

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 21st July, 2020

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

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

PRAYER

PETITIONS

RESETTLEMENT OF IDPS LIVING IN NYANDARUA COUNTY

Sen. Mwangi: Mr. Speaker, Sir, I wish to table a Petition from Internally Displaced Persons (IDPS) who are living in Nyandarua.

Mr. Speaker, Sir, I rise pursuant to Standing Order No. 233 to present this Petition on behalf of the Petitioners. I have tabled the Petition with a science of sadness and disappointment. It is unfortunate that 12 years after the post-election violence, there are people who still have not been settled.

The sanctity of life and property is protected by the Constitution under the Bill of Rights and yet we are talking of people who lost everything that they had including their homes, properties and even their livelihoods. These people have been living in office corridors, public parks and some in forest reserves in very dire conditions.

Mr. Speaker, Sir, it is the fundamental duty of the State to respect, protect and address the needs of the most vulnerable groups in the society as provided for in Article 21 (1) and (3) of the Constitution.

I do not understand why the Government has taken this long to resettle and compensate these people. Does the Government not care about the plight of the people? The only offense that these people did was to exercise their political rights as guaranteed in Article 38 of the Constitution. Why then would the same Government and the subsequent Governments that they elected cannot resettle them once and for all? Are they not a priority to the Government?

Mr. Speaker, Sir, these people have continued living in very inhumane conditions. For the last 12 years, they have been stripped off their dignity. Whereas Article 28 of the Constitution guarantees their dignity, it is clear that the Government has not done enough to better the lives of these people and alleviate their suffering.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

It is our cardinal responsibility as the elected Members of this honourable House to address issues that are affecting our constituents. It is my humble prayer that the plight of these people be addressed with haste, so that we can restore their dignity, their faith in us as their leaders and also the Government itself.

I thank you.

The Speaker (Hon. Lusaka): We will go to the next Petition then we will make the comments together, once we are done.

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

Is he on the other side?

As he comes, I will present the Petition that I was supposed to present.

THE ADVERSE EFFECTS OF ROCK BLASTING AT THWAKE DAM

The Speaker (Hon. Lusaka): I hereby report to the Senate that a Petition has been submitted, through the Clerk, by Mr. Robert Musyoka, Acting Clerk, Makueni County Assembly, on behalf of the Sectoral Committee on Environment and Climate Change.

As you are aware, under Article 119 (1) of the Constitution, and I quote:

“Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.”

Hon. Senators, the salient issues raised in the said Petition are -

(1) That, the Petitioners, Sectoral Committee on Environment and Climate Change, have concluded the matter of a request for a Statement regarding the adverse effects of rock blasting at the ongoing construction of Thwake Multipurpose Dam in Kalawa Ward, Makueni County and it has not been able to resolve the problem conclusively as the matter is affecting more than one county having been funded and implemented by the national Government.

(2) That, the construction of the dam involves amongst other activities, blasting of rocks which has adversely impacted on the lives of the residents of nearby villages such as houses and shops cracking, thus posing danger to the occupants of such structures. Other adverse effects of rock blasting in the area include noise pollution and respiratory problems to the residents.

(3) That the affected areas include but not limited to Ndindi, Syotuvali Market, Kamutinye, Kitoto, Unyeeo, Ngomano and Syongungi in Kathulumbi Location Ward and Kyusyuni, Miangeni, Kaseve, Katithi, Miksi and Mathangathi in Mavindini Ward;

(4) That the Committee recommended corrective measures to the contractor but the matter has not been addressed by the relevant contractor and other agencies.

That the Petitioner, therefore, prays that the Senate intervenes to ensure that the contractor safeguards the residents living in the affected areas from devastating effects of the construction of the dam, not limited to the noise from the rock blasting.

Sen (Dr.) Mbito, proceed and give your Petition, then we will give comments together. I have finished reporting mine.

THE LOOMING COLLAPSE OF THE KR STAFF
RETIREMENT BENEFITS SCHEME

Sen. (Dr.) Mbiti: Mr. Speaker, Sir, I wish to present a Petition to the Senate concerning the psychological torture that pensioners of the Kenya Railways Retirement Benefits Scheme have been subjected to over the years and the looming collapse of the scheme due to mismanagement and illegal practices against regulations.

We, the undersigned citizens of the Republic of Kenya and residents of Nairobi City County, representing more than 10,000 pensioners across the country, draw the attention of the Senate to the following-

(1) Kenya Railways Staff Retirement Benefits Scheme was set up through a trust deed signed on 3rd May, 2016, to provide pension and other retirement benefits to employees of Kenya Railways Corporation.

(2) That the trustees were to hold the contributions paid to them by the sponsor; that is the Kenya Railways Corporation, and pay members in accordance with the provisions of its trust deed and rules.

(3) That the scheme currently holds about 99 per cent of its total assets in immovable property that is, land and buildings as per the Legal Notice No.169 of 2006 transferred to it by the sponsor.

(4) That the Retirement Benefits Authority, a regulatory body, allows a maximum investment of 30 per cent of the Scheme's fund in immovable property which signifies that the Scheme is not in compliance with the stipulated regulations.

Secondly, on governance issues in the management of the Scheme affairs. At inception, it was envisaged that the Scheme would have challenges in liquidity and compliance with Retirement Benefits Authority (RBA) requirements of 30 to 70 per cent ratio due to the transferred assets being 100 per cent.

That in realization of this challenge, the sponsor appointed a carefully selected team of experts to form the board of trustees to address this issue.

That the board of trustees drafted a well designed integrated strategic plan which gave a clear road map on how the scheme would grow and comply with RBA regulations within determined timelines.

That due to designs of greed and desire to profit from prime land transferred to the scheme, the board of trustees were unceremoniously disbanded having resisted to be enjoined in the golf city project propagated by the sponsor, which finally collapsed.

Thirdly, irregular and unconstitutional practices, including corruption and abuse of office: That after disbanding of the Board of Trustees that was instituted earlier, another one was put in place, which unfortunately consisted of people who systematically stripped the scheme's assets through unscrupulous sell of assets, some through private treaties at exceedingly low market rates.

That RBA on its regulatory mandate, dissolved the board of trustees after members of the scheme sought its intervention. That RBA subsequently appointed an inspection team which gave their findings on 14th November, 2011, which states in part:

“The scheme was fraught with corruption, breach of trust, abuse of office, fraudulent disposal of assets and other malpractices.”

This led to the disbandment of the Board of Trustees.

That the sponsor seemed to take advantage of the opportunity and begun to appoint corporate trustees rather than have members being represented through the Board of Trustees. For seven years, Alexander Forbes Financial Services Limited, now called Zamara and who were until then providing actuarial services to the Scheme, brought down this Scheme to its knees leaving it high and dry.

That the members have made the best of efforts to have these matters addressed by relevant authorities, all of which have failed to give satisfactory response.

That none of these issues raised in this Petition is pending in any court of law, constitutional or any other body. Therefore, your humble Petitioners pray to the Senate that-

(1) It intervenes to ensure that the directive of the court issued on 11th April, 2013 are implemented.

(2) It intervenes and helps the vulnerable pensioners who have not received their pensions for the last 12 months and are now experiencing both financial and psychological torture, especially with the current pandemic situation.

(3) Any other recommendations that the Senate may seem necessarily on this matter.

Signed on 14th June, 2020, by Mr. Wachika, Mr. Jakaiti, Mr. Boinet, Mr. Simiyu, Mr. Luka, Mr. Maina and Mr. Ochieng.

The Speaker (Hon. Lusaka): Hon. Senators, Pursuant to Standing Order No.231, I shall now allow comments, observations and clarifications in relation to the Petitions for not more than 30 minutes.

(Interruption of Debate on Petitions)

POINT OF ORDER

ALLOCATION OF TIME TO DISCUSS THE FORMULA FOR SHARING OF REVENUE AMONG COUNTIES

Sen. Khaniri: On point of order, Mr. Speaker, Sir. I rise to seek your direction. The biggest thing Kenyans are waiting for from this House today is to see if we agreed on the formula for sharing of revenue. Counties and the entire country are anxiously waiting for the outcome of this debate.

As I came from my house, I was sure that, that was the business we were to discuss. Not to say the other business is not important, but this is what Kenyans are waiting for at the moment.

I have looked through the Order Paper and I do not see that item unless there is a Supplementary Order Paper coming later. I thought this was the most important business awaiting the House to determine. I am seeking your direction on this matter. I am not challenging the work of the Senate Business Committee; I know we have a competent Committee. However, as Members, we expected this would be the first and foremost business of this House today. We are seeking your direction.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

The Speaker (Hon. Lusaka): Thank you very much. I am aware that this is a matter over which the entire country is waiting for our direction. The matter was discussed in the SBC, there was a small committee consulting so that consensus is built as much as possible. We had given them up to about 1.30 p.m. today to finalize.

However, there are still areas that need to be finalized. I know the Senate Majority Leader will be seeking to move a Motion to adjust our calendar so that the matter is concluded on Thursday at 2.30 p.m.

That is the direction I have given. It is better if we take time to agree than rush it and then not get a neat process.

Sen. Were, please proceed on comments on the Petitions.

(Resumption of Debate on Petitions)

Sen. Were: Mr. Speaker, Sir, I would like to contribute to the Petition by Sen. Mwangi on resettlement of IDPs, especially those in camps.

(Loud consultations)

Mr. Speaker, Sir, there is a lot of noise behind me.

The Speaker (Hon. Lusaka): Let us consult in low tones. Proceed, Sen. Were.

Sen. Were: Mr. Speaker, Sir, I would like to contribute to the Petition by Sen. Mwangi and I thank him for bringing it to the House. The IDPs have been there, some as far as 1992 and 1997. It is not only those of the Post Election Violence (PEV) of 2007/2008.

As we talk about resettlement of IDPs, we should include those that were re-integrated back into their homes or families during that time. Most of the re-integrated IDPs come from the former Western and Nyanza provinces and they have been neglected for so long in the resettlement of IDPs.

As we look at this Petition and solutions to the resettlement of IDPs, we should consider the ones from those regions who have never received any form of compensation, although they suffered loss during the PEV of 2007/2008.

I thank you.

Sen. Halake: Mr. Speaker, Sir, I rise to support the Petition by Sen. Mwangi regarding the IDPs. We are seeing a disturbing trend where the Government that is supposed to ensure respect and protection of citizen's rights, is violating them.

While we know that this happened many years ago, because it is now about 20 years, how long does it take for the few people we have---

We are being told that in Western Kenya, people have not been settled and that IDPs of the PEV of 2007/2008 are still on the streets. I think it is a shame for this House to preside over these kind of violations of the rights of our citizens while we are seated here.

Article 43 of the Constitution is clear. This country is also a signatory to many international laws and humanitarian norms. I do not know at what point the Constitution of Kenya will be upheld by the same people we are supposed to be protecting. Sen.

Mwangi's committee, which I used to serve in, should take this seriously and make sure that these violations are corrected because we have IDPs all over the country.

We have political and humanitarian IDPs in this country. Where we come from, every time there are floods, locust invasions or insecurity, there are IDPs left, right and centre, even in our County of Isiolo.

Mr. Speaker, Sir, we need to look at the whole issue of displacement of populations because it has a bearing on the services that we provide, security, and health indicators. We need to look at the IDPs, both political and non-political, in all parts of this country and ensure that those violations are remedied and the people that are supposed to protect them do the right thing.

I support and thank you.

Sen. Wetangula: Mr. Speaker, Sir, the history of IDPs in this country is an eyesore. We have had IDPs from the 1992/1993 politically instigated violence against citizens. We also have those of 1997, 2007 and other times. In the process, people have been violently uprooted from their properties and sent away to places that they have no affinity with and they become IDPs.

In the previous Parliament, this House dealt with issues of IDPs almost in every session. Information came to the Floor that at the time the Government had spent over Kshs25 billion to settle IDPs, it turned out in some of the inquiries we had, that the money was shared among public servants, largely leaving genuine IDPs from being settled.

I believe this Petition will end up in the Committee chaired by the presenter of the Petition himself, the distinguished Senator for Nyandarua who is the Chair of the Committee on Land, Environment and Natural Resources, because they are the ones dealing with the issues of settlement.

In doing so, they must also bring to this House the pertinent issues raised in the Petition, where the petitioners are saying that they lost their dignity, livelihoods, homes and properties. To whom did they lose these properties?

Sen. (Eng.) Maina: On a point of order, Mr. Speaker, Sir. I do not intend to disrupt my friend but he has made a statement which should not just go unnoticed. He said that the money that was supposed to settle some of the people who are suffering, which was Kshs25 billion, was shared among civil servants.

If he has the slightest spec of truth, he should demand an action to be taken on those people because it is true that people are suffering yet money was shared among civil servants. Since he was in the Government, he could be having information that could help at this time, to bring those people to book.

Sen. Wetangula: Mr. Speaker, Sir, my colleagues like Sen. Mutula Kilonzo Jnr., can tell you that we have records of this House that showed that the bulk of the money was misappropriated and the managers of that money were public servants, not private citizens. The records are there.

The question I am raising in relation to this Petition is that, where there were political conflicts, like in parts of Rift Valley, people fled from their properties. Eventually, peace came back to those areas. Why has the Government not enabled people to go back to their properties?

Your house may have been burnt but the land cannot be burnt. The land is there. Why has the Government not helped people to go back to their properties, or why has the Government not appropriated that land to those who want to live in those hostile areas and help those who fled acquire land elsewhere so that they can be settled?

Mr. Speaker, Sir, secondly, where you and I come from – Sen. Were has raised it – because of our cultural practices, people do not accept to go and live in polythene papers on markets as IDPs. They get integrated into homes of relatives. These are people who are still suffering and living in indignity.

The most shocking thing in the reports we have in this House – Sen. Mutula Kilonzo Jnr., is the one who brought the issue in the previous Parliament – is that, when they were compensating IDPs, in some areas, the Government was paying IDPs Kshs400,000 per family. In areas like Western and Nyanza, they were paying each family Kshs10,000. Why this disparity?

This House as the defender and protector of counties, their people and governments must bring this matter to an end, by getting the Government to settle each and every person that lost their properties because of the misbehaviour of politicians. The Government must take responsibility because ultimate protection of every citizen lies with the Government.

When the Government fails to protect people, it must take responsibility, compensate the people, and settle the people. This is not a matter that we can compromise on.

I, therefore, urge the Committee not to limit themselves to the situation in Nyandarua, but to also look at the records available in this Parliament and elsewhere to see that we bring this matter to finality, once and for all.

Thank you.

The Speaker (Hon. Lusaka): Sen Cherargei.

Sen. Mwaruma can start leaving the other Chamber.

Sen Cherargei: Thank you, Mr. Speaker, Sir. I have two issues: One is on the Petition by the Internally Displaced Persons (IDPs). This issue has become the biggest problem in this country. I thought these are matters that the Government has resolved.

Sen. Wetangula has said that you need to look at the forest evictees and the people who are displaced not just by politics, but other agencies. For example, in the areas of Serengonik and many other areas, there are many forest evictees.

It has been brought to my attention that a court in Nakuru has today ruled that forest evictions from Mau Forest must be stopped forthwith by the Kenya Forest Service (KFS) and the Ministry of Environment and Forestry. Even as we discuss about the IPDs caused by political violence, we must also look at the forest evictees.

There was a Petition that was brought two weeks ago on landslides. The issue of landslides has also become a problem. Somebody has said that when floods or locusts invade, we must look at that issue because the same people are also displaced. The floods that we saw in a place called Cherondo, Tinderet sub county, are always---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Members! Let us consult in low tones. Observe social distancing.

Proceed.

Sen. Cheragei: Thank you, Mr. Speaker, Sir. The issue I was raising is that we also have evictions that are caused by natural disasters, like the floods that we saw in Nyando in Kisumu County and in Cherondo in Tinderet Sub County. There are many people in areas across the country who have been evicted by the natural disasters that have happened.

As we look at the issues of evictions that were caused because of political violence, we must also look at the people who have been displaced because of natural disasters and forest evictees. The other day, people in Molo in Nakuru County, in Kariobangi, and many other areas across the country were being evicted.

Mr. Speaker, Sir, I challenge the Chair of the Committee on Lands, Environment and Natural Resources, Sen. Mwangi, to seize this matter and not narrow it down to only Nyandarua but also include other counties and those three sub sets of evictees that I have said.

Finally, on the issue of Thwake Dam, it is so sad that even as we fight--- The other day, *Citizen* television was running a feature called “We can’t breathe” where an industry here in Nairobi was being accused of releasing and not regulating their emissions to the environment. That was saying “We can’t breathe” So, even as the people of Thwake area celebrate that they now have a dam to now take care of the issues of loss of water, we must look at the issue of pollution, so that they remain healthy.

I think it is high time that we called out the National Environment Management Authority (NEMA). NEMA has been sleeping on the job. There are so many cases across the country. From the one here in Nairobi to the one in Machakos county where they are releasing fumes and emissions at night, but during the day they give it out, and it was run well by the media. There is also Thwake.

There are so many constructions that are happening across the country. We call upon NEMA--- although we are aware that at the moment, NEMA does not have a substantive Chief Executive Officer (CEO), but even as they look for a substantive CEO, the accountability of NEMA, as provided by law, they must be careful that they protect our people from pollution. As we fight many other issues in this country, NEMA must play their role. The people of Thwake cannot continue to suffer simply because they are benefitting from it.

As I conclude, even if this Thwake Dam comes into operation yet people have died, what will be the benefit to them? We need to agree on the issue of Thwake Dam and seize the opportunity to ensure that the people within that area do not continue to suffer.

I thank you.

The Speaker (Hon. Lusaka): Sen. Mwaruma, keep it brief, then Sen. Mutula Kilonzo Jnr.

Sen. Mwaruma: Ninashukuru, Bw. Spika, kwa nafasi uliyonipa kuchangia Ombi liloletwa na Sen. Mwangi. Ni kweli kuwa ni jukumu la Serikali kumpatia kila mtu

shamba. Ni haki ya wananchi kuishi katika hali ya kuheshimika. Kuna IDPs wengi mahali pengi, wanaishi katika hali ya uchochole, na hawana mashamba.

Ninajua hili Ombi litaenda kwa Kamati yangu ya Mashamba, Mazingira, na Rasilmali Asili, na tutalivalia njuga swala hili ili tuangalie wananchi ambao hawana mashamba katika sehemu tofauti za Kenya, na tusukume Serikali kuwapa mashamba.

Wakati mwingine Kamati ya Mashamba, Mazingira na Rasilmali Asili tulienda hadi kuangalia wananchi waliofukuzwa kutoka Msitu wa Marmanet, walitupwa barabarani na wanaishi katika hali mbaya sana. Hali tuliyoona pale ilikuwa ya kuhuzunisha ajabu. Ajabu ni kwamba, mpaka sasa, wale watu bado wanaishi katika ile hali. Hawajapewa mashamba, na kuna mashamba mengi sana Kenya yanayoitwa *Government land*.

Ni jukumu la Serikali kufunga buti na Wizara ya Mazingira na Misitu, na National Land Commission (NLC) kuwapatia wananchi hao mashamba yao.

Nikimalizia, ningependa kuongelea umuhimu wa kuangalia mambo ya Maombi. Kule Taita Taveta, kuna wananchi waoishi sehemu ya Mwakitau ambao walileta Ombi kwa Bunge hili. Serikali ya Kenya itoa *title deed* kwa *ranch* na wananchi zaidi ya 10,000 saa hizi wanafukuzwa kutoka kwa hiyo *ranch* kwa sababu *title deed* ilipewa *ranch* mwaka wa 1985, na hao wananchi walianza kuishi hapo mwaka wa 1919, wakati wa Vita vya Kwanza vya Dunia. Walipagana huko na wakafanya makaazi hapo.

Hii *Petition* bado haijamaliziwa na korti imepeana hadi mwezi wa kumi watu hao watolewe kwa hiyo ardhi. Naomba kuwa wakati tunaangalia haya maombi mengine, na Mwenyekiti wangu yuko hapa, tuangalie zile *Petitions* zingine ambazo hazijaangaliwa pia ili wananchi wetu wa Kenya waishi katika amani.

Singependa kusema zaidi ya hapo, ila kushukuru Wakenya kwa sababu ya ile imani walio nayo na Bunge la Seneti, kwamba wakileta matataizo yao hapa, yanaangaliwa kwa haraka.

Asante.

The Speaker (Hon. Lusaka): Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker Sir. I will begin with the Petition by Sen. (Dr.) Mbiti. I am glad that the Chairperson of the Committee on Labour and Social Welfare, Sen. Sakaja is back with us.

(Applause)

The question of pensions does not affect Kenya Railways alone. It affects Kenya Postal and Telecommunication Services, and to our surprise, it also affects the workers who worked for the East Africa Cooperation. I would urge the Committee to consider a general Motion on all pensioners in the country, because pensioners of all State cooperations are suffering for plunder of their trustees.

The TelePosta Pension Scheme and the Kenya Local Authorities (KLA) bought phantom properties. Their trustees are billionaires and the pensioners are paupers. These are criminals wearing suits, and we should punish them. I urge that we take up not just the Kenya Railways, but all of them.

The reason the Retirement Benefits Authority (RBA) was set up was to prevent such issues. After working for the Government or a parastatal for 60 years and getting their deductions, somebody becomes a pauper.

The same thing happens to Members of Parliament. I have proposed that Members of Parliament should not go to the National Treasury for their pension. We should not beg when our money has been deducted. We should manage our pension. Therefore, the pension regime ought to be regulated.

On the Petition by Sen. Mwangi, I have a Statement that I raised here. That statement was given to me by people who are managing Internally Displaced Persons (IDPs). This is the reason IDPs have not been settled or paid. There is a committee that is supposed to be set up under the Act. That committee has never been set up for the last four years; it is deliberate. Therefore, there is nobody to enforce the Act.

Sen. Wetangula is right that we were brought a list here by the chairperson. That list showed discrimination in this country. Somebody evicted from one area is paid more than the other one. It is a shame. The records are here and I hope that we can resolve this matter as quickly as possible.

The third one is on the issue of residents of Makueni. This matter was brought by the Chinese when they were doing the Standard Gauge Railway (SGR). When Sen. Dullo called me recently about the National Environment Management Authority (NEMA), I told her that it is the most incompetent organisation in the country.

I saw the Cabinet Secretary walking around the river, somewhere at Ngara, yet that is the work of NEMA. The river that Sen. Sakaja knows, where we all grew up, is full of sewer in the City of Nairobi, and NEMA is asleep.

Mr. Speaker, Sir, there are no regulations on blasting. While NEMA has regulations on making noise, on decibels, there are no regulations in the country on blasts.

In the case of Makueni, while people were being compensated in a 300-metre corridor, these blasts were destroying homes that were a kilometre away from the blast. Since they do not fall within the corridor, they were not compensated.

I know people whose fish ponds and houses cracked. There is even a case where the blasting created so much dust. The Chinese are operating in Kenya as if they are a law unto themselves.

Sen. Mwangi, I hope that you will use your usual fiery stand on people like this, because we need regulations. People are suffering. When you see a whole county assembly filing a Petition like this one, it means that the County Commissioner of Makueni has been unable to deal with it, as well as the Governor of Makueni County.

It is only you who can do it, like you did when we went for the Kibwezi-Kitui Road and Nanooni Dam, where you got an order from national Government officials. This is one of those instances. You not only saved the people of Makueni, but also the people of Narok. This is because the people whose houses were destroyed during the SGR construction - it must be happening along the railway wherever they are going - have never been compensated. We cannot allow this.

Thank you.

Sen. (Eng.) Maina: Thank you, Mr. Speaker, Sir. I rise to support the two Petitions. I will start with Sen. Mwangi's Petition.

The matter being raised by Sen. Mwangi cuts across all places in the country, and not just Nyandarua County. However, we have a country and a Government that failed to protect people. For example, during the clashes in 1992 and 2007, people were displaced from their duly owned land.

These people went and camped on the roadside and even went back to where it was supposed to be their original place. This matter is one that the Government should have handled, and since it was not handled conclusively, it should be handled today.

Mr. Speaker, Sir, in the former Central Province, many families were rendered destitute and poor through this process. There were resources given, as Sen. Wetangula has indicated. It is mind boggling because people are suffering, and nothing has happened to the criminals who misappropriated the money. We cannot run Kenya like this.

In my home area, people who were displaced and chased away from the forest under the *shamba* system are living on the roadside in some areas, for example, in an area called Kiandagoro in Tetu. They are still living there after several years of displacement. The Government should know that no development is greater than enabling a human being to live a decent life and survive without any aid. A Government should feel guilty for acts of omission or whatever action that makes human beings destitute. Human beings own land.

Mr. Speaker, Sir, as this Committee will be going round, I would like them to look into the issue of IDPs. The IDPs owned property in some areas, and if we have a country that adheres to the rule of law and protects the sanctity of the title, then this property should be sold and original owners compensated. If we have a peaceful situation, let them be enabled to go back to those areas.

We cannot be double speaking. We are here for the livelihoods of the people. Forget anything else that we are doing. Development is not about big planes flying around. Development is not just about having tarmac roads all over. Development is when the ordinary person can feed his family, live a decent life and go to a hospital and get medicine.

Mr. Speaker, Sir, this matter is so central and deep about democracy and justice. Even if it will require that we enlarge the Committee, we should come up with a report that will be conclusive and demand immediate action from the Government. Let them not just come up with another report, which will gather dust somewhere.

I sympathise with the people of Nyandarua, Laikipia, Western Kenya and Nyanza. These are people who were displaced during the clashes, which were instigated by us; the leaders. No ordinary person can go instigating violence; it is instigated by the leaders. The worst thing that we did was to ignore and forget and yet those people were left to live in misery. Some of them have died.

I hope that when the report comes, it will be acted upon. If there is anybody who has misappropriated resources that were supposed to---

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

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. I have tremendous respect for the Senator on the Floor, the Senator of Nyeri. However, we have the Standing Orders

that guide debate in this House. This is a Petition; it is not a Motion or a Bill. Standing Order No.231 is very clear on comments on petitions; that such comments should not exceed 30 minutes.

If one Senator will take 20 minutes speaking, then what will happen to other Senators? This has to be controlled.

Sen. (Eng.) Maina: Mr. Khaniri, I have not spoken.

The Speaker (Hon. Lusaka): He is Sen. Khaniri.

Sen. (Eng.) Maina: Okay, Mr. Speaker, Sir. Sen. Khaniri, I have not spoken the many words you keep throwing in this House. I have only spoken a pit full of the many words you speak. I am not a man of many words. I am coming to the end.

The Speaker (Hon. Lusaka): Conclude.

Sen. (Eng.) Maina: Mr. Speaker, Sir, in conclusion - I am not concluding because I was rudely interrupted; no.

(Laughter)

I am concluding because I recognize there are some of us who are slower and we need to carry them along with us.

Therefore, I conclude by saying, let us be sympathetic. Let us look at the lives of the people who have been displaced, some of who may be from Sen. Khaniri's place. Justice should be done.

Thank you.

The Speaker (Hon. Lusaka): Hon. Senators, we are running out of time on Petitions. I will only allow Sen. (Dr.) Zani then we go to other Statements.

Sen. (Dr.) Zani, proceed. Take the shortest time possible so that we finish. I can see there is a lot of interest but we must move.

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir. I think a lot already has been said and quite a bit of it is going to be repetition. Sometime back, I had a chance to talk about statelessness in one of the forums that I went to. This is not about statelessness but it is about displacement which is just as bad.

When you do not have a sense of identity; you do not feel you belong; when inequality is very high and when you cannot contribute functionally as a person to a country then it is a problem.

It is really sad that for this particular County of Nyandarua, it has come to the fore. However, I am sure many other counties have the same situation. I plead that as this Committee interrogates this issue, they probably try to address this on a broad scale. This is so that they can identify and have this situation sorted out once and for all.

Mr. Speaker, Sir, I think it has gone on for far too long. Sen. Mwangi, we are happy that you have been able to bring it to the table. The Committee needs to do a good job so that they can establish for us a sense of being, integrity and self-esteem, that every Kenyan is meant to have in this country.

The Speaker (Hon. Lusaka): Sen. (Dr.) Kabaka, you have two minutes. Sen. (Dr.) Ochillo-Ayacko, what is your point of order? Start coming from wherever you are. Proceed, Sen. (Dr.) Kabaka.

Sen. Wambua: Mr. Speaker, Sir, is it Sen. (Dr.) Kabaka or Sen. Wambua?

The Speaker (Hon. Lusaka): Sen. (Dr.) Kabaka.

Sen. (Dr.) Kabaka: Mr. Speaker, Sir, thank you for giving me this opportunity to contribute to this important Petition by my friend, the Senator for Nyandarua County, Sen. Mwangi. He is a very experienced Senator having served both in the National Assembly and the Senate for some time.

I do not want to repeat what has been said. That would be tautological. I only need to state that this issue of refugees in their own country is very touchy. It is not different from the international refugees who are suffering in refugee camps. However, of necessity, the issue that I need to state is this land. It is that issue, which has been pinpointed by several Senators who spoke before me.

Mr. Speaker, Sir, it is high time that the other agencies of Government were involved to investigate who took what or which land. Money is not everything here. Some people might have been compensated in monetary terms but others are sentimentally attached to their land because that is the land they know and where they were born.

The second issue touches on the Kenya Railways Pensioners' Retirement Benefits Scheme. It is very emotive. For those who do not know, I worked for Kenya Railways for nine years. It is a very big let down to the pioneers of East African Railways then Kenya Railways. They worked hard for these institutions and even other related parasails like the defunct Kenya Post and Telecommunication Corporation (KPTC), which demerged, to three agencies.

The mismanagement of these funds, which totals to billions of Kenyan Shillings is very sad. I think there is collusion between those in management and the actuarial bodies that run the affairs of the scheme today.

Mr. Speaker, Sir, therefore, as I conclude, I would like to say that heads must roll because corruption in this country is too much. It is important that people revisited their moral being.

I support.

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

Sen. (Dr.) Ochillo-Ayacko: Thank you, Mr. Speaker, Sir. My point of order is that, we are very lonely in the other Chamber. We have been trying to catch your attention and seemingly, all the Members here are the ones visible except only Sen. Mwaruma. You had indicated that I come from wherever I am and, therefore, I have come from wherever I was so that you can recognize me.

The Speaker (Hon. Lusaka): Can you then make your contribution for two minutes.

Sen. (Dr.) Ochillo-Ayacko: Thank you, Mr. Speaker, Sir, for giving me an opportunity and to recognize that there is another Chamber nearby. There are two Petitions here. One is regarding pensions and another regarding internally displaced persons. There are many factors that cause internal displacement of people but the one that is sensitive and most people speak to is one that is caused by politicians.

There are factors that do this; economic factors, operations of the law and disasters, but we never try and settle our people who are displaced because of those factors.

In Migori County where I come from, we have incessant flooding. We have the lake reclaiming land and many people are displaced year in, year out. The response we get from Government time and again is that these people should move to high grounds.

Mr. Speaker, Sir, I beg the Committee to which this Petition is being taken, to also consider discussing internal displacement of persons caused by factors other than political disagreements or violence.

Regarding pensions, the elephant in the room is pension in counties, particularly the ones that relate to former local authorities. When you look at all these counties, you will find out that there is no pension that is being prepared for retirees.

If you look at counties particularly the ones that have sugar milling plants that are state-owned, for example, Mumias Sugar Company, Sony Sugar Company and Chemelil Sugar Company, the employees have not been paid for one year. I doubt whether their pensions are being looked into and whether they are likely to get their pensions when they retire.

I request the Committee to which this Petition is being taken, to ensure that they look at all the pensions in light of the fact that there is Coronavirus (COVID-19).

Thank you.

The Speaker (Hon. Lusaka): Okay. Sen. (Dr.) Musuruve, proceed for two minutes. Hon. Senators, let us observe social distancing. I noticed that we are slowly getting back into our normal operations.

Please, COVID-19 is real.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir, for giving me this opportunity to make my contribution. I support petitions by Sen. Mwangi and Sen. (Dr.) Mbito because they are revolving around people. The Senate motto revolves around the society and people. We must represent people effectively.

Concerning the Petition by Sen. Mwangi, it is true that when one is branded as an Internally Displaced Persons (IDP) it sends some negative feelings to him. There is need for us to ensure that IDPs are compensated. There should not be some IDPs who are getting less than others because they were all affected. It is a painful thorn in the flesh of all regardless of where they come from.

The Petition by Sen. (Dr.) Mbito is very noble. These are members of staff of who have already retired. They worked for Kenya Railways when they were energetic and gave all their best. However, they have been swindled by some unscrupulous people. All of us give our best in our youthful years. We do a lot of work. We save a lot of our money through these schemes hoping that we will enjoy our retirement. It is unfortunate that some cunning people is hoping that you will give your best so that they benefit from your sweat.

There is need for this Petition to be concluded as fast as possible. I remember in 2013, it was before the court, but it was not fully dealt with. We know justice delayed, is justice denied.

The Speaker (Hon. Lusaka): Proceed, Sen. Dullo and keep it short Senators.

Sen. Dullo: Thank you, Mr. Speaker, Sir. I will be very brief. As my colleagues have said, the former local authority members of staff are discriminated. The trustees are taking the huge chunk of their savings from them. This matter needs to be resolved quickly. I hope the Committee will look into it.

Secondly, there were a lot of disparities in terms of how the budget was allocated to IDPs in this country. A very good example was my county where people living in Kinna from post-election violence have not been compensated to date. Finally, issues of land are emotive. It is not only the IDP of 2007 post-election violence.

Kenyans who are living in their own land are today being dispossessed because of the manner in which the Ministry of Land is handling land issues. A very good example is Isiolo County where we had a petition and a Statement before the Senate Committee on Lands, Environment and Natural Resources. This matter had not been resolved up to now.

Today in my own county, the county government is giving letters of allotment without subjecting the list of the beneficiaries to the communities to look at and see whether they are affected or not. Matters of land need to be dealt with a lot of seriousness in this country.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I will be very brief. I rise to support the three Petitions. I request the Committee that will be tasked with Petition No.3 to extend their work to the source of materials for the construction of the Standard Gauge Railway (SGR). This is because many people were admitted in hospitals and paid huge bills. Some of them have permanent damages to their health. When the SGR was being constructed, particularly in Narok County in a place called Siyabei, the contractors were allowed to continue blasting and getting in a place where there was an orphanage with children in the mercy of other people.

The National Environment Management Authority (NEMA) is devolved function. I think county governments are now failing in ensuring that NEMA carries out its function. It behooves us as Members of this House who represent counties to ensure that we push NEMA to guarantee a good environment for our citizens.

On the issue of IDPs, a firm believer that before someone becomes an IDP, they have a home. The Government ought to ensure that those people who were evicted from their original homes due to political instability in the country are facilitated to return to their homes.

On Pension, it is evil for people to spend money contributed by civil servants and working Kenyans. I propose that the Committee comes up with serious recommendations for setting up of various civil and criminal---

The Speaker (Hon. Lusaka): Your time is up, Sen. Olekina.

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

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

Sen. Khaniri: Mr. Speaker, Sir, although the Hon. Senator has left the Floor, it would be wrong for it to be on record. He has stated that NEMA is a devolved function. Is it not. If one looks at the Fourth Schedule, NEMA and Protection of the Environment is under the national Government. It is an Item No. 22. They only have field offices, but they are not devolved. It would be wrong for it to be on record.

The Speaker (Hon. Lusaka): It is true. That is the position. You can read it later Sen. Olekina. We do not have a lot of time.

(Sen. Olekina spoke off record)

You are off the microphone. Are you reading a different document?

Sen. Olekina: We have engaged NEMA and they have devolved their services.

The Speaker (Hon. Lusaka): They have decentralized.

Sen. Wambua: Thank you, Mr. Speaker Sir, for this opportunity to comment on these Petitions. I will be very brief. I let me inform the Senator of Narok who is my friend that there is a difference between ‘decentralizing’ and ‘devolution.’

(Loud consultations)

The Speaker (Hon. Lusaka): Consult in low tones, hon. Senators.

Sen. Wambua: The matter of the Petition that you read from residents of Makueni is a very unfortunate situation. People in this country petition this House is because they expect that their matters be processed and they get results without much ado. It is the same reason Members here bring Statements to the Floor.

The matter of pollution arising from blasting in construction sites across this country has been a thorn in the flesh of communities neighbouring capital projects. In Kitui, for example, there is construction of the Kibwezi-Kitui Road. There has been several cases which have been brought to the Floor of this House which have been dealt with by the Committee on Roads and Transportation where I sit. To date, those people are still awaiting for results.

I was to stand to comment on this matter. Going forward, I will urge the Speaker of the Senate to ensure that directions that are given on Statements, Petitions or Motions are implemented to the letter. This is the only way we are going to heighten public confidence in the Senate and avoid us been branded as a talking House. We are a House of records and a serious House for legislation and representation.

The Speaker (Hon. Lusaka): Senator of Bomet County, what is your intervention because we have overshot our time? I will give you an opportunity during Statements which are next on Order Paper.

Hon. Senators, pursuant to standing order No.232(1) the Petition stands committed to the relevant Committee for its consideration. In this case, I direct that the Petition be committed to the standing Committee on Land, Environment and Natural Resources.

(The Petition was committed to Standing Committee on Lands, Environment and Natural Resources)

In terms of standing order No. 232 the Committee is required in not more than 60 calendar days from the time of reading the prayer to respond to the Petitioner by way of a report addressed to the Petitioner and laid on the Table of the Senate.

On the Petition on Railway staff, 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 Labour and social welfare.

(The Petition was committed to Standing Committee on Labour and Social Welfare)

In terms of standing order No.232 the Committee is required in not more than 60 calendar days from the time of reading the prayer to respond to the Petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

Pursuant to Standing Order No. 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 National Security Defence and Foreign Relations.

In terms of Standing Order No. 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 way of a report addressed to the petitioner and laid on the Table of the Senate.

(The Petition was committed to Standing Committee on National Security Defence and Foreign Relations)

Hon. Senators, we are going to have a report by the Chairman of the Committee on Justice, Legal Affairs and Human Rights, Sen. Omogeni. As I directed, we shall have a sitting on Thursday at 10.00 a.m. in the morning.

Is Sen. Omogeni not here?

Next Order.

PAPERS LAID

REPORT ON COUNTY GOVERNMENTS BUDGET IMPLEMENTATION REVIEW

The Senate Majority Leader (Sen. Poghisio): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Tuesday, 21st July, 2020: -

The County Governments Budget Implementation Review Report for the first nine months of the Financial Year, 2019/2020

THE CROPS (SUGAR) (IMPORTS, EXPORTS AND BY-PRODUCTS) REGULATIONS, 2020

The Crops (Sugar) Imports, Exports and By-Products Regulations, 2020.

Thank you, Mr. Speaker, Sir.

(Sen. Poghisio laid the documents on the Table)

The Speaker (Hon. Lusaka): Sen. Omogeni, since you are coming from the other Chamber, I will allow you to present your Report. Just present one; the other one you can present next week.

REPORT ON PETITION: AMENDMENT TO THE CONSTITUTION TO DELETE THE COCKEREL
HOLDING AN AXE BOTH IN THE COAT OF ARMS AND THE
PUBLIC SEAL OF THE REPUBLIC OF KENYA

Sen. Omogeni: Mr. Speaker, Sir, I beg to present the following Report on the Table of the House, today, Tuesday, 21st July, 2020; the Report on the Consideration of the Petition by Julius Masiva Obuga regarding amendment of the Constitution to delete the cockerel holding an axe in the Coat of Arms and the Public Seal.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Next Order!

STATEMENTS

CONTINUED LEARNING AND REOPENING OF LEARNING
INSTITUTIONS CLOSED DUE TO COVID-19 PANDEMIC

Sen. (Dr.) Milgo: Mr. Speaker, Sir, I rise to give a Statement on continued learning and re-opening of learning institutions following closure occasioned by the outbreak of the COVID-19 Pandemic.

Mr. Speaker, Sir, as you are aware, the outbreak of COVID-19 resulted in the global shutdown of educational institutions with the intention to protect children from being infected and to reduce the spread of the disease in general. In Kenya, learning in all educational institutions was suspended on 15th March and an estimated 15 million learners were sent home for an unspecified period of time.

These measures were put in place to slow down the spread of SARS COV-2 the virus that causes COVID-19. There is some evidence that school closures led to the decline in the epidemic spread of COVID-19 in some parts of the world.

Nonetheless, the schools closure also changed how students are educated. Different countries formulated a raft of measures and allocated resources to help learners, teachers and parents facilitate continued learning during this crisis.

In our country, the Ministry of Education announced that it had designed online learning programmes and digital platforms to deliver materials to offer learning opportunities. However, the disruptions to instructional time in the classrooms are already showing signs of severe impact and there are concerns that school closure is doing more harm than good.

Mr. Speaker, Sir, as you are aware, on 7th July, 2020, the Ministry of Education announced that due to the uncertain environment in the country, the education stakeholders had resolved to reopen all basic education learning institutions in January, 2021. This decision would apply to all learners and the Ministry would enhance remote

learning and explore innovative approaches to promote equity. However, teacher training colleges and TIVET institutions would be allowed to reopen from September, 2020.

In the meantime, the delivery of the curriculum and continued learning through virtual and distance learning programmes is facing numerous challenges and appears to be poorly designed to cater for all the learners due to their varied needs and abilities. The learning timetables are not accessible and time allocated is inadequate. There is unequal distribution of subjects and all lessons are covered by the virtual and distance learning programmes.

Mr. Speaker, Sir, a recent report by the Directorate of Quality Assurance and Standards in the State Department of Early Learning and Basic Education indicates that majority of parents and guardians are not at the forefront of their children learning at home. While quality of supervision of virtual learning by teachers is low, there is limited or no communication between the learners and teachers or schools and assessment of learners is slow.

Prolonged closure might escalate school dropout rates and early pregnancies. Available evidence indicates that during economic shocks, many school children, especially girls may shift their activities towards purely income generating activities to support their households.

Mr. Speaker, Sir, as you are aware, in Kenya more than 1.6 million school children in marginalized areas and urban poor rely on regular school feeding and nutrition services. With the continued closure, these children could already be nutrient-deficient, vulnerable and at risk.

Virtual and distance learning programmes are also invariably placing a heavy burden on parents and guardians with many struggling to support children in their new learning environment, often juggling between supervision, their own work and house chores. The COVID-19 crisis, therefore, has exposed challenges and disparities facing the educational sector. The net effect of these challenges is that the gap in education and socio-economic quality would be aggravated which could affect the learning and life chances of many children in the country.

Mr. Speaker, Sir, while it is critical to suppress the virus, there is need to ensure that there is support for continued learning in the country and measures must be taken to guarantee continued learning while protecting the learners and teachers. However, some serious concerns have also been raised as to what are the basic principles and conditions that should be met before we restore some form of face to face education for all learners once schools reopen. Which segments of students and teachers if not everyone, should schools reopen for? What health and safety measures should schools adopt on reopening?

One of the most critical questions is whether reopening schools will lead to a resurgence of infections among learners, staff and broader community.

Mr. Speaker, Sir, research evidence indicates that the timing of school reopening should be guided by the best interest of the child and overall public health considerations, based on an assessment of the associated benefits and risks and informed by cross-sectoral and context-specific data, including education, public health and socio-economic factors.

Prior to reopening of the schools, the governments are expected to come up with critical policies, procedures and financing plans needed to improve schooling with a focus on safe operations, including strengthening remote learning practices.

Mr. Speaker, Sir, the governments are expected to develop clear and easy-to-understand and detailed protocols on physical distancing and hygiene measures, and policies to protect teaching and non-teaching staff and learners in addition to identifying response and recovery financing for immediate investments in school water, sanitation and hygiene.

Mr. Speaker, Sir, as part of reopening process, governments are expected to adopt proactive approaches to reintegrate marginalized and out of-school children and focus on remedial education to compensate for lost instructional time. They should also provide clear guidance to establish procedures to be followed if learners or staff members become unwell and equip teachers with skills and knowledge to deal with students' mental health and psychosocial needs, address stigmatization and discrimination, and support learners and their families in coping with the continued uncertainties of the pandemic.

Mr. Speaker, Sir, we are greatly convinced that a return to face-to-face instruction would enhance life chances of our children and reverse any devastating impacts of the recent months.

The Speaker (Hon. Lusaka): Sen. (Dr.) Milgo, you need to summarize.

Sen. (Dr.) Milgo: Okay, Mr. Speaker, Sir. Across the world, learners are going back to learning institutions that have reopened using a wide range of models. Weighing on the health risks posed by the corona virus against educational risk, the Committee on Education recommends the following-

(i) A phased reopening of basic education learning institutions maybe, beginning from September 2020, to allow division of classes into smaller groups and allowing each group its own specific room where learners only interact with classmates in their assigned group. Priority should be given to the National Examinations classes (KCPE and KCSE) so that they can continue with syllabus coverage and prepare for examinations.

(ii) The first lessons for students following reopening should cover similar topics, including epidemic prevention, health care maintenance and how to respond to emergency drills.

(iii) Prohibition of usual morning meetings and parades, cancellation of all sporting activities and field trips in order to adhere to social distancing guidelines.

(iv) Frequent cleaning and handwashing practices should be observed and conducted twice a day;

(v) All members of staff and learners should always wear cloth face masks, desks and other work stations should be spaced at least six feet apart and minimize time spent inside closed rooms.

(vi) The Ministry of Education should outline and circulate Standard Operating Procedures for dealing with potential exposure to coronavirus and ensure that learning institutions are able to manage identified infections or symptoms within the school by providing isolation rooms.

(vii) The Ministry of Education should mobilize the support and assistance from different government departments and agencies, including the Kenya Defense Forces (KDF) and the National Youth Service (NYS) to provide water and sanitation in schools.

(viii) The Ministry of Education should ensure that there are adequate hand washing facilities; basins, running water, and soap dispensers in appropriate stations within the schools.

(ix) The Ministry of Education should liaise with the Ministry of Health to ensure that all learning institutions have access to public health personnel and expertise to help while school is going on.

(x) The Ministry of Education should provide regular and strict internal and external monitoring and evaluation that should be reported as bi-weekly reports to the Parliament, teachers' unions and National Parents Association.

(xi) The Ministry of Education should provide sufficient resources to resuscitate the Digital Literacy Programmes and ensure that all learners have access to updated digital materials and curriculum content to facilitate effective delivery of distance learning.

The Speaker (Hon. Lusaka): You have overshot your time. Kindly, conclude.

Sen. (Dr.) Milgo: Mr. Speaker, Sir, I am concluding in a short while.

(xii) The County Directors of Education should continuously assess the readiness of school facilities to ensure that they are meeting the minimum health and safety standards necessary to support COVID-19 mitigation strategies.

(xiii) The Ministry of Education should engage with all like-minded decision makers and education leaders to inform decisions related to educational priorities and facilitate schools reopening.

Mr. Speaker, Sir, the Committee will continue to engage the Ministry of Education and other stakeholders in order to keep the House and the entire country updated on this matter.

I thank you.

The Speaker (Hon. Lusaka): There was a bit of confusion. You were supposed to have issued a statement under Standing Order No. 47 (1), but you have issued the statement under Standing Order No. 51 (1) (a) as a Chair of the Committee on Education. You will issue the other one next week.

Sen. Khaniri, kindly, proceed under Standing Order No. 47 (1).

HANDLING OF THE COVID-19 SITUATION IN THE COUNTRY

Sen. Khaniri: Mr. Speaker, Sir, I want to thank you for this opportunity. My statement is on the handling of COVID-19.

It is unfortunate that I am giving the Statement soon after our Chairperson for the Senate Committee on COVID-19 response has resigned. I am confident that the remaining Members should be able to handle it. We had a lot of confidence in Sen. Sakaja and his team. They were doing a very good job.

Mr. Speaker, Sir, I rise, pursuant to the provisions of the Standing Order 47 (1) to make a Statement on a matter of national concern, that is, the handling, by both national and county governments, of the COVID-19 situation in Kenya today. We must have this discussion now given the fact that the Government relaxed the cessation of movement in and out of the country's hotspots and new infections and deaths from COVID-19 are rising. We need to find urgent solution to the challenges presently with us.

Mr. Speaker, Sir, today, one of the greatest threats to human life is the virus Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) that causes COVID-19 disease. About four months ago, we had our first case of this deadly virus reported in our country. Currently, confirmed cases in the country are above 11,000 with a death toll of over 200 people and rising exponentially. Worldwide the confirmed cases are over 13 million with a death toll of above 500,000 people, the actual figures are definitely above this.

As the Senate, we took the decision to deliberate this pandemic through a Select Committee that has so far done an excellent job. Around the world, people are struggling to learn and handle this virus. Every day, more is being discovered with mixed reactions. Our demographic and population distribution demands that we handle the dissemination of information and management of this virus differently. While the structure of county governments is relatively new, they are now at the centre of fighting this pandemic.

Mr. Speaker, Sir, the past two weeks after the relaxation of the containment measures, especially the partial lockdown, have seen a sharp rise in the daily reported confirmed cases and deaths. This is very worrying and demands that both levels of Government act urgently. We need to seriously interrogate, the preparedness of both levels of the Government, protection of health workers, home based care and individual citizen's responsibility in this fight.

Mr. Speaker, Sir, the country needs leadership now more than ever. This pandemic has devastated countries and we must not let that happen here. It is already late to debate whether the lifting of the cessation of movements in and out of Nairobi, Mombasa and Mandera was wise. We need to hasten the preparedness of counties in terms of isolation centres and hospital capacity. A good number of counties have managed to surpass the national target of isolation beds, ventilators and Intensive Care Unit (ICU) beds.

Mr. Speaker, Sir, it is unfortunate that up to date, four months since the first case was reported in the country, some counties do not have a single ICU bed and ventilator. Some isolation centres identified and earmarked by counties are not up to standard for human habitation. These counties are our weakest link in this fight and must be compelled, through conditional allocation, to achieve the set targets. After all, they are using public money.

Mr. Speaker, Sir, the Ministry of Health needs to provide clear procedure to the public on how to respond to suspected COVID-19 infection in the counties. While in Nairobi the Ministry had provided a toll-free number, what happens in the villages? The Ministry of Health has the responsibility of educating the masses on the correct materials and making of face masks with assured protection. In some places, any nose and mouth cover is considered protection. The Ministry needs to ensure that the required medicine to

manage this virus is in supply and accessible throughout the country. The Kenya Medical Supplies Authority (KEMSA) should provide statistics on its ability to supply required volumes of these drugs. The issue of testing also needs to be streamlined from increasing capacity of testing in counties, subsidizing the cost of testing and ensuring the accuracy of the tests.

One of the most important groups of people in this fight is the health workers. It is painful that we have lost some to the pandemic. We cannot afford to lose any more of these frontline soldiers to the disease. Three issues I believe need to be addressed urgently are: the Government should fast-track insurance to all medical practitioners, provide them with Personal Protective Equipment (PPE) and hiring of additional medical staff across the country. If we fail to protect the healthcare providers, who will take care of the sick?

During his address to the nation on Monday 6th July, 2020, the President emphasized citizen responsibility in this fight. We all must take the necessary measures to prevent the spread of this disease. The discussion should not end here. All of us need to be vigilant and encourage each other to embrace the preventive measures. One person has the potential to infect or protect so many people. We should also agree that it is not possible for the Government to police everyone and ensure that we abide by the Ministry of Health on transport guidelines.

New information that the virus is airborne and can have long-term and far-reaching consequences on a number of body organs demands that we take extra caution. As elected leaders with wide appeal, we should take this information to every part of the country and assist where possible.

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

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

Madam Temporary Speaker, economically, the pandemic has affected the Government, companies and individual households negatively. This is replicated world over. The economic debate has been the main reasons governments have decided to ease containments measures such as lockdowns and suspension of travel. Even with relaxation of these measures, it is not wise for the public and business to completely ignore the prescribed public health guidelines. Proper wearing of face masks, frequent sanitation, avoiding large gatherings and safe travelling must all be adhered to. The Government must enforce these measures to the greatest extent. Parents and the entire community should also commit to look after school going children who are now at home. Each one of us has a role to play.

In conclusion, my message to Kenyans of all walks of life is stay at home if you can, properly use the recommended facemasks, sanitize and keep social distance. To those in Nairobi and other hotspot counties, avoid unnecessary movements to other counties, especially rural counties which have a greater population of senior citizens and poor health systems.

Madam Temporary Speaker, I thank you for the opportunity.

The Temporary Speaker (Sen. Nyamunga): Sen. Malalah, do you want to ride on or make a statement?

Sen. Cheruiyot, I will give you an opportunity to make comments after that.

MEASURES TO CUSHION TEACHERS EMPLOYED BY SCHOOLS'
BOARD OF MANAGEMENT AND NON-TEACHING
STAFF DURING THE COVID-19 PANDEMIC

Sen. Malalah: Thank you, Madam Temporary Speaker. I requested for this time because the Statement I want to request is related to what my good Senator has been raising about the effects of COVID-19 pandemic in Kenya.

Madam Temporary Speaker, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Education concerning the disbursement of Government capitation funds to schools and the measures put in place to cushion teachers employed by schools' boards of management and non-teaching staff during the COVID-19 pandemic in Kenya.

In the Statement, the Committee should-

(1) Provide a detailed report of the total amount of Government capitation monies disbursed to schools since March 2020 by the National Treasury in line with the Ministry of Education guidelines for the implementation of free education.

(2) State the balance of Government capitation monies yet to be released, if any, and the specific timelines it shall be released to schools.

(3) Lastly, the Committee should explain the specific measures, if any, put in place by the Government of Kenya to economically cushion teachers employed by the schools' Boards of Management and non-teaching staff during the COVID-19 pandemic.

The Temporary Speaker (Sen. Nyamunga): Still on that, Sen. Wetangula.

PAYMENT OF SALARIES TO TEACHERS SERVING IN PRIVATE SCHOOLS
FOLLOWING THE OUTBREAK OF COVID-19 PANDEMIC

Sen. Wetangula: Thank you, Madam Temporary Speaker. I also have a Statement under Standing Order 48 (1) on COVID-19 related issues.

I rise pursuant to Standing Order 48 (1) to seek a Statement from the Standing Committee on Education regarding the payment of salaries for teachers in private schools following the outbreak of COVID-19 pandemic that has led to the closure of schools and other institutions of learning. I am happy the Chairperson of the Committee is right here.

In the Statement, the Committee should-

(1) Explain whether the Ministry of Education, Science and Technology, under the general Government cushioning of several groups, has carried out an assessment on the plight of private schools' teachers in the wake of COVID-19 pandemic. This is noting that schools have since closed, thereby denying private schools' teachers who depend on payment of school fees to earn their salaries.

(2) The Committee should elucidate measures that the Ministry of Education Science and Technology plans to put in place to ensure that the plight of such teachers in private schools, many of whom have been rendered jobless, is addressed.

(3) Explain whether the TSC has a database of all teachers teaching in private schools as well as the deficit of teachers in public schools and whether there are plans by the TSC to absorb teachers from private schools and allocated them to public schools.

More importantly, Madam Temporary Speaker, the teachers who teach in private schools are all dependent on the running of schools and payment of fees per term, but now the schools are closed.

Madam Temporary Speaker, you saw the sad case in Mombasa where a teacher took his life because he could not bring food to the table for his family. He was teaching in a private school which is now closed. He could not go to school or moonlight and the family could not make ends meet.

I urge the Committee to engage the Ministry of Education. Just like the President has announced the safety net measures to cover people in tourism and other sectors like Kazi Mitaani. They should at least help teachers in private schools meet their basic obligations of rent, utility payments and food for their families, so that they make ends meet.

Concerning the Statement by Sen. Khaniri, there are disturbing and unfolding stories about mismanagement of COVID-19 funds. Stories emerge every single day about the mismanagement of procurement of COVID-19 related issues by the Kenya Medical Supplies Authority (KEMSA). In fact, we have been told through the media that the KEMSA has procured goods and services worth Kshs7.7 billion without any procedure. We must note that it is during such crises moments that people with bent ideas take advantage of the situation to do things that are unorthodox.

I urge the Committee on---

The Temporary Speaker (Sen. Nyamunga): Sen. Wetangula, just a minute. I would like to ask Sen. (Prof.) Ongeru to come to the Chamber as Sen. Wetangula concludes.

Sen. Wetangula: Madam Temporary Speaker, I urge the Committee which will now be chaired by Sen. Kasanga now that Sakaja has resigned to continue with the good work. I encourage Sen. Sakaja to resign from the chairmanship, which he has already done, but should remain a Member of the Committee because he has done a good job.

The Temporary Speaker (Sen. Nyamunga): Hon. Senator, I think you are now mixing issues, because you were reading a Statement then you continued to make statements.

Sen. Wetangula: You gave me two prompt permissions; to make my Statement because it was COVID-19 related and to comment on Sen. Khaniri's Statement on COVID-19 because his was under Standing Order No.47(1).

The Temporary Speaker (Sen. Nyamunga): Let us end it there, please.

Sen. Wetangula: Let me end by urging the *ad hoc* Committee on COVID-19 to, not only bring statistics on what is going on, but also ensure, in conjunction with the Committee on Health, that all the resources being channelled by the Government from

taxpayers and donors to manage this pandemic, is put to good use. They must be accounted properly and reaches the target groups, so that Kenyans benefit.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I am only going to give you an opportunity if you want to comment on Sen. Khaniri's Statement because it is under Standing Order No.47(1). We will not allow comments on the Statements by Sen. Wetangula and Sen. Malalah.

Sen. Malalah: On a point of order, Madam Temporary Speaker. I rise to seek your guidance. Sen. Wetangula and I raised pertinent issues to the Chairperson of the Committee on Education. I wish that you give directions and timeline as to when we shall expect answers on the issues we have raised before we start commenting on the next Statement.

The Temporary Speaker (Sen. Nyamunga): Definitely, we are going to commit those two to the committees. However, you raised your Statement under Standing Order No.48(1) where there should be no comments. The Statements should be just committed to the relevant committees. We are going to give timelines. Let us allow Senators to comment on Sen. Khaniri's Statement.

Sen. (Prof.) Onger: Madam Temporary Speaker, I rise to comment on Sen. Khaniri's Statement. My observation in the past few weeks is that we have seen the spiralling of COVID-19 cases within the communities. We have also seen the behaviour of people becoming more casually without any due regard to the intensity and the problem at hand.

We have also seen that whereas before we were dealing with external source of COVID-19, it is now community spread. Not only it is now community spread, but also it has gone to some social gatherings such as funerals that are now creating a great danger to the society within the country.

I have also noticed that county governments are not proactive in anticipating the rise in some of COVID-19 cases. I may venture to say that unless we take a proactive action and put in place the protocols that have been defined and pronounced by the Ministry of Health, we are likely to run into a wild, or dangerous situation where it may be difficult to cope with the roundup in our hospitals requiring ICU treatment.

Sen. Khaniri's Statement has come at a time to remind ourselves on the gravity of COVID-19 pandemic and not to take it as one of those other elements. It is my expectation that whatever may be taken into account, we should minimise the complications that would arise out of COVID-19.

My anticipation is that eventually people will form the innate immunity that these mild infections might invoke what we call an immunological response that would give enough antibodies titers to protect the populations from any further attack of COVID-19. The only other worry is that if the mutation of COVID-19 goes to another level and, therefore, becomes wild, but I do not expect so, if we conform to the protocols that have been set out, like social distancing which is critical, it is a simple measure that would help people to ward off this pandemic that is spreading rapidly.

Secondly, we should observe hand washing. As we know, the virus is normally denatured by use of soap. Soap is fairly alkaline while COVID-19 is acidic. Therefore,

when you use soap which is an alkaline solution, it is likely to be neutralised without causing much harm and difficulty to the people.

Finally, because I have seen the amber light, but I would have liked to comment more, one of the important things is keeping yourself protected, particularly the frontline workers. I am one of the professionals. The frontline workers need to be protected because we need them more than ever before.

I thank you, Madam Temporary Speaker, for this opportunity to contribute on this topic.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, we are really running out of time. We still have many Statements and we have many people to give comments on Sen. Khaniri's Statement. I urge you to spend about two minutes, so that we give as many people as possible the opportunity and, at the same time, race against the time.

Sen. Cheruiyot, you have two minutes.

Sen. Cheruiyot: I am guided, Madam Temporary Speaker. Thank you for this opportunity.

I rise to support this Statement by Sen. Khaniri. It raises very fundamental issues of the challenges that our country continues to face. I will quickly move on to further request the Committee on the COVID-19 Situation in Kenya, that we formed in this House, to look into all the emerging issues as we handle this pandemic as a country.

Madam Temporary Speaker, of late we have been receiving updates of all the things that the Ministry of Health is doing. It will be of interest to this House if the Committee can also tell us what our scientists are doing with regard to trying to find vaccines that can help this pandemic. It is not proper for us to be reading about what people are doing at Oxford University and John Hopkins University. I believe that our scientists are not less scientists than those from other regions.

There have been breakthrough investigations in other diseases across the world that have been achieved by African countries. It would be important if they can advise us on how far our research institutions have gone. If there are challenges of funding and the rest, let them be brought to the fore so that we can continue investing in research.

Madam Temporary Speaker, since the opening of the country after the much talked about lockdown, I would also wish to challenge that our county governments begin giving daily or at least weekly updates on what they are doing at the county level. It will be important for you to find out what Gov. (Prof.) Nyong'o is doing in terms of preparedness to face this pandemic in Kisumu County. How many isolations beds are ready?

It will be important for them to also tell us how many people have been found to have tested positive. The tests that they are carrying out, so that we understand the preparedness level of each and every county.

Finally, I have read that there will be a Summit meeting on Friday, where the President has invited governors. To me, these meetings continue to be just a Public Relations (PR) exercises where governors go and give a report. It will be important that next time they invite Senators from these respective counties, because we oversight counties. We know for sure what the true state of preparedness is in a particular county.

Therefore, at the next meeting, if not individual Senators, at least invite Members of the Committee on the COVID-19 Situation in Kenya who can give an actual and true reflection of the status of things in various counties.

With those many remarks, I support.

The Temporary Speaker (Sen. Nyamunga): I would like to ask Sen. (Rev.) Waqo to approach the Chamber as I allow Sen. (Dr.) Musuruve two minutes.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker for giving me this opportunity to support the Statement made by Sen. Khaniri. This Statement has really come at an opportune time when cases of the COVID-19 are escalating. When we flash back, we see that from the time of the partial reopening, the cases have really escalated. Since there is a lot of talk concerning COVID-19; that it is here to stay, then we have to know which direction we will take as a country in order to ensure that we flatten the curve. A lot has to be done as Sen. Khaniri mentioned, especially in the counties.

It is painful to realize that most of the people in *mashinani* are not wearing masks and are not even keen about covering their nose, their mouths and all that. They are taking it so normally. There are preparatory measures that need to be taken in order for this awareness to be effective. We have to ensure that we bring on board key decision makers, like teachers, who are very effective in disseminating information in *mashinani*. We also have chiefs and religious leaders. They need to be brought on board so that this awareness can be effective.

It really painful that people are taking for granted this issue of COVID-19, and yet it is a reality. Many people are losing their lives, even people who have really contributed to the economy, socially and politically. Their lives are being taken away. Just recently, we heard that Papa Shirandula succumbed to the disease. I pass my condolences to the fraternity of us in this country for losing such a person.

Madam Temporary Speaker, we must take this pandemic seriously. Senators also need to be brought on board when it comes to raising awareness on issues of this pandemic. When we go to the counties, we find that we have no role to play---

The Temporary Speaker (Sen. Nyamunga): Senator, your time is up.

Sen. (Rev.) Waqo, please, two minutes.

Sen. (Rev.) Waqo: Thank you, Madam Temporary Speaker, for allowing me to come in and also add my voice to this very important Statement. The situation in our country concerning COVID-19 is serious. It is unfortunate that as a country, we are not paying a lot of attention while we keep losing many people.

I would want to comment on the lifestyle of our young people, whereby they keep on interacting closely. This will cost them their life. I think some measures have to be put in place so that young people can take care of themselves in their homes or at any place that they gather.

Again, the churches and religious centres have been opened, but maybe as a result of this, we should expect worse situations. However, I believe that our God is everywhere and trust that our religious leaders will be careful so that we do not get emotional and say that we need to be in church yet that may cost us our lives.

Madam Temporary Speaker, the neighbouring countries are not suffering as much as our country. I wonder what they are doing differently from our country. I urge the

Ministry of Health to do some research and see what is happening in Tanzania and Uganda. If there is anything that they are doing and we are not doing, we can also replicate.

It is unfortunate that we keep on losing our people and famous people. Even us as leaders, and as the Senate, should be careful, because we interact a lot---

The Temporary Speaker (Sen. Nyamunga): Senator, your time is up.

Sen. (Rev.) Waqo: Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): The Senate Majority Leader.

The Senate Majority Leader (Sen. Poghisio): Madam Temporary Speaker, let me use my two minutes to congratulate Sen. Khaniri for bringing this to our attention. We cannot say enough about how we need to handle this COVID-19 situation in our country. The very fact that we are leaders means that we need to, first of all, understand and accept that COVID-19 is real, so that as we go out there as politicians. We should not be caught in situations which compromise what we have preached.

For that matter, we should not be the ones gathering people in rallies and huge meetings. I suggest that if there is a meeting like that, leaders themselves should be supplying these masks, so that in the crowds and meetings, all the people may have the masks. I think that it is very important that we protect them. However, more importantly, we protect leaders because we need them here and in the country.

Madam Temporary Speaker, I also ask that when we relate with the county governments, we need to take them to task as well. Some of them got the monies and just sat on them. They are not using the monies to do what was supposed to be done. While we congratulate the governors who have done something, there are some who should be on the list of shame. Those should be brought to our attention, so that we know who is not using the money which has been given to them.

Above all, it is all about understanding the disease and what you can do. It is our duty to help people understand and accept the simple instructions that are given. I know that in the rural areas, some people take it for granted that because we have not announced any case from say, West Pokot, which is still clear, that does not mean that the county should go to sleep. It means that they should be prepared, just in case. Now that the country has been opened, many people are travelling from Nairobi and other areas. Very soon, we will start having those cases. So, if we are not prepared, we will not be able to help.

I support, and I hope that the Committee will take concern.

The Temporary Speaker (Sen. Nyamunga): Sen. Faki.

Sen. Faki: Asante, Bi. Spika wa Muda, kwa kunipa fursa hii kuchangia taarifa iliyoletwa Bungeni na Sen. Khaniri.

Ni kweli kwamba maradhi ya COVID-19 yameingia nchi yetu na sasa visa vingi vinaripotwa kuhusu maradhi hayo. Leo asubuhi nilizuru Hospitali ya Aga Khan. Ripoti niliyopewa pale ni kwamba vyumba vyao vya *Intensive Care Unit* (ICU) vimejaa wagonjwa. Wale ambao hawakuweza kupata nafasi kule waliweka katika *High Dependency Unit* (HDU) ambayo wanahitaji vifaa vya kupumua na vinginevyo.

Jambo la kusikitisha ni kwamba kaunti zetu nyingi hazina uwezo wa kuwa na vitanda vya ICU. Zilizoweza kupata ni kama kaunti saba ama nane. Hatari iliyoko ni

kwamba wengi wa wale wagonjwa itawabidi waje Nairobi ili waweze kupata matibabu ya ICU kama hayo.

Ni muhimu kaunti zetu zikitayarisha na vitanda kama hivyo. Watu wengi wanaondoka kutoka mji wa Nairobi na Mombasa kwenda mashambani. Baadhi yao wanapeleka ugonjwa kule mashambani. Hii ni hatari ambayo itakumba nchi yetu iwapo vitanda kama hivi havitakuwa katika sehemu nyingi za kaunti zetu.

Pia, tumeona watu wamepumua au *kurelax*, kwa lugha ya Kiingereza, katika kupambana na janga hili la COVID-19. Utaona kwamba watu wengi mjini wanatembea bila barakoa, wengine hawaoshi mikono na hawatumii *sanitizers*. Hivi ni vitu ambavyo vilikuwa vinahubiriwa kwa muda mrefu kabla ya *kurelax* masharti haya.

Bi. Spika wa Muda, kuna haja ya watu kurