker, Sir, I support the Petition. I urge the Committee that will deal with it to empathize with the pain of wananchi in this country. Wanjiku is feeling the pain. We have just finished talking about the health sector. We know what is happening in this sector. There are equipment lying idle all over and our people are suffering, especially during this time of the COVID-19. Is this really the time to start buying a building of Kshs500 million? The county should concentrate on how to feed her people because their livelihoods have been messed up by this pandemic.

Mr. Speaker, Sir, I support the Petition. Let us focus on the bigger picture and revisit the issue of oversight management for this Chamber.

The Speaker (Hon. Lusaka): In the interest of time, I will give a chance to only Sen. (Prof.) Ongeru, who had requested to speak, then we will move on.

Sen. (Prof.) Onger: Thank you, Mr. Speaker, Sir, for giving me this opportunity to weigh in on this Petition brought to you by Sen. (Prof.) Kamar on behalf of the people of Usain Gishu.

One of the recurring events in public accounts is the issue of assets; whether they relate to the defunct local authorities; how they were handed over, managed or how new ones are being acquired for the national Government or county governments. This has really been a very thorny issue.

It is an area where there is a lot of misuse of resources for very dubious elements that appear. When you see the word “assets” appearing, immediately after the word “assets”, you have liabilities. Here is a situation where the Uasin Gishu County Executive has ostensibly created an asset which will be a liability. This is because the hidden costs of repairing it is beyond the price of the amount that they portend to have spent in acquiring it.

My understanding of acquiring assets is that it must be materially useful and add value to the functions of the county government. It must create synergy for creating more development avenues for the county government to thrive and flourish. This is because the resources allocated to these county governments are enormous. Apart from the wage bill and human expenses, they are meant to create development momentum so that these counties can expand and be able to serve people at various sub county levels.

Mr. Speaker, Sir, we are now seeing holes being created where resources are sunk. When you look at the development expenditure, they are not even spending the required 30 per cent of the resources on development according to the Public Finance Management (PFM) Act. We have seen this element as one big loophole where the money is being sunk. I am saying this with a lot of authority because every single time we have seen governors appear before the County Public Accounts and Investments Committee (CPAIC), one of the issues that comes up is assets and where they are. First of all, they do not even have the register of them.

Secondly, Mr. Speaker, Sir, there is the question of governance structures. How on earth can a county executive spend Kshs500 million without telling the taxpayers that, that is how they wish to spend their money? I would rather accept a situation where they went through public participation and they were given a greenlight. We would then say the public did see and understood what they were intending to do and gave them a leeway to accomplish. However, at the total exclusion of the public, they went ahead and acquired this building.

It will be interesting of us. As the Petition continues, we will also look at the other side of how they want to handle this particular investment in the assets and the books of the accounts.

I support the Petition.

The Speaker (Hon. Lusaka): Sen. (Dr.) Kabaka, keep it brief.

Sen. (Dr.) Kabaka: Thank you, Mr. Speaker, Sir, for this opportunity.

I have heard all the Senators raise the concern about misappropriation of public funds in the counties. It is a worrying trend how we have received similar issues

pertaining to the construction and deconstruction of buildings to put up new ones through this Senate.

The Kenyan taxpayer is tired. It is not enough for matters like this to be brought from the counties by their concerned Senators and only rest at the Committee level. That is not fair. I think that we should come up with a law where we stop counties from putting up just any structures, unless it is extremely necessary.

During this time of COVID-19 pandemic, nothing much is happening in our counties. It is a big shame to the counties. None of the counties have put up an Intensive Care Unit (ICU) unit. However, they are very fast in putting up magnificent buildings in the counties. It goes without saying that this is where they are minting money. Like the Senator of Nyeri has said, they use that money to do their own prolifics.

Mr. Speaker, Sir, it is high time we got directions from the relevant provision of the law, that any time counties want to budget for the construction of certain buildings, they convince this Senate beyond reasonable doubt that there is a need to do so. Otherwise, this will be musical chairs in this House. Another Senate will come and it will be the same story.

It will very sad for some of us who are eyeing to be governors in the counties, having learnt the theatrics of the weakness of the Senate. It will be very easy to have very dangerous governors next time because governors are doing very evil things. However, when they are accused of malpractices, they are sanitized.

I rest my case, Mr. Speaker, Sir.

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

Sen. Cherargei: Mr. Speaker, Sir, it was on a point of order. I was worried that he was saying that there are Senators who have learnt the weakness of the Senate and will run to be Senators. He later clarified that it is governors.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order 232 (1), the Petition should be committed to the relevant Standing Committee for its consideration. In this case, I direct that the Petition be committed to the Standing Committee on Finance and Budget. In terms of Standing Order 232 (2), the Committee is required, in not more than 60 calendar days, from the time of reading the prayer, to respond to the Petitioner by of a report addressed to the Petitioner and laid on the table of the Senate.

I thank you

*(The Petition was committed to the Standing
Committee on Finance and Budget for consideration)*

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

The Speaker (Hon. Lusaka): Sen. Farhiya, what is your point of intervention?

Sen. Farhiya: On a point of order, Mr. Speaker, Sir. I just wanted to inform people regarding the former Petition that the Standing Committee on Finance and Budget had passed limits; I remember it was Kshs.500,000. That is what I wanted to say.

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

Sen. Wetangula: Mr. Speaker, Sir, I presume Sen. Farhiya is addressing Senators in this House. There are no “people” in this House. We only have Senators in this House. Is she in order to make reference to distinguished Senators as “people”?

The Speaker (Hon. Lusaka): Sen. Farhiya, correct that. Sen. (Dr.) Ochillo-Ayacko, what is your point of order?

Sen. (Dr.) Ochillo-Ayacko: Thank you, Mr. Speaker, Sir. With tremendous respect to Sen. Farhiya who is my good friend, she is trying to inform the House of a matter that you have referred to a Committee already. Would I be in order to ask you to do the needful because the matter is already before another Committee?

The Speaker (Hon. Lusaka): I have already referred the matter to a Committee. I thought you were raising something else. If it is not that matter, then you are out of order. Next Order!

NOTICES OF MOTIONS

APPROVAL OF SEN. (DR.) MWAURA TO SERVE IN THE SPEAKER’S PANEL

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to give notice of the following Motion -

THAT, pursuant to Standing Order 17, the Senate approves the nomination of Sen. Isaac Maigua Mwaura, CBS, MP, as a Member of the Speaker’s Panel, to take up the vacancy occasioned by the election of Sen. (Prof.) Margaret Kamar, EGH, MP, to the Office of the Deputy Speaker and further, elects Sen. Isaac Maigua Mwaura, MP, to preside over the Senate in the absence of the Speaker and the Deputy Speaker, pursuant to Article 107(1)(c) of the Constitution and Standing Order No.15 of the Senate.

APPROVAL OF SENATORS TO SERVE IN THE SENATE BUSINESS COMMITTEE

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to give notice of the following Motion -

THAT, NOTWITHSTANDING the resolution of the Senate made on 13th February, 2020, on the approval of Senators to serve in the Senate Business Committee, and pursuant to Standing Order Nos. 184 and 189, the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who, pursuant to Standing Order No.184(1), shall be the Chairperson of the Committee, the Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip:

(1) Sen. Fatuma Dullo, CBS, MP

- (2) Sen. Cleophas Malalah, MP
- (3) Sen. Beatrice Kwamboka, MP
- (4) Sen. Johnson Sakaja, CBS, MP
- (5) Sen. Gideon Moi, CBS, MP
- (6) Sen. Charles Kibiru, MP
- (7) Sen. Ledama Olekina, MP

APPROVAL OF SENATORS TO SERVE IN THE
POWERS AND PRIVILEGES COMMITTEE

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT, NOTWITHSTANDING the resolution of the Senate made on 14th February, 2018, on the approval of Senators to serve in the Committee of Powers and Privileges, and pursuant to Section 15 (1) (b) (ii), of the Parliamentary Powers and Privileges Act, and Standing Order No.189, the Senate approves the following Senators nominated to serve in the Committee of Powers and Privileges, in addition to the Speaker of the Senate, who, pursuant to Section 15 (1) (b) (i) of the Parliamentary Powers and Privileges Act, shall be the Chairperson of the Committee -

- (1) Sen. (Dr.) Alice Milgo, MP
- (2) Sen. Kimani Wamatangi, MP
- (3) Sen. Kipchumba Murkomen, EGH, MP
- (4) Sen. Victor Prengei, MP
- (5) Sen. Rose Nyamunga, MP
- (6) Sen. (Arch.) Sylvia Kasanga, MP

APPROVAL OF SENATORS TO SERVE IN THE
PROCEDURE AND RULES COMMITTEE

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to give notice of the following Motion -

THAT, NOTWITHSTANDING the resolution of the Senate made on 14th February, 2018, on the approval of Senators to serve in the Procedure and Rules Committee, and pursuant to Standing Orders Nos. 185 (1) (d) and 189 the Senate approves the following Senators nominated to serve in the Procedure and Rules Committee, in addition to Senators specified in Standing Order No.185 (2) (a), (b) and (c)-

- (1) Sen. Farhiya Haji, MP
- (2) Sen. Beth Mugo, EGH, MP
- (3) Sen. (Dr.) Agnes Zani, CBS, MP

APPROVAL OF SENATORS TO
SERVE IN SESSIONAL COMMITTEES

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to give notice of the following Motion -

THAT, NOTWITHSTANDING the resolution of the Senate made on 28th April, 2020 on the approval of Senators to serve in the Sessional Committees, and pursuant to Standing Orders Nos. 189, 219, 220 and 221, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Sessional Committees of the Senate as follows –

A. COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS

- (1) Sen. (Eng.) Hargura Godana, MP
- (2) Sen. Fatuma Dullo, CBS, MP
- (3) Sen. Samson Cherargey, MP
- (4) Sen. Irungu Kang'ata, MP
- (5) Sen. Charles Kibiru, MP
- (6) Sen. (Prof.) Samson Ongeru, MP
- (7) Sen. (Dr.) Ochillo-Ayacko, MP
- (8) Sen. Ledama Olekina, MP
- (9) Sen. Johnes Mwaruma, MP

B. COMMITTEE ON DELEGATED LEGISLATION

- (1) Sen. Anuar Loiptip, MP
- (2) Sen. Samuel Poghisio, EGH, MP
- (3) Sen. (Dr.) Michael Mbitu, MP
- (4) Sen. Mary Seneta, MP
- (5) Sen. Abshiro Halake, MP
- (6) Sen. Mohammed Faki, MP
- (7) Sen. Boniface Kabaka MP
- (8) Sen. Judith Pareno, MP
- (9) Sen. (Prof.) Imana Malachy Ekal, MP

APPROVAL OF SENATORS TO SERVE IN
STANDING COMMITTEES

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to give notice of the following Motion -

THAT, NOTWITHSTANDING, the resolutions of the Senate made on 14th December, 2017; 14th February, 2018; 21st February, 2018;

21st November, 2018; 20th March, 2019; 19th June, 2019; and on 28th April, 2020 on the approval of Senators to serve in various Standing Committees of the Senate, and pursuant to Standing Order Nos. 189, 218, and the Second Schedule to the Standing Orders, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows –

A. COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

- (1) Sen. Njeru Ndwiga, EGH, MP
- (2) Sen. Naomi Waqo, MP
- (3) Sen. Kipchumba Murkomen, EGH, MP
- (4) Sen. (Dr.) Michael Mbito, MP
- (5) Sen. (Eng.) Ephraim Maina, MP
- (6) Sen. Enock Wambua, MP
- (7) Sen. Stewart Madzayo, MP
- (8) Sen. Issa Juma Boy, MP
- (9) Sen. Boniface Kabaka, MP

B. COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

- (1) Sen. Anuar Loititip, MP
- (2) Sen. Victor Prengei, MP
- (3) Sen. Kipchumba Murkomen, EGH, MP
- (4) Sen. Isaac Mwaura, CBS, MP
- (5) Sen. Aaron Cheruiyot, MP
- (6) Sen. Moses Kajwang', MP
- (7) Sen. Cleophas Malalah, MP
- (8) Sen. Rose Nyamunga, MP
- (9) Sen. Boniface Kabaka, MP

C. COMMITTEE ON EDUCATION

- (1) Sen. (Dr.) Alice Milgo, MP
- (2) Sen. (Prof.) Kithure Kindiki, EGH, MP
- (3) Sen. Falhada Dekow, MP
- (4) Sen. Mary Seneta, MP
- (5) Sen. Mwangi Githiomi, MP
- (6) Sen. (Dr.) Gertrude Musuruve Inimah, MP
- (7) Sen. Fred Outa, MP
- (8) Sen. (Dr.) Agnes Zani, CBS, MP
- (9) Sen. (Prof.) Imana Malachi Ekal, MP

D. COMMITTEE ON ENERGY

- (1) Sen. (Eng.) Ephraim Maina, MP

- (2) Sen. Victor Prengei, MP
- (3) Sen. Abshiro Halake, MP
- (4) Sen. John Nderitu Kinyua MP
- (5) Sen. (Dr.) Christopher Andrew Langat, MP
- (6) Sen. (Prof.) Imana Malachi Ekal, MP
- (7) Sen. Ledama Olekina, MP
- (8) Sen. Cleophas Malalah, MP
- (9) Sen. Petronilla Were Lokorio, MP

E. COMMITTEE ON FINANCE AND BUDGET

- (1) Sen. Charles Kibiru, MP
- (2) Sen. Kimani Wamatangi, MP
- (3) Sen. Aaron Cheruiyot, MP
- (4) Sen. (CPA) Farhiya Haji, MP
- (5) Sen. Millicent Omanga, MP
- (6) Sen. (Dr.) Ochillo Ayacko, MP,
- (7) Sen. Moses Masika Wetangula, EGH, MP
- (8) Sen. Mutula Kilonzo Jnr., MP
- (9) Sen. Rose Nyamunga, MP

F. COMMITTEE ON HEALTH

- (1) Sen. (Dr.) Michael Mbitu, MP
- (2) Sen. Mary Seneta, MP
- (3) Sen. Beth Mugo, EGH, MP
- (4) Sen. (Dr.) Abdullahi Ali Ibrahim, MP
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- (1) Sen. Gideon Moi, CBS, MP
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- (1) Sen. (Canon) Naomi Jilo Waqo, MP
- (2) Sen. Fatuma Dullo, MP
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- (5) Sen. Johnson Sakaja, CBS, MP
- (6) Sen. Erick Okongo Mogeni, SC, MP
- (7) Sen. Amos Sitswila Wako, EGH, SC, FCI Arb, MP
- (8) Sen. Kilonzo Mutula Jnr., MP
- (9) Sen. James Orengo, EGH, SC, MP

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- (1) Sen. Johnson Sakaja, CBS, MP
- (2) Sen. (Dr.) Alice Milgo, MP
- (3) Sen. Paul Mwangi Githiomi, MP
- (4) Sen. (Dr.) Isaac Mwaura, MP
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- (6) Sen. Johnes Mwaruma, MP
- (7) Sen. Beatrice Kwamboka, MP
- (8) Sen. Stewart Madzayo, MP
- (9) Sen. Naomi Shiyonga Masitsa, MP

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- (1) Sen. Paul Mwangi Githiomi, MP
- (2) Sen. Philip Mpaayei, MP
- (3) Sen. Njeru Ndwiga, EGH, MP
- (4) Sen. Gideon Moi, CBS, MP
- (5) Sen. (Dr.) Lelegwe Ltumbesi, MP
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- (7) Sen. Johnes Mwaruma, MP
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K. COMMITTEE ON NATIONAL COHESION, EQUAL OPPORTUNITY AND REGIONAL INTEGRATION

- (1) Sen. Christine Zawadi Gona, MP
- (2) Sen. (Dr.) Christopher Andrew Lang'at, MP
- (3) Sen. Iman Falhada Dekow, MP
- (4) Sen. (Dr.) Lelegwe Ltumbesi, MP
- (5) Sen. Samson Cherarkey, MP
- (6) Sen. Naomi Shiyonga Masitsa, MP

- (7) Sen. Judith Pareno, MP
- (8) Sen. Mercy Chebeni, MP
- (9) Sen. (Dr.) Gertrude Musuruve Inimah, MP

L.COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS

- (1) Sen. Mohamed Haji Yusuf, EGH, MP
- (2) Sen. Wario Golich Juma, MP
- (3) Sen. (Eng.) Mohamed M. Mahamud, CBS, MP
- (4) Sen. Fatuma Dullo, CBS, MP
- (5) Sen. Mithika Linturi, MP
- (6) Sen. Fred Outa, MP
- (7) Sen. Beatrice Kwamboka, MP
- (8) Sen. Judith Pareno, MP
- (9) Sen. Moses Masika Wetangula, EGH, MP

M.COMMITTEE ON TOURISM, TRADE AND INDUSTRIALIZATION

- (1) Sen. (Dr.) Ali Abdullahi Ibrahim, CBS, MP
- (2) Sen. (CPA) Farhiya Haji, MP
- (3) Sen. Philip Mpaayei, MP
- (4) Sen. (Prof.) Kithure Kindiki, EGH, MP
- (5) Sen. Wario Golich Juma, MP
- (6) Sen. (Dr.) Gertrude Musuruve Inimah, MP
- (7) Sen. (Dr.) Agnes Zani, CBS MP
- (8) Sen. Mercy Chebeni, MP
- (9) Sen. Mohamed Faki, MP

N. COMMITTEE ON ROADS AND TRANSPORTATION

- (1) Sen. Kimani Wamatangi, MP
- (2) Sen. (Eng.) Mohamed M. Mahamud, CBS, MP
- (3) Sen. (Eng.) Hargura Godana, MP
- (4) Sen. Christine Zawadi Gona, MP
- (5) Sen. Mithika Linturi, MP
- (6) Sen. (Arch.) Sylvia Kasanga, MP
- (7) Sen. Erick Okong'o Mogeni, SC, MP
- (8) Sen. Enoch Wambua, MP
- (9) Sen. Moses Kajwang', MP

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Next Order! Hon. Senators, for the convenience of the House, we are rearranging the Order Paper. I direct the Clerk-at-the-Table to read from Order No.16.

MOTIONS**APPROVAL OF SEN. (DR.) MWAURA TO SERVE
IN THE SPEAKER'S PANEL**

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to move the following Motion-

THAT, pursuant to Standing Order No. 17, the Senate approves the nomination of Sen. (Dr.) Isaac Maigua Mwaura, CBS, MP, as a Member of the Speaker's Panel, to take up the vacancy occasioned by the election of Sen. (Prof.) Margaret Kamar, EGH, MP to the Office of the Deputy Speaker; and further, elects Sen. (Dr.) Isaac Maigua Mwaura, MP to preside over the Senate in the absence of the Speaker and the Deputy Speaker, pursuant to Article 107(1)(c) of the Constitution and Standing Order No. 15 of the Senate.

Mr. Speaker, Sir, this is a very straightforward Motion. We know that the Speaker's Panel requires a replacement for the Senator for Uasin Gishu who became the Deputy Speaker. We all congratulated the Deputy Speaker on her elevation and so, there was a vacancy to be filled by a Member from the Majority side, to join the Speaker's Panel. I thank you for approving the appointment of Sen. (Dr.) Mwaura.

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

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, as has been indicated by the Mover, this is a straightforward Motion, consequent upon a vacancy that has been explained.

I, therefore, beg to second the Motion.

(Question proposed)

(Question put and agreed to)

**APPROVAL OF SENATORS TO SERVE IN THE SENATE
BUSINESS COMMITTEE**

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to move to the following Motion -

THAT, NOTWITHSTANDING the resolution of the Senate made on 13th February, 2020, on the approval of Senators to serve in the Senate Business Committee, and pursuant to Standing Orders 184 and 189, the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who, pursuant to Standing Order 184(1), shall be the Chairperson of the Committee, the Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip:-

- (1) Sen. Fatuma Dullo, CBS, MP
- (2) Sen. Cleophas Malalah, MP
- (3) Sen. Beatrice Kwamboka, MP
- (4) Sen. Johnson Sakaja, CBS, MP
- (5) Sen. Gideon Moi, CBS, MP
- (6) Sen. Charles Kibiru, MP
- (7) Sen. Ledama Olekina, MP

Sen. Kang'ata: On a point of order, Mr. Speaker, Sir, will it be in order for the Senate Majority leader to just say "as per the Order Paper" rather than read everything? I do not see why not.

The Speaker (Hon. Lusaka): Are you asking me a question and then answering yourself?

(Laughter)

Sen. Kangata: Mr. Speaker, Sir, I seek your direction.

The Speaker (Hon. Lusaka): For purposes of the HANSARD record, it is good to have the names read out.

Kindly proceed, the Senate Majority Leader.

The Senate Majority Leader (Sen. Poghio): Mr. Speaker, Sir, there are many wrong things with that purported point of order.

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

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, I beg to second the Motion.

(Question proposed)

(Question put and agreed to)

The Speaker (Hon. Lusaka): Next Order!

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

The Senate Majority Leader (Sen. Poghio): Mr. Speaker, Sir, I beg to move to the following Motion -

THAT, NOTWITHSTANDING the resolution of the Senate made on 14th February, 2018, on the approval of Senators to serve in the Committee of Powers and Privileges, and pursuant to Section 15 (1) (b) (ii), of the Parliamentary Powers and Privileges Act, and Standing Order 189, the Senate approves the following Senators nominated to serve in the Committee of Powers and Privileges, in addition to the Speaker of the

Senate, who, pursuant to Section 15 (1) (b) (i) of the Parliamentary Powers and Privileges Act, shall be the Chairperson of the Committee –

- (1) Sen. (Dr.) Alice Milgo, MP
- (2) Sen. Kimani Wamatangi, MP
- (3) Sen. Kipchumba Murkomen, EGH, MP
- (4) Sen. Victor Prengei, MP
- (5) Sen. Rose Nyamunga, MP
- (6) Sen. (Arch.) Sylvia Kasanga, MP

The Motion is straightforward. It is seeking to approve Members to serve in a very important Committee of the House.

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

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

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

The Senate Minority Leader (Sen. Orengo): Madam Deputy Speaker, I beg to second the Motion, noting that this is one of the most important Committees of the House. We can sometimes go through a Session without hearing about the Powers and Privileges Committee, but it is a Committee that can inquire and determine whether a Member has acted contrary to the powers and privileges granted under the normal parliamentary privileges.

Under the Powers and Privileges Act, there are certain rights and privileges that we are supposed to enjoy, including the right against arrest in consequence of a civil debt and many other privileges, which are normally taken for granted. I hope that this Committee will get to work and not wait until a Member is called upon to appear before it. Look at the privileges that the Members have as we relate to the media, the Executive and citizens. The privileges of Members must be protected at all times.

We sometimes do not take the Powers and Privileges Committee seriously. I remember when an issue arose in the National Assembly and the Powers and Privileges Committee had to deal with certain Members, an inquiry was conducted. It was then that Members of the other House came to realize the powers of this Committee.

I hope the Members that have been nominated will live up to the occasion, not just in terms of waiting for a case to arrive or to knock at its door, but determine those powers and privileges and whether or not there are other institutions or organs, which are invading those powers and privileges of Parliament.

Madam Deputy Speaker, I beg to second.

(Question proposed)

(Question put and agreed to)

APPROVAL OF SENATORS TO SERVE IN THE
PROCEDURES AND RULES COMMITTEE

The Senate Majority Leader (Sen. Poghisio): Madam Deputy Speaker, I beg to move the following Motion-

THAT, NOTWITHSTANDING the resolution of the Senate made on 14th February, 2018, on the approval of Senators to serve in the Procedure and Rules Committee, and pursuant to Standing Orders Nos. 185 (1) (d) and 189, the Senate approves the following Senators nominated to serve in the Procedure and Rules Committee, in addition to Senators specified in Standing Order 185 (2) (a), (b) and (c)-

- (1) Sen. (CPA) Farhiya Haji, MP
- (2) Sen. Beth Mugo, EGH, MP
- (3) Sen. (Dr.) Agnes Zani, CBS, MP

This is, again, another very important Committee to serve in. It is one that will look at our Standing Orders, for example, and examine what rules and procedures require to be reviewed. From time to time, they will give us feedback as a House on what has happened. It can be a very active Committee.

Since it already has Members of the Speaker's Panel, these are additional to that. We hope that the three nominated here to join the team that is already there by statute will complete the list for those who need to be in that Committee.

This is a very significant Committee that we need to approve. I, therefore, ask the House to approve this Motion.

Madam Deputy Speaker, I beg to move and ask the Senator Minority Leader to second.

The Senate Minority Leader (Sen. Orengo): Madam Deputy Speaker, I beg to second.

(Question proposed)

(Question put and agreed to)

APPROVAL OF SENATORS TO SERVE
IN SESSIONAL COMMITTEES

The Senate Majority Leader (Sen. Poghisio): Madam Deputy Speaker, I beg to move the following Motion-

THAT, NOTWITHSTANDING the resolution of the Senate made on 28th April, 2020 on the approval of Senators to serve in the Sessional Committees, and pursuant to Standing Orders Nos. 189, 219, 220 and 221, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Sessional Committees of the Senate as follows -

A. COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS

- (1) Sen. (Eng.) Hargura Godana, MP
- (2) Sen. Fatuma Dullo, CBS, MP
- (3) Sen. Samson Cherargei, MP
- (4) Sen. Irungu Kang'ata, MP
- (5) Sen. Charles Kibiru, MP
- (6) Sen. (Prof.) Samson Ongeru, MP
- (7) Sen. (Dr.) Ochillo-Ayacko, MP
- (8) Sen. Ledama Olekina, MP
- (9) Sen. Johnes Mwaruma, MP

B. COMMITTEE ON DELEGATED LEGISLATION

- (1) Sen. Anuar Loiptip, MP
- (2) Sen. Samuel Poghio, EGH, MP
- (3) Sen. (Dr.) Michael Mbiti, MP
- (4) Sen. Mary Seneta, MP
- (5) Sen. Abshiro Halake, MP
- (6) Sen. Mohammed Faki, MP
- (7) Sen. (Dr.) Boniface Kabaka MP
- (8) Sen. Judith Pareno, MP
- (9) Sen. (Prof.) Imana Malachy Ekal, MP

Madam Deputy Speaker, again, the two Sessional Committees that we have so far; the Committee on County Public Accounts and Investments and the Committee on Delegated Legislation are very specific. These are Committees whose memberships are held for the Session. We hope that the Members who are nominated to serve in these Committees will serve the House well. That is very important.

With these two Committees, we hope that the Senate can project an image out there that we are able to handle the accounts or the audits from the counties not as a postmortem, but be progressive in the sense that this Committee has done and reduce the workload that has been there. They need to work extremely hard with our support.

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

The Senate Leader of Minority (Sen. Orongo): Thank you, Madam Deputy Speaker. I beg to second. However, I wish to say that the integrity and the authority of the Senate on the issue of oversight depend on the County Public Accounts and Investments Committee. This Committee is central and key because it not only performs the oversight role of the Senate over the county governments, but is also an authority that derives specifically from the work of the Controller of Budget and the Auditor General. If there are any questions of integrity touching on this particular Committee, then it is a bad apple in a cut of apples. It affects all of us.

I hope that in the establishment of this Committee, and the people proposed to serve in this Committee will be conscious of the fact that there is an onerous duty placed upon them to defend and protect the integrity of the Senate.

We do not want to hear any more stories out there because governors also speak loudly about us and our Committees. The Committee that they talk a lot about is the County Public Accounts and Investments Committee.

I hope that they will rise to the occasion, but also keep the good work that was partly done by the previous Committee, of being current with the audit responsibilities that they have.

Thank you, Madam Deputy Speaker.

(Question proposed)

(Question put and agreed to)

Sen. (Dr.) Ochillo-Ayacko: On a point of order, Madam Deputy Speaker. I would not want to delay this process. However, I heard correctly the title of Prof. Ongeru as 'EGH'. For what it is worth, I am also 'EGH.' So, let the record reflect that for what it is worth.

(Applause)

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, I think that the Clerks have taken note of that.

Next Order!

APPROVAL OF SENATORS TO SERVE
IN STANDING COMMITTEES

The Senate Majority Leader (Sen. Poghiso): Madam Deputy Speaker, I beg to move the following Motion -

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

A. COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

- (1) Sen. Njeru Ndwiga, EGH, MP
- (2) Sen. (Canon) Naomi Waqo, MP
- (3) Sen. Kipchumba Murkomen, EGH, MP
- (4) Sen. (Dr.) Michael Mbitu, MP
- (5) Sen. (Eng.) Ephraim Maina, MP

- (6) Sen. Enoch Wambua, MP
- (7) Sen. Stewart Madzayo, MP
- (8) Sen. Issa Juma Boy, MP
- (9) Sen. Boniface Kabaka, MP

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- (1) Sen. Anuar Loititip, MP
- (2) Sen. Victor Prengei, MP
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- (4) Sen. Isaac Mwaura, CBS, MP
- (5) Sen. Aaron Cheruiyot, MP
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- (7) Sen. Cleophas Malalah, MP
- (8) Sen. Rose Nyamunga, MP
- (9) Sen. Boniface Kabaka, MP

C. COMMITTEE ON EDUCATION

- (1) Sen. (Dr.) Alice Milgo, MP
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- (4) Sen. (CPA) Farhiya Haji, MP
- (5) Sen. Milicent Omanga, MP
- (6) Sen. (Dr.) Ochillo Ayacko, MP,
- (7) Sen. Moses Masika Wetangula, EGH, MP
- (8) Sen. Mutula Kilonzo Jnr., MP
- (9) Sen. Rose Nyamunga, MP

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- (1) Sen. (Dr.) Michael Mbito, MP
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- (5) Sen. Samson Cherargei, MP
- (6) Sen. Naomi Shiyonga Masitsa, MP
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M. COMMITTEE ON TOURISM, TRADE AND INDUSTRIALIZATION

- (1) Sen. (Dr.) Ali Abdullahi Ibrahim, CBS, MP
- (2) Sen. (CPA) Farhiya Haji, MP
- (3) Sen. Philip Mpaayei, MP
- (4) Sen. (Prof.) Kithure Kindiki, EGH, MP
- (5) Sen. Wario Golich Juma, MP
- (6) Sen. (Dr.) Gertrude Musuruve Inimah, MP
- (7) Sen. (Dr.) Agnes Zani, CBS MP
- (8) Sen. Mercy Chebeni, MP
- (9) Sen. Mohamed Faki, MP

N. COMMITTEE ON ROADS AND TRANSPORTATION

- (1) Sen. Kimani Wamatangi, MP
- (2) Sen. (Eng.) Mohamed M. Mahamud, CBS, MP
- (3) Sen. (Eng.) Hargura Godana, MP
- (4) Sen. Christine Zawadi Gona, MP
- (5) Sen. Mithika Linturi, MP
- (6) Sen. (Arch.) Sylvia Kasanga, MP
- (7) Sen. Erick Okong'o Mogeni, SC, MP
- (8) Sen. Enoch Wambua, MP
- (9) Sen. Moses Kajwang', MP

Madam Deputy Speaker, I beg to move and recommend that we approve these names to serve in the Committees because we urgently need them to start sitting. A number of these Committees now will have full sittings.

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

The Senate Minority Leader (Sen. Orengo): Thank you, Madam Deputy Speaker.

I beg to second. As you know, Standing Committees are really important. Knowing that there is not much to be said about this, since the House is generally in agreement, I was hoping I could use the Floor to implore the Membership of the Committee on Finance and Budget, if at all this Motion goes through, to quickly have a meeting in preparation for the *Kamukunji* tomorrow.

This is because there is pending business on the question of the formula, Division of Revenue Act (DORA) and County Allocation of Revenue Act (CARA) that needs to be resolved expeditiously. I hope that will be done by the time we have the *Kamukunji* tomorrow.

I beg to second.

(Question proposed)

The Deputy Speaker (Sen. (Prof.) Kamar): The Senate Majority Whip, Kindly, proceed.

Sen. Kang'ata: Thank you, Madam Deputy Speaker. I rise to support this Motion by alerting Members that we endeavoured to do two things; one, ensure equity. There is no Senator who is a Member of more than three Committees. We ensured that every Senator is a Member of at least two Committees while others have three.

Madam Speaker, this is a unity list. We did not take to account our various other issues. Therefore, we urge you to support the new re-organized system. Since, we did not discriminate, notwithstanding other differing opinions we may have concerning other matters, we endeavoured to take into account academic credentials of each and every Senator. It is our firm belief that every Senator with us in this House is duly elected, competent and can perform his work very well. We shall have other opportunities when we come to *Ad hoc* Committees and other areas.

We want to move as a team as we forge forward. Thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, I do not see any other contribution so I will proceed to put the question.

(Question put and agreed to)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, that brings us to the end of the reconstitution of Committees. As it has been said by the Senate Majority Leader, Senate Minority Leader and the Majority Whip, the reconstitution of Committees puts responsibility in the hands of the Members.

I urge Members to convene meetings as fast as possible, so that they elect their Chairs and Vice Chairs then business shall continue even during the recess that we expect from today.

I want to consult about the next Order. Do we have the numbers? Majority Whip, could you approach the Chair?

(Sen. Kang'ata approached the Chair)

While the Whips are mobilising Members, I would like to ask the Senate Majority Leader to give us the Statement on business of the week commencing 7th July, 2020. We will start with the Statement from the Senate Majority Leader, which is pursuant to Standing Order No.52 (1).

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 7TH JULY, 2020

Sen. Dullo: Madam Deputy Speaker, pursuant to Standing Order No.52 (1), I hereby present to the Senate the business of the House on Tuesday, 7th July, 2020.

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On Tuesday, 7th July, 2020, the Senate Business Committee (SBC) will meet to schedule the business of the Senate. On that day, 7th July, 2020, the Senate will consider Bills scheduled for Second Reading and those at the Committee of the Whole stages. The Senate will also continue with consideration of business that will not have been concluded in today's Order Paper, including Motions, Petitions and Statements.

Madam Deputy Speaker, a total of 19 Bills are due for Second Reading and another 23 Bills are at the Committee of the Whole stage. The SBC will prioritise these Bills accordingly.

I urge respective Standing Committees to expeditiously conclude consideration of the Bills and table reports pursuant to the Standing Orders. I also urge respective Movers of the Bills and amendments to be in the House whenever the Bills are scheduled to facilitate speedy consideration and smooth transition to the next stage.

In today's Order Paper, six Bills at the Committee of the Whole stage are pending for Division. The Bills are:

- (1) The Pandemic Response and Management Bill (Senate Bills No.6 of 2020).
- (2) The Kenya Medical Supplies Authority (Amendment) Bill (Senate Bills No.38 of 2018).
- (3) The Cancer Prevention and Control (Amendment) Bill (Senate Bills No.9 of 2019).
- (4) The National Assembly Amendments to the Office of the County Attorney Bill (Senate Bills No.3 of 2018).
- (5) The National Assembly Amendments to the Petition to County Assemblies (Procedure) Bill (Senate Bills No.22 of 2018).
- (6) The National Assembly Amendments to the County Early Childhood Education Bill (Senate Bills No.26 of 2018).

I take this opportunity to urge all Senators to avail themselves for the voting process so that the House dispenses with these Bills and move on to the next stage. There are also several Bills scheduled in today's Order Paper for Second Reading. I request, the respective Movers of these Bills to accordingly avail themselves.

Critical business still remains relating to financial matters, namely, the Third Basis for Revenue Sharing among County Governments and the County Allocation of Revenue Bill.

I urge the Standing Committee on Finance and Budget to expedite consideration of the business and to table reports pursuant to the Standing Orders. Hon. Senators will agree with me that delay in a speedy resolution of these two crucial business will have a negative impact on planning, budgeting and operations of county governments for Financial Year 2020/2021.

Pursuant to Standing Orders 28 and 29, the Senate will proceed on a two-week recess today, 23rd June, 2020 and resume sittings on Tuesday, 7th July, 2020. I take this opportunity to commend all the Senators for the wonderful job that we have been able to do during the First and Second parts of the Senate Calendar, more so, the business relating to the prevailing COVID-19 situation in the country.

I particularly thank the *Ad Hoc* Committee on the COVID-19 Situation in Kenya for having kept the matter alive in the Senate and for tabling seven progress reports, six of which have been adopted by the Senate and for developing and introducing the Pandemic Response and Management Bill, which is now at the Committee of the Whole stage.

I thank you and hereby lay the statement on the Table of the Senate.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. I will go back to Statements under Standing Order No. 48(1). I will interrupt if the Whips succeed in whipping Members.

We will skip the first Statement from the Senator of Kakamega County who is the Chairing the Special Committee Investigating the Proposed Removal from Office, by Impeachment, of the Governor of Kirinyaga County.

The second Statement is from Sen. Halake and she is in the same Committee. The third Statement is also from Sen. Malalah. The fourth and fifth Statement is by Sen. Kwamboka who is also in the same Committee.

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

STATUS OF AUTOMATION OF LAND REGISTRIES
AND GENERAL LAND RECORDS

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

STATUS OF THE NAIROBI METROPOLITAN AREA TRANSPORT AUTHORITY
(NAMATA)

ALLEGED RISE IN CASES OF TEENAGE PREGNANCIES
DURING THE COVID19 PANDEMIC

(Statements deferred)

The Deputy Speaker (Sen. (Prof.) Kamar): The sixth Statement is by Sen. Cherargei, the Senator for Nandi County. He was around and he is to seek two Statements.

Hon. Senators, I do not think that Sen. Cherargei is close by. We will, therefore, defer the two Statements.

STATUS OF OPERATIONS AT THE KAREBE GOLD MINE
COMPANY LIMITED IN NANDI COUNTY

DISBURSEMENTS OF FUNDS TO COUNTY GOVERNMENTS

(Statements deferred)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, I will announce the changes on the Order Paper. We will only come back to Order Nos. 8, 9, 10, 11, 12, 13, 14 and 15 when the Whips succeed in their mobilization.

We have looked at Order Nos. 16, 17, 18, 19, 20 and 21. We will, therefore, go to Order No. 22, the Prompt Payment Bill (Senate Bills No. 3 of 2020), by Sen Farhiya. She was interrupted by the close of the day, yesterday, when she was moving. Sen. Farhiya, you have a balance of 47 minutes.

Hon. Senators, following consultations, the Bill on Order No.22 was a co-sponsored Bill between Sen. Farhiya and Sen. Sakaja, who had requested to second it. So, we will defer it.

BILL

Second Reading

THE PROMPT PAYMENT BILL
(SENATE BILLS NO. 3 OF 2020)

(Bill deferred)

The Deputy Speaker (Sen. (Prof.) Kamar): We will also defer Order No. 23 because of the same reason. Sen. Sakaja is not present.

MOTION

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

THAT, the Senate adopts the Seventh Progress Report of the Ad-hoc Committee on COVID –19 Situation in Kenya, laid on the Table of the Senate on Tuesday, 16th June, 2020.

(Motion deferred)

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Mwaruma, are you in the room? No. So, we defer Oder No. 24.

BILLS*Second Reading*

THE WILDLIFE CONSERVATION AND MANAGEMENT
(AMENDMENT) BILL (SENATE BILLS NO. 24 OF 2019)

(Bill deferred)

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Halake is in the Committee and Sen. Nyamunga is not in so we will defer those as well.

Second Reading

THE LAW OF SUCCESSION (AMENDMENT) BILL
(SENATE BILLS NO. 1 OF 2020)

(Bill deferred)

Second Reading

THE COUNTY RESOURCE DEVELOPMENT BILL
(SENATE BILLS NO. 2 OF 2020)

(Bill deferred)

The Deputy Speaker (Sen. (Prof.) Kamar): We will also defer the Sectional Properties Bill. Order No.27 is also deferred, so next order please.

Second Reading

THE SECTIONAL PROPERTIES BILL
(NATIONAL ASSEMBLY BILLS NO. 23 OF 2019)

(Bill deferred)

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

The Deputy Speaker (Sen. Prof.) Kamar: What is your point of intervention, Sen. Farhiya?

Sen. Farhiya: Madam Deputy Speaker, as I had informed you, the Bill was co-sponsored, and the co-sponsor is now here. Can I go ahead with it? I ask for your indulgence.

The Deputy Speaker (Sen. Prof.) Kamar): Hon. Senators, this looks like it is a very special day.

(Sen. (Dr.) Zani stood up in her place)

I thank Sen. (Dr.) Zani. Please, take your seat, Sen. (Dr.) Zani.

I know that the Senate Majority Whip had requested to whip Sen. Cherargei. I am informed he has just landed on the Floor and walks on three feet instead of two these days. I beg that you allow me to go back to Statements, so that we finish the last two Statements. These are Sen. Cherargei's Statements, then we will proceed from there.

Sen. Cherargei, when you are on three feet, you start your journey earlier than those who are on two. It looks like three feet do not help. It does not increase speed.

Kindly, Senators, let us allow Sen. Cherargei. He was in the extension and was fetched from there.

Go ahead.

(Resumption of debate on Statements)

STATEMENTS

OPERATIONS OF KAREBE GOLD MINE COMPANY LIMITED IN NANDI COUNTY

Sen. Cherargei: Thank you, Madam Deputy Speaker, for that indulgence. My apologies for being far away in the other Chamber.

I rise pursuant to Standing Order 48(1), to seek a Statement from Standing Committee on Land, Environment and Natural Resources on the status of operations at the Karebe Gold Mine Company Limited in Tinderet Constituency, Nandi County.

In the statement, the Committee should-

(1) State the status of licensing and lease renewal of Karebe Gold Mine Company Limited in light of the recent court ruling on the matter between the owners of the land, the local community and the company management;

(2) why the Ministry of Petroleum and Mining has failed to ensure that the issues raised in the Petition to the Senate in 2018 are addressed accordingly before pushing for the renewal of the lease with the company;

(3) State why the operations of the mining company have continued to be done in secrecy against the wishes and the interests of the community and employees, hence creating unnecessary conflict;

(4) Explain why the Ministry of Petroleum and Mining is not willing to respect the wishes of the owners of the land, in respect to lease renewal and the community, in respect to corporate social responsibility through Community Development Committee members under the Mining Act (2015); and,

(5) State why the Ministry has not put in place appropriate regulations and guidelines in line with the Mining Act (2015), with regards to managing the relations between the company, the land owner and the community.

Madam Deputy Speaker, just a comment. When we were at the Senate Mashinani in your County, I raised this Petition. I want to bring to your attention that up to now, the Committee on Land, Environment and Natural Resources has not acted on this Petition that we submitted in 2018, when we were at the Senate Mashinani in Eldoret Town, Uasin Gishu County. Therefore, I request that this Petition be fast tracked because it has stalled and the people of Chemilil, Chemase and the land owners have continued to suffer.

I know that most colleagues here, especially the ones from the coastal region are well conversant with issue of mining and the challenges that face mining in this country.

Madam Deputy Speaker, I am requesting for that Statement and a follow up of the Petition that we duly raised in 2018 during the Senate Mashinani in Eldoret, Uasin Gishu County.

Sen. (Dr.) Ochillo-Ayako: Thank you, Madam Deputy Speaker. I support this Statement and applaud Sen. Cherargei for raising this matter.

The only wealth God gives us apart from life is natural resources. We may acquire other advantages from other resources, but natural resources that we find where we reside are a gift from God. Therefore, they must be shared equitably and developed for the welfare of the people who live there.

In the book of Genesis 1:28, the Bible is very clear on this. Man and woman are given dominance over the universe to use it well and for the prosperity of mankind. So, this is a factor that we must always guard jealously. For my good bother, Sen. Sakaja, it is Genesis 1:28.

In Migori, we are mineral wealthy, particularly in the sub-counties of Nyatike, Kuria East, Kuria West, Suna West, Rongo and Awendo. We have gold and copper. There are some Chinese looking people whose identity and race is very suspicious. They are so many of them in Migori County and they are mining our wealth. We do not know how they get licenses to do that. We do not know what they give us in return. We just see them there.

Madam Deputy Speaker, those who know will recall that last year, there were incidences of violence where equipment was burnt out of this conflict. This year, there were further incidences of violence in Nyatike Sub-County, where a whole family comprising of many persons was arrested.

Madam Deputy Speaker, I want to ask a question and in support of Sen. Cherargei, how does the Ministry of Petroleum and Mining issue licenses and generate that kind of a conflict? We do not need conflict in this country. How do they ensure that communities are considered, they benefit and people who are surreptitious and unknown do not come and exploit God has given to us and has been written in the book of Genesis.

Thirdly, why is that particular Ministry opening up the mining activities, particularly the raw aspect of it, to foreigners? Mining can be done by any of us who has strong arms like Sen. Cherargei. Unfortunately, right now he has three legs, but

remember President Reagan talked about some chicken in Oklahoma that had three legs and were running so fast nobody would ever catch them. I hope he finds out how the Oklahoma chicken were running.

(Laughter)

Sen. Cherargei: On a point of information, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): There is a point of information from Sen. Cherargei. Do you want to be informed?

Sen. (Dr.) Ochillo-Ayacko: Absolutely! He is my brother and he has raised this concern that I hear with him enthusiastically.

Sen. Cherargei: Madam Deputy Speaker, I agree that Nandi County and Migori County are facing similar problems. It looks like the Ministry of Petroleum and Mining have decided to work with corrupt investors.

I want to confirm to him that truth be said, the owner of Kereba Goldmine is a man called David May, a foreigner. People who run the goldmine are all foreigners. That is my point of information.

Sen. (Dr.) Ochillo-Ayacko: Madam Deputy Speaker, I want the relevant Committee to tell this House the attraction, affinity and love affair they have with these foreigners. Why do they prefer foreign investors, instead of having local investors who are appreciative of the need to share this wealth with the locals? Who will also observe environmental concerns and have social corporate responsibility (CSR), so that we are in consonance with what the Quran and the Bible say; that we have been given the dominance over the universe, but we must use it responsibly and for posterity?

Thank you, Madam Deputy Speaker.

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

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker, for giving me this opportunity to support the Statement by Cherargei. I want to congratulate Sen. Cherargei for coming up with this Statement. It has come out clearly on the Floor of this House that we have resources. Some resources are man-made and some are just a natural gift from God.

Madam Deputy Speaker, in a situation where resources are a gift from God, it is unfortunate that if that resource is found in your land, people will come from nowhere and take the resources. Sometimes, the land owners end up being very poor, helpless and languish in poverty, yet others come to exploit resources that are on their land.

Land is a factor of production. Being a factor of production, and Kenyans have resources on their land and they are natural, then they should not languish in poverty. The issue that Sen. Cherargei has brought here is not new in this Senate. This is because it has happened in Kakamega County, where you find gold mining has been going on 1930s.

Madam Deputy Speaker, who benefit from this mining? The locals do not benefit. You will find that the level of poverty is still very high in Kakamega County. It is also unfortunate that Sen. Cherargei has also brought out the issue of the land owners of the

goldmines not benefitting because they are exploited. We should ensure that exploitation of people is minimized or is at zero.

There is need for people to benefit from the resources that come from their land. A certain amount of money that comes from these resources should go to the families and the locals. The locals need to benefit in a situation where there are natural resources on their land.

Madam Deputy Speaker, we must see how to protect Kenyans and ensure that when natural resources are identified among our local people, let the beneficiaries be the local people. There is no need of having foreigners coming to exploit the locals when resources are there.

This is an issue that should be treated with the seriousness that it deserves. I thank Sen. Cherargei for bring up this issue. It should not only be looked at from his county, but from all the counties where there are natural resources. Let the locals benefit through employment. You will find that where such natural resources are there, you will still find youths are idle and do not have jobs. Men and women are languishing in poverty. Moreover, you will find that children are not able to go to school, yet there is a big factory and natural resources have been discovered in that region.

Corporate Social Responsibility (CSR) should be embrace heavily by those who utilize these resources and the locals need to be employed in those mining sites. We cannot just sit as we see our people being exploited. We cannot just watch when our natural resources are exploited, but a lot of money is taken by foreigners.

There is no way a person from Kenya can go to America, get natural resources and run with the idea. It can never happen. We have to protect our own in Kenya and we have to ensure that the riches that are God given are utilized as we thank God. We need to see our children going to school and development, so that we have a reason to thank God.

Sen. (Dr.) Ochillo-Ayacko has just talked about man domineering the earth. It is something that is natural and it is even in the Bible that we have to dominate. In dominating, it does not mean or connotes being exploited. This exploitation of our own should come to an end.

Thank you, Madam Deputy Speaker, for giving me the opportunity. I support this Statement and believe that the Committee that will deal with this issue will do justice to the people of Eldoret, Kakamega and anywhere else where natural resources are available.

Sen. (Dr.) Zani: Thank you, Madam Deputy Speaker and Sen. Cherargei for bringing this Statement.

I remember when he raised it when we were at Senate Mashinani, and I think I remember contributing. Therefore, it is a sad state of affairs that, that has not been addressed. I think despite various attempts that have been made at legislation to ensure that this is sorted, nothing much has changed. We know all of the efforts that we made here as a House and also the National Assembly.

When a Statement like this is brought about the status of operations at Karebe Gold Mining Company in Nandi county, as it has been said by other speakers, it affects other counties that have natural resources.

In the Standing Committee on Lands, Environment and Natural Resources, we did not find any single county that did not have natural resources. I think the delink comes because the mining Bill---, it is actually an Act now. The legislative proposal or law that is operational has not given a systematic, functional and applicable way of involving the community.

That particular Act goes on to give the proportions; for example, for a beneficiary sharing which would help to address the issues that are raised in this Statement. However, the specific way to go about it, is to interact with the investors and let them know our stand?

Who are the members of the community who are the front liners in addressing this issue? There is need to empower communities both at the county and community levels. These committees will comprise elders and respected people who will understand what goes on in terms of mining and extraction of any natural resource.

Madam Deputy Speaker, the relevant legislation has not in effect put that particular connection in place.

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

Sen. (Dr.) Zani: I am happy to be informed

The Deputy Speaker (Sen. (Prof.) Kamar): Okay, there is a point of information from Sen. (Dr.) Ochillo-Ayacko.

Sen. (Dr.) Ochillo-Ayacko: Thank you, Madam Deputy Speaker. I am very happy with the contribution of Sen. (Dr.) Zani regarding the need to legislate. The general *grundnorm* is that public participation of communities must be there because it is enshrined in the Constitution. The general principle is that Government at national and county levels, and this is national level government, is the trustee of people's interests. In fact, Government exercises this authority on behalf of the people and must do so without even waiting for the people to be organised.

I wanted to inform my sister that in spite of the absence of specific and prescriptive legislation, the *grundnorm* of this nation which is the Constitution obligates Government to act in the best interest of citizens of this country in preference to any busybody or foreigner. There is already a constitutional decree, but for reasons that we do not know, that Ministry is trying to give preference to some other people who do not live or die here. They take it away and disappear to borders we do not know. If you go there, my sister, you will be thrown back to this country empty handed.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. Continue, Sen. (Dr.) Zani.

Sen. (Dr.) Zani: Thank you, Madam Deputy Speaker. Sen. (Dr.) Ochillo-Ayacko's comments actually strengthen the point I am saying. I did not say there is no system in place because we already have the Government. However, I am just pointing out to a specific area where if we had that specific legislation would help. It is a fact that

that aspect of legislation is missing in mining. I remember I engaged with the Mining Act at the time it was a Bill. That was a component that would have helped.

We earlier on this afternoon talked about public participation. It is entrenched in the Constitution and the laws. However, we have issues in terms of the way it is actualised. That specific gap is there. If that organized or empowered voice speaks clearly, adequately and have a point of engagement that would help.

Madam Deputy Speaker, I support the Statement. We need a real commitment about when the answer to this question about operations of Karebe Gold Mine Company Limited in Nandi County will be laid out bare. Sen. Cherargei needs to go to that place where the Committee will be holding its sessions and further scrutinize these issues. This is a very general issue on operations which are so broad. There must be some nitty-gritty details in there. It is at that Committee where you can ask for specifications and for those specific nitty-gritty issues so that they are brought to light and you get the answer to this.

I feel their session should be conducted in public so that the people of Nandi County on whose behalf he has raised this Statement, understand what may be happening. This is because for many generations, people feel that these are our natural resources. They want to feel as part and parcel of those natural resources. There is nothing you can do about removing that feeling from them.

I thank you, Madam Deputy Speaker.

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

Sen. Seneta: Thank you, Madam Deputy Speaker for also giving me a chance to add my voice on this important Statement. The issues of mining are a crosscutting in almost all counties. This important Statement touches on three important components. The component of public participation is a constitutional matter. When an investment is taking place in a county or certain place, public participation is very important. This is because the people in those counties ought to know the social, economic and environmental impact of an investment of that kind.

In most cases, when mining is done, they leave the environment in a pathetic situation. For example, they leave very deep holes. These holes are not covered and they are disastrous to the community.

Madam Deputy Speaker, public participation is important before any mining can commence so that they know how they will benefit from it. They need to know what will be their role in that mining exercise. They need to know the impact of that mining on the environment and how to handle it.

There is an issue of the local content and benefits to the community. This is an issue we have deeply discussed in this House. Therefore, I urge the Committee that will handle this matter to ensure that the local community benefit from this particular investment.

Madam Deputy Speaker, the issue of lease renewal is a sensitive matter. Some officers in Ministries conspire with companies and renew leases without involving the local community. It is important to involve the community when renewing these leases so

that they can express their interests. Therefore, the county and the national Governments must ensure all stakeholders are brought on board before leases are renewed.

Some companies have leases of 99 years. They have been exploiting natural resources for many years, but doing nothing meaningful to the community. They only cause lot of pollution without taking into consideration concerns of the local community. Therefore, renewing their leases without involving community will be detrimental.

Madam Deputy Speaker, I support this Statement. I call upon this Committee to involve most of us who are interested in this matter. This is a very important matter to many of us. We currently have a new Energy Act and Petroleum Act. The issue of local content and the percentages that goes to the communities and counties should be implemented in whatever investment that is carried out by those companies.

Sen. Faki: Asante, Bi Naibu wa Spika, kwa kunipa fursa hii kuchangia Arifa iliyoletwa Bungeni na Sen. Cherargei. Maswala ya rasilimali za nchi na maeneo ambayo zipo ni swala nyeti sana katika nchi yetu. Tumeona kwamba rasilimali nyingi ambazo ziko katika nchi hazifaidi watu wetu ambao wako katika maeneo yale ambayo zinatoka.

Tumezungumziwa mambo ya Nandi, Migori, Kakamega, ambako kuna madini lakini watu wetu hawafaidiki. Hivi majuzi Kaunti ya Turkana kulipatikana mafuta ya petroli lakini rasilimali hiyo haiwafaidi Waturkana na Wakenya wote kwa jumla.

Kule kwetu Pwani, rasilimali kubwa tuliyopewa na Mungu ni bahari. Watu wengi wanajikimu kimaisha kutokana na bahari. Bandari ya Mombasa haijafaidi Wapwani kisawasawa tulivyotarajia. Hivi majuzi, tulileta Arifa hapa Bungeni kulalamikia utendakazi inayohamisha bandari kutoka Pwani kuipeleka kule Naivasha. Hili ni swala linahusiana na rasilimali za maeneo ambazo mpaka sasa hazifaidi wale ambao wanakaa maeneo yale.

Bi. Naibu Spika, nilitarajia kwamba wakati tulipata serikali za ugatuzi, serikali hizi zingekuwa mbele katika kuhakikisha ya kwamba leseni ambazo zinapewa wale wanaokuja kutafuta madini yale, zitapewa nafasi ya kwanza wananchi wanaokaa katika maeneo yale lakini yote yamekuwa ni ndoto kwa sababu wengi wanaopata leseni hizi huzipatia hapa Nairobi na wakienda katika kaunti zetu, wengi wao huwa wa shirika au wandani wa magavana na wakubwa wengine katika kaunti zile hivyo rasilimali zinakwenda kwa wachache wengi wakiendelea kudhalilika na kupata shida.

Swala hili limeangaziwa pia katika katiba. Katika Kifungu cha 66, kinachozungumzia matumizi ya ardhi na rasilimali. Kifungu hicho kinapeana mwongozo wa matumizi ya ardhi au chochote kilichoko katika ardhi ile kwa masuala ya usalama, usalama wa uma, 'public order', 'public morality', 'public health' na vile matumizi ya ardhi ile. Imesemekana hapa kwamba Bunge litaweka sheria ya kuhakikisha kwamba uwekezaji katika mali kama hizi zinafaidisha wakaazi au wenyeji na uchumi wao katika maeneo yale.

Bi. Naibu Spika, Bunge ilikuwa itowe sheria kuhakikisha kwamba rasilimali kama hizi; dhahabu, bahari na madini yeyote mengine ambayo yako, yatakuwa yanafaidisha jamii zilizoko sehemu zile pamoja na uchumi wao. Wakati huu, watu wa Kaunti ya Nandi, Migori na Taita Taveta wanalalamika. Zamani, wakati Hayati Mzee Jomo Kenyatta alipotembea Taita, aliwaambia Wataita ambao ni shemeji zake Seneta wa

Kaunti ya Nairobi, Sen. Sakaja, kwamba Wataita wamekalia uchumi. Wakati huo, alimaanisha kwamba kuna madini mengi katika eneo la Taita ambazo Wataita hawajaweza kutafuta na kuhakikisha kwamba yanasaidia uchumi wa eneo hilo.

Arifa hii ni muhimu sana kwa sababu inagusia sehemu zote za nchi hata maeneo ambayo haina rasilimali za madini. Kuna rasilimali za aina mingi kama; mifugo au wanyama pori ambazo zinaweza kusaidia kuinua hali ya uchumi wa wananchi pamoja na kaunti ambazo zinahusika.

Kamati husika lazima iangalie swala hili kwa undani Zaidi ili kuhakikisha kwamba haturejei hapa tena kuzungumzia swala hili ambalo limekuwa donda sugu kabla ya uhuru wa nchi hii.

Kabla ya kupata Uhuru, tulikuwa tunapigania rasilimali. Waliokuwa katika maeneo ya White Highlands, walikuwa wanapigania mashamba ambayo ni rasilimali yao. Wapwani tulikuwa tunapigania uchumi wetu ili tuweze kuimarika na kuinuka.

Ni jambo la kusikitisha kwamba sasa, karibu miaka 60 ya Uhuru, bado tunaendelea kulalamika wakati tuna Katiba ambayo inaweza kutusaidia sisi kuhakikisha kwamba dhulma kama hizi za kihistoria zimewekwa kikomo na wananchi kupata faida ya mali na rasilimali ambazo ziko katika maeneo yao.

Bi. Naibu Spika, asante sana kwa kunipa fursa.

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

Sen. Sakaja: Madam Deputy Speaker, when Sen. (Dr.) Ochillo-Ayacko was speaking, I was reminded of the words written by Apostle Luke who wrote the Book of Acts. The Book of Acts 17:11 says: -

“Now the Berean Jews were of more noble character than those in Thessalonica, for they received the message with great eagerness and examined the Scriptures every day to see if what Paul said was true.”

When he quoted the Book of Genesis, I asked whether he was sure. Like the Bereans, I examined the scripture and it is true that there is a decree in Genesis 1:28. It says: -

“God blessed them and said to them, “Be fruitful and increase in number; fill the earth and subdue it. Rule over the fish in the sea and the birds in the sky and over every living creature that moves on the ground.”

When Sen. (Dr.) Musuruve spoke, she reminded me of the land where my great grandparents and other ancestors are buried in a village called Bushiangala, Ikolomani in Kakamega County. Ikolomani got its name from the word ‘Gold mine’. At around the year 1935, Rosterman mined the area for 17 years and got gold worth Kshs4 billion. However, when you go to Bushiangala, Isulu and many areas in Ikolomani starting from Sigalagala all the way to Kakamega, the level of poverty is possibly one of the highest in this country.

Currently, the gold in what is called the Lirhandia Corridor is worth Kshs171 billion. I wish Sen. Cherargei listened to Sen. (Dr.) Zani. Whenever Sen. (Dr.) Zani speaks, you hear the evidence of education because she has interacted with this subject matter quite deeply in the last Senate and in this one as well. It will do well for the people

of Nandi if Sen. Cherargei finds time to consult Sen. (Dr.) Zani on the issues of local content and of benefit sharing because there is a lot of work done.

Madam Deputy Speaker, the intervention by Sen. Ochillo-Ayacko was not properly executed because what Sen. (Dr.) Zani meant is not that there is a lacuna or that the laws do not exist. As it is today, the Government can implement beneficial sharing for the people where all these minerals are found. It should not be that after Rosterman left with Kshs4 billion worth of gold in Kakamega, we still have poverty yet there is potential of Kshs171 billion. The greatest resource we have in this country is about the ground, which God bequeathed us. The people of Mombasa, Kwale, Diani and Kilifi should benefit from the God given resource of the port and the sea.

Today, we have cartels who are making billions of shillings in trawling and fishing. There are people who are fishing with Japanese trawler after getting licenses as Kenyans are making so much money that would transform the form of poverty that exists in the Coast. The people of Sen. Cherargei located in Karebe, should be very wealthy. The people of Taita Taveta County who are also my relatives should be benefiting from the rubies, tsavorites and all the other minerals that exist there.

Madam Deputy Speaker, it is a poor indictment on us that we went to Mashinani and people were so excited to see us. That Petition was the highlight of that entire sitting yet to date, nothing has come out of that visit.

I wish to add strength to that statement and ask that the relevant Committee do justice to the people of Nandi County. When the Committee will be looking into it, they should remember my relatives in Ikolomani, Bushangala, Migori and Taita Taveta.

The Deputy Speaker (Sen. (Prof.) Kamar): The first statement stands committed to the Standing Committee on Lands, Environment and Natural Resource.

The last statement is also from Sen. Cherargei. Kindly proceed.

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

The Deputy Speaker (Sen. (Prof.) Kamar): What is it, Sen. Senator?

Sen. Seneta: Madam Deputy Speaker, I am very sorry for interrupting my friend and colleague, Sen. Cherargei.

This Statement is touching on mining. I was thinking that it should also be directed to the Committee on Energy, because this issues of land---

That is why this Statement took all that time possibly because it went to the wrong Committee. I think you should guide us on whether it can be sufficiently handled by the Committee on Lands, Environment and Natural Resources alone, or it can be shared.

These Statements need to be given justice. The people of Nandi have waited from 2018 to date so. I seek for your guidance so that the people of Nandi get a response from the Ministries concerned on time. It should have a timeframe on when it should be responded to.

Sen. Farhiya: Madam Deputy Speaker, I wish to inform Sen. Seneta my good friend---

The Deputy Speaker (Sen.(Prof.) Kamar): Would you like to be informed?

Sen. Seneta: Yes, Madam Deputy Speaker.

Sen. Farhiya: It is very challenging to get a quorum so as to get two Committees to handle an issue. For me, mining I think falls better in the Committee on Energy than even in the Committee on Lands, Environment and Natural Resources. We seek your indulgence to move it to Energy instead of Lands, Environment and Natural Resources.

I am sorry for interrupting you. It was not our wish, but sometimes we just feel that it enhances the decision.

The Deputy Speaker (Sen. (Prof.) Kamar): I see another intervention from Sen. Cherargei.

Sen. Cherargei: Madam Deputy Speaker, I agree with Sen. Seneta and my leader Sen. Farhiya. As you give the direction and commit it to a specific Committee, I think you remember there was a Petition already to Lands, Environment and Natural Resources from 2018. Up to now, the said Committee has not shown even an iota of trying to separate the issues.

Sen. (Dr.) Zani had said earlier on, that the Petition had tried to classify and separate issues so that it was easy to handle. Up to now, the said Committee has not even given us a tentative report on what they have been doing on that Petition.

My request is that you should give further directions that the Committee on Energy should be given that opportunity so that they can at least dispense with this. It will be convenient for us and even the people of Nandi.

Sen. Sakaja: On a point of Order, Madam Deputy Speaker. I hate to disagree with the Deputy Majority Whip, Sen. Farhiya. I hope she does not take disciplinary action on me.

If you look at our Standing Orders in the Second Schedule, the functions of the Committee on Lands, Environment and Natural Resources is-

“To consider all matters relating to land, settlement, Housing, environment, forestry, wildlife, mining, water resource management and development.”

I think we would set a very dangerous precedent if just because the Committee in the past has not delivered on its mandate, we give its mandate to another Committee. It is almost as if the Chair and leadership has given up on that Committee.

Part of the Standing Orders that we have just gone through earlier today have been the reinvigorating of these Committees. I think with the new energy, it is safer and neater to leave Committees with their mandate as in the Standing Orders and not arrogate to other Committees the functions of substantive Committees. Let us encourage them to do their work. If they do not deliver there are avenues through which we can discipline them. Let it stay where it rightfully should and that is the Committee on Lands, Environment and Natural Resources.

I have even seen Sen. Kasanga has joined that Committee. She is extremely hardworking. She is my Vice-Chair in the *ad hoc* Committee on the COVID-19 Situation in Kenya. Sen. Mwangi and the other Members can also be energized. Sen. Boy from Kwale you know Sen.(Dr.) Zani.

Those Members can work on this but just give the timelines within which to operate. Let us not start arrogating functions of specific Committees to others. It sets a very dangerous precedent.

The Deputy Speaker (Sen. (Prof.) Kamar): I imagine that Sen. (Dr.) Ochillo-Ayacko is referring to the second Statement and not this one.

Sen. (Dr.) Ochillo-Ayacko: Madam Deputy Speaker, this is a matter that if you give one minute it should weigh in on. A Committee may have failed to perform in the past. However, now that they have been reconstituted, it would be absolutely fair to give them the benefit of doubt to encourage them to perform. Perhaps the failure to perform was out of lack of chemistry or synergy and many factors that you and I are aware of.

I add my voice to what Sen. Sakaja has said that we give them a chance.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senators. I just want to read what the Second Schedule of the Senate Standing Orders say when it comes to the Committee on Energy.

The Committee on Energy is-

“To consider all matters relating to fossil fuels exploration, development, production, maintenance and regulation of energy.”

It does not give it any latitude to take on land and mining. We know part of the development will require some mining. Since it is clearly off the mining, I agree with the Members that we have reinvigorated Committees and we expect them to move.

I rule that the Committee on Lands, Environment and Natural Resources sits and moves very fast and ensures that this Statement is responded to within fourteen days.

(Applause)

They should come back with a response to this question knowing that they are supposed to reconvene anyway by tomorrow to make sure that they have the chairperson and the Vice Chairperson and then proceed. That should be a good starting point for them. It is so ordered.

We had called out the last Statement which I think is a brief one so that we reorganize the business of the day.

Proceed, Sen. Cherargei.

DISBURSEMENT OF FUNDS TO COUNTY GOVERNMENTS

Sen. Cherargei: Madam Deputy Speaker, I rise pursuant to Standing Order 48(1) to seek a Statement from the standing Committee on Finance and Budget regarding the disbursement of funds to county governments.

In the Statement, the Committee should-

(1) State the current status of respective counties with regard to the disbursement of funds for development and recurrent expenditure for the financial year, 2019/2020.

(2) State whether all counties have received the COVID-19 funds as budgeted and if not indicate which counties are yet to receive giving the reasons for the delay.

(3) State the status of pending bills per every county and clarify whether there is a nexus between pending bills and the delays of disbursements to the affected counties.

(4) State the status of non-monetary support to counties especially on capacity building and personal protective equipment(PPEs), quantification and

(5) Explain the level of preparedness of counties in the fight against COVID-19 under the medical equipment supplies programme.

Thank you.

Sen. Sakaja: Madam Deputy Speaker, if I am not wrong, it sounds like this is directed to my Committee. If it is, in the usual fashion, we shall deliver. Sen. Cherargei should rest assured I will invite him for the meeting.

We submit reports and I hope that today you will allow me to move the Seventh Progress Report. We have submitted weekly reports on the COVID-19 situation in counties. I said yesterday that we want to look at all the counties. I saw an outcry from Kenyans saying that Senators just want to spend on per diem. First, they should know that is our work. We must oversight counties whether we get Kshs5,000 a day or not. It is cheaper than the pilferage that is happening in counties if there is no firm oversight. So, we will and must continue to do our work.

I give assurance that we shall deliver on that. We shall give the schedule. This has already passed in our third or fourth reports. However, we need monthly income and expenditure reports from counties on COVID-19. We expect that should be coming soon. When we come back from our recess on the 7th July, 2020, I shall give that report.

Sen. (Dr.) Ochillo-Ayacko: Thank you, Madam Deputy Speaker. From where Prof. Onger, myself and others sit, which is the County Public Accounts and Investments Committee (CPAIC), the most common issue that comes before that Committee is delay in release of Exchequer or issues of the Integrated Financial Management Information System (IFMIS), whatever it is, or funds to counties. This is a very persistent audit issue that we get to encounter when we are dealing with oversight.

I suggest and ask the Committee to which you will refer this matter to find out-

(1) Whether the delay, which seems to be endemic or, in fact, a pandemic in itself, is a violation of the law? Is the National Treasury violating the law by not releasing, with dispatch, the funds that are intended for devolved units like counties?

(2) If the National Treasury is not violating the law, this Committee should tell us where the gap is. Failure to release funds on time interferes with programmes or budget implementation. We need to know whether they are breaking the law or whether there is a lacuna in our law, which we need to fix.

Thank you, Madam Deputy Speaker.

Sen. (Prof.) Onger: Thank you, Madam Deputy Speaker. I want to weigh in on this matter. This issue of Exchequer releases is embarrassing county governments.

As I speak today, I have checked about four counties and the story that we are hearing is that up to now the final tranche of release of the resources has not happened. Today is 24th of June, 2020. By next week, the month ends. What we have noticed when we examine the public accounts is that the money is wired on 30th of June; a time when

they cannot even spend on one single item. It is wired in at the last minute and they are the cause of the pending bills that are rolled over to the next financial year.

Therefore, when the National Treasury says that they must give the pending bills a first charge, they are already crippling the budgets of the counties, particularly, as they start the new financial year. This is because they go according to budgets and programmes that they have developed and were approved by the county assemblies. Therefore, they will require other supplementary estimates to factor in those other pending bills so that they can discharge whatever they carry over.

I think that we have identified the problem. The normal mischief is that they switch off the IFMIS. Right now, the IFMIS is not functioning and I think that Sen. Sakaja knows, he was in the National Treasury, that when they are hard up on finances or resources at the National Treasury side, the easiest way is a malfunctioning of the IFMIS platform. That is what has been happening.

I heard that up to yesterday, some counties are struggling; they have not paid the salaries for May and June. This is a very urgent matter and the Committee on Finance and Budget, if you so rule, should pursue this matter. This has been our worry all the time; that the National Treasury must at all times issue the Exchequer releases in a timely and predictable manner. Right now, that timely and predictable manner is not realized and is causing a lot of distress and difficulties for county governments.

I will quote my own County, Kisii, they have problems in getting the Exchequer release and yet they have complied with all these other requirements that are needed for them to have the Exchequer releases. They complied with what the National Treasury said and now they say that they do not have funds to release.

I think that we should weigh in as the Senate on this matter, if we are going to require that-

(1) County governments should not carry over pending bills; and,

(2) County governments should be able to pay the statutory deductions, and of course, the first charge of the Wage Bill for human resource deployment is a right. If you have worked for a job, it is a right for you to be paid for what you have worked for. Delaying workers pay from May to June, I think that it is a very dangerous thing and it does not spell well for the National Treasury. I support.

The Deputy Speaker (Sen.(Prof.) Kamar): I would like to give only two Members the opportunity to make their contribution then we can reorganise the Order Paper.

Sen. Sakaja: On a point of order, Madam Deputy Speaker. I have looked at the statement and at a second glance, if you look at Article 219 of the Constitution that talks about the transfer of equitable share, it says that -

“A counties share of revenue raised by the National Government shall be transferred to the county without undue delay and without deduction except when the transfer has been stopped under Article 25.”

This is a very core and constitutional issue. Earlier, I had intimated that my Committee on COVID-19 would have dealt with it. However, I think that it is better

placed in the Committee on Finance and Budget because that is at the core of their mandate, to actually look at disbursement of equitable share.

I just wish to withdraw as earlier requested. I think that it will be better placed there. Ideally, they should give us a report. Unfortunately, the Financial Year is ending in six days, but it will be good to get something preliminary, even if shared on our group before the end of the financial year. That mischief that Sen. Ongeru is talking about is real. I know, I have worked in the National Treasury and it is a very real threat in this next six days and counties are going to suffer.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. I think that you have corrected my agenda. I was going to correct it.

I will give one minute each to Sen. (Dr.) Musuruve, Sen. Seneta and Sen. (Dr.) Zani

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker, for giving me this opportunity. It is important for counties to be given the COVID-19 money in good time so that they can plan on how to spend the it. If they do not have the money in good time, it will be very difficult for county executives to plan and carry out public participation concerning whatever activities that need to be done.

Counties are also straining in terms of human resource. Some counties are not able to pay their casual workers. Who can go for six months without pay yet they have families and basic needs? It is just fair that the National Treasury disburses money in good time so that county governments can ensure that they are also paying service providers. Sometimes service providers are not paid and this becomes very stressful. There is need to pay for any work done and in good time.

When money comes in good time, there is also need to oversight on what exactly the money has done, so that it is not just being disbursed without checking on what is happening on the ground.

There is need to have a balancing act to ensure that money is disbursed in good time and spent for purpose it is intended for, which is delivering of services to *wananchi*. At the end of the day, during these COVID-19 times, we want services delivered to *wananchi*. You will find that in some counties, people do not have masks, sanitizers or soap. Some hospitals do not have Personal Protective Equipment (PPEs). This should be solved if money is disbursed in good time.

I support the statement and thank you for the opportunity.

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

One minute, Sen. (Dr.) Zani and then I will come to Sen. Seneta.

Sen. (Dr.) Zani: Madam Deputy Speaker, in the spirit of sisterhood, I do not mind Sen. Seneta coming first because she was ready. I can be last as you had initially read out.

The Deputy Speaker (Sen. (Prof.) Kamar): Okay. Sen. Seneta, proceed.

Sen. Seneta: Madam Deputy Speaker, when the National Treasury delays disbursing funds to counties, it causes a lot of suffering to people. It is a disaster because penalties paid for late remittance statutory deductions are unbearable. It also increases

legal fees because employees go to court to demand for their delayed salaries and statutory deductions.

The National Treasury has a tendency of releasing money to counties in the last month of the financial year. This means counties can spend it carelessly without planning. They may spend it on shoddy development projects. If you are given money that is not enough for a project, then you will never complete projects.

I urge the National Treasury to be disbursing funds to counties at the right time.

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

Sen. (Dr.) Zani, proceed.

Sen. (Dr.) Zani: Thank you, Madam Deputy Speaker. Overwhelmingly, Kenyans voted this Constitution because of devolution. Socio-economic developments cannot trickle down to the county level without funds. Not only can it happen with funds, but those funds must be released at the right time.

We have said this before and there has been lots of statements and questions about the Integrated Financial Management Information System (IFMIS). In fact, I am happy because when you bring this out as a Statement as Sen. Cherargei is doing, it gives us a good chance to interact with the various leadership and Ministries to get to the bottom of it. This is because we just want to enhance these counties.

Madam Deputy Speaker, I am happy Sen. Sakaja read the provisions of Article 219 on timely disbursements. We have heard from Sen. (Prof.) Ongeru the mischief with IFMIS where sometimes you find it has been switched off.

One of the deliverables from that Committee when they respond to the Statement is to agree and come up with a pattern of disbursements. This should include the timing and how long it should take immediately after that mention. That is critical.

I think that is exactly what the Article that Sen. Sakaja read out a few minutes ago is meant to do. Article 219 is very specific on disbursements of funds.

Madam Deputy Speaker, through that Statement, we should be able to have ways of answering that specific question. We need the National Treasury to tell us exactly where the delay is coming from and how it can be circumvented and addressed. This issue not only touches on Nandi County, but it is across all counties from the feedback we are getting in terms of delay.

I support this Statement.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Zani.

Hon. Senators, the second Statement from Sen. Cherargei, therefore, stands committed to the Committee on Finance and Budget. It is so ordered.

I had deferred all Orders up to 27. I now would like to re-organize the business so that we go straight to the last Order, Order No.30, on the Adjournment of the Senate.

BILLS*Second Reading*THE COMMUNITY HEALTH SERVICES BILL
(SENATE BILLS NO.5 OF 2020)*(Bill deferred)**Second Reading*THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.51 OF 2017)*(Bill deferred)***MOTION**ADJOURNMENT OF THE SENATE PURSUANT TO
THE APPROVED CALENDAR FOR THE 2020 SESSION

Sen. Kang'ata: Thank you, Madam Deputy Speaker. I beg to move-
THAT, pursuant to Standing Orders 28 and 29, the Senate do
adjourn until Tuesday, 7th July, 2020.

Madam Deputy Speaker, let me start by congratulating my fellow Senators for the good work they have done for that period we have been in this Session. We have processed several Bills. So far, that is something we need to celebrate as a House. However, we have a lot of pending business.

Allow me to set out some of the divisions that are in our conveyer belt. We have the Committee of the Whole House, the Pandemic Response and Management Bill (Senate Bill No.6 of 2020). This Bill is being championed by my brother, Chairperson of the *Ad Hoc* Committee of the COVID-19 Situation in Kenya, the Senator for Nairobi City County. We wanted to have this matter concluded today. However, for some reason, we could not get the requisite numbers to process this business.

Madam Deputy Speaker, we also have the Kenya Medical Supplies Authority (Amendment) Bill (Senate Bill No.38 of 2018). It is a Bill by Sen. Seneta.

We also have the Cancer Prevention and Control (Amendment) Bill (Senate Bill No.9 of 2019 by Sen. (Dr.) Ali. Another Bill is the Consideration of the National Assembly Amendments to the Office of the County Attorney Bill (Senate Bill No.3 of 2018). This is a Government Bill.

We also have the Consideration of the National Assembly amendments to the Petition to County Assemblies Procedure Bill (Senate Bill No.22 of 2018). Again, that is a Government Bill.

Another one is the Consideration of the National Assembly Amendments to the Early Childhood Education Bill (Senate Bill No.26 of 2018). This was also being prosecuted by the Committee on Education. We had also scheduled to handle the National Drought Management Authority (Amendment) Bill (No.26 of 2019) from the National Assembly.

Madam Deputy Speaker, today we had a heavy duty of processing the new Committees and we achieved that. Therefore, the Committees will be sitting again freshly to elect Chairpersons and Vice-Chairpersons starting tomorrow.

In the Committee Stage, we also have other key businesses. The most important one is the so -called Third Generation Revenue Sharing Formula. It will be processed by the Committee on Finance and Budget. The other crucial business is the County Allocation of Revenue Bill. This Bill shows how we share revenue amongst counties. Again, that has a statutory deadline of 31st June, 2020.

On one hand, we did good in terms of processing businesses at the Second Reading stage. On the other hand, we really need to come up with ways to ensure we have enough delegations to process some of these Bills now laying in abeyance at the Third Reading stage.

Senators need to take a break. We need to go and meet our constituents. We also need to go and lobby Cabinet Secretaries. I know that the role of a Senator is not limited to just coming here and pursuing legislation, but also other duties, including going to various ministries, meeting the people and listening to them. This is because under Article 96 of the Constitution, one role of the Senate is representation. You can only represent people once you meet them. So, we need a break.

This Motion, essentially, is affording Senators that break to go home, listen to their constituents and their grievances, and then crystalize all those ideas into Bills. Therefore, we hope that once we come back after this adjournment, we shall pursue various businesses in a more vibrant manner.

Madam Deputy Speaker, just to notify Senators, there is the *Kenya Gazette Notice*, meaning that notwithstanding the fact that we are adjourning from today up to 7th of July, on Friday, we shall back here to finish up on the issue of the impeachment proceedings with regard to Kirinyaga County. We want to assure the people of Kirinyaga that that the Committee that is currently handling that issue is competent. There is no undue influence. The Committee will handle that issue with all expertise that is required. We know that the Senate is a House that respects procedure. Therefore, despite this adjournment, we shall be back on Friday.

I also foresee that we may come back very soon, maybe next week, to finalize on the issue concerning County Allocation of Revenue Bill and the approval of the Third Generation Basis Revenue Sharing Formula.

I urge the Senators out there that, please, once we come back, come with more ideas, Bills and more vigour to protect and oversight our counties, and also push for development of our respective counties.

I beg to move and request Sen. Sakaja to second my Motion for Adjournment. Sorry, it is the Deputy Majority Whip; I have just seen her right now.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar: Who is seconding? Sen. Sakaja, kindly, second. I had seen a request by Sen. Sakaja.

Sen. Sakaja: Madam Deputy Speaker, I was raised well, and I am a gentleman. I can yield to the lady, Sen. Farhiya, but since she seems to have accepted me to second, I will second.

First, Madam Deputy Speaker, I want to note that we are going on recess at a time when we have new leadership in this House. We have you as our Deputy Speaker. We are very proud of you. We have Sen. Poghio, as the Senate Majority Leader; Sen. Kang'ata as the Senate Majority Whip and Sen. Farhiya as the Deputy Majority Whip.

Madam Deputy Speaker, as we go on recess, I would urge you, as the new leaders, to take this time to take stock of the position of the Senate and the new energy that you intend to pump into the Senate. This is the right time for you to look at it.

Madam Deputy Speaker, we expect as your followers, humble subjects and colleagues, that this new leadership will be more consultative, involve Members in decisions and not be vindictive on Members who might not have seen or agreed with them in various decisions. This is because that is the strength of the Senate. Parliament comes from the same root word as “parlance”, to talk, deliberate and protect the interests of millions of people who sent us here. Within that parlance and within conducting our business, we will not always agree on everything.

Madam Deputy Speaker, however, when we have leadership that takes it personally when there is no agreement or leadership that thinks that some people should be consulted than the others, then the Senate has a collegiate fail. We are very encouraged by how the new leadership has started. I am proud to be a Member of the Senate representing the biggest constituency in the Senate of three million voters.

Madam Deputy Speaker, we have reconstituted new committees. Hon. Members should understand the power of a committee to affect the resolutions of the Senate and to represent. We are only 67. The County Assembly of Nairobi is bigger than the Senate of the Republic of Kenya. My County Assembly has 122 Members. However, as 67 Members, if properly constituted in groups of nine in committees--- When we go out there to the country, we have a very unique mandate and agenda to protect our Constitution and to fight for the rights of our people.

In this last part of the Session that I have chaired the *Ad hoc* Committee on the COVID-19 Situation in Kenya, we have held more than 72 meetings and brought seven progressive reports before this House. We have interacted with more than 10 Cabinet Secretaries. In our interaction, changes have been made even before the Bill. We have dealt with the issues of the Ministry of Health, including issues of quarantine. They have been very cooperative because of how the Committee is energized. We have dealt with the issue of Uber drivers and our taxi people. Today, the Inspector-General of Police has reiterated what we said about the certificate of good conduct.

There is immense power with proper leadership. I urge colleagues, as you consider who you will vote for as your chairpersons and vice-chairpersons, let us

remember, apart from the obvious horse-trading and politics, the effectiveness of this House and the strength lies in the committees.

Thirdly, in the National Assembly we also have new leadership. We have Hon. Amos Muhinga Kimunya, my good friend, who is the Majority Leader. We have the new Majority Whip, Hon. Wangwe from Kakamega County. We have Members there that we can write a new page on the relations of the Senate and the National Assembly. We used to consider them as our noisy neighbours, but with this new leadership I see hope.

Madam Deputy Speaker, when I was in the last House, I used to say that this is 'nyumba ya wazee' and I am proud to be here. We said it is the 'lower' House and that was the 'upper' House. Now I know we are the 'upper' House, but they have the 'upper hand' because of how the Constitution is structured.

As our leaders, I urge you to sit down with this new team. We have a lot of business stuck in the National Assembly. Let it not be antagonistic. Leadership dictates wisdom and humility. Let it be that you say, okay, 'there are these Bills that you have'. For instance, I have three Bills in the National Assembly. Sen. Farhiya and I, are about to push the Prompt Payment Bill (Sen. Bills No. 3 of 2020). We have one of disaster management which if it had been passed, we would not need to do one on the pandemic, to a great extent.

Sit down and review, let us forgive each other of the sins of the past and turn a new leaf in our relations with the National Assembly. The leadership we have there, the way I know them and the way I know Sen. Poghisio, Sen. Orengo and Sen. Farhiya, these are not petty people. The way I know Hon. Kimunya, he is not a petty person. We serve the same people as both Houses.

In Nairobi, I always have a consultative meeting with my 17 Members of Parliament. I sit down with them and ask the issues in Umoja, Dandora, Langata and so on. You take this Petition in the National Assembly. I sit with my MCAs because we are serving the same people. I would urge us to take this time to reflect on these issues.

I wish Members a good period of recess; a short recess of 10 days. May you spend time with your children and families, for those of us who have young ones. Some of you have older ones, grandchildren like Sen. (Dr.) Musuruve. Take time to interact with your constituents and counties. I hope during this time, my Committee will be able to visit some of your counties, starting with Migori County of Sen. (Dr.) Ochillo-Ayacko because I made that promise. Let us continue to represent the people of the Republic.

Madam Deputy Speaker, with those many words, since I know Sen. Farhiya wants to continue with the Bill, but I think she will be unlucky because other Members will speak, I second the Adjournment Motion.

I thank you.

(Question proposed)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, we have only nine minutes and I can see three Members who want to speak. Try as much as possible not to take more than three minutes.

Sen. (Dr.) Ochillo-Ayacko: Madam Deputy Speaker, I want to congratulate you and all of us who have been able to work up to the end of this period and we are now seeking recess. I think we all deserve the recess.

I want to pick from what Sen. Sakaja has said. I trust that the entire leadership led by you understand the effectiveness of an institution. The Senate, like all other institutions, is made up of a team. The effectiveness of a team is in the bond and trust that we share among ourselves. Bickering and grandstanding makes it problematic. I know the leadership that has been put in place is made up of people of wisdom, who are able to lead us forward to the next level.

I just want to request that other than looking at the horizontal relationship that we have with the National Assembly, try and reach out to the Executive. Every resolution we make as a House will never see the light of day until our relationship with the Executive is improved. We have had problems with the Executive and we do not need to fall into the same pitfalls that the previous leaderships fell into. I plead with the leadership, including or led by you, to find a way of improving that relationship.

Horizontally, we also need to listen to the Judiciary because they have challenges and whenever they speak out there, they are also speaking to us. We must make sure that they are also empowered in terms of legislation and support, so that they become effective.

With a dysfunctional Executive, paralysed Parliament and a standoff between Parliament and the Executive, members of the public who are paying our allowances and have put us in offices will continue suffering. First and foremost, we are also members of the public. So, we will suffer with them.

Lastly, Madam Deputy Speaker, there is a notion out there that is reckless, that we never go on recess, short or long, and that we are not working. I disabuse any person thinking that whenever we are on recess, we are not working. Senates and parliaments work through committees. Committees will be in session and they work for the public. Members of the Senate and Parliament need to get feedback and they will continue getting it.

With those many remarks, Madam Deputy Speaker, I beg to support.

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

Sen. (Prof.) Ongeru: Thank you, Madam Deputy Speaker, for giving me this opportunity, first to congratulate you for taking the coveted seat of Deputy Speaker.

I also want to congratulate the new Members of the Committees that have been set up today. I thank the House for conferring in me their trust and putting me and my colleagues in the County Public Accounts and Investment Committee (CPAIC). Our Committee will start working from tomorrow. We have scheduled meetings every day except from Saturdays and Sundays. We want to clear the backlog of all the reports that are pending before the House. We are not on recess, as it were, in a broader sense, but we are functioning in a different capacity other than Plenary. We shall deliver that mandate through the Committee.

We have new membership in the Committees and I plead with my colleagues to work together as a team and deliver for the benefit of Kenyans. We also plead with those

who are at the county level that our primary responsibility is oversight and we shall do that job dutifully, conscientiously, without favor or contradiction. We should enjoy when we fellowship together for the common good of our population.

Sen. (Dr.) Zani: Thank you, Madam Deputy Speaker. When the Mover moved this Motion, he mentioned various Bills that are at the National Assembly. I also echo his sentiments that we need to have cooperation with the National Assembly to ensure that these Bills are processed. That is because we want these Bills to improve legislation for Kenyans.

The *Ad-hoc* Committee on the COVID-19 Situation in Kenya led by Sen. Sakaja has done so much within a short time on a relevant issue. The other Committees are also following suit. I have looked at their Seventh Report and I have realized that it covers such a broad section of the problems. They have talked of provision for testing, medical equipment, provision for isolation centers, provision of continued supply of food, measures for protection, enhancement of capacity and flexible deployment of healthcare staff and financial assistance. The Committee has actually looked at healthcare, economic and financial issues, social public order in human rights, access to food, water and other basic commodities, support of basic services and other cross cutting issues.

I know that this Report has not been tabled, but I have gone through it and picked another element which is key. We should not stop following the measures put in place unless we want to have another wave. I laud the measures that have been put up by the national Government and county governments. It is enormous work and it should continue.

A lot of provisions have been put for the healthcare workers. The Community Health Services Bill (Senate Bills No. 5 of 2020) also continues in the same mood. I thought I would be able to move it today, but I know that I will be able to move it later.

I have a feeling that most of the things in the Order Paper would have been dealt with if we were strategic. We could have started with the Committee of the Whole before moving to the Committees. We mislead the public when we say that we do not have quorum yet we always have the quorum. It is just that the Members go to other places to do other things.

Well done to us as we take a well-rested holiday. We look forward to seeing each other when we come back.

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker. I want to congratulate you. I am happy for you and I know that you are equal to the task.

I also want to thank the leadership for giving me an opportunity to serve Kenyans in three Committees. I was initially feeling very low because I thought that I would be better off in the Committee on Labour and Social Welfare, but I should go to other Committees for me to explore issues of disability in those Committees and to see how inclusive they can be.

I thank the leadership for giving me an opportunity to serve in the Committees on Tourism, Trade and Industrialization; Education and the Committee on National Cohesion, Equal Opportunity and Regional Integration. I am ready to serve in whatever

capacity because I am here to serve Kenyans. I do not have any other business in this Senate other than serving Kenyans, in terms of policies, laws and oversight.

ADJOURNMENT

The Deputy Speaker (Sen. (Prof.) Kamar: Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 7th July, 2020 at 2.30 p.m.

The Senate rose at 6.31.p.m.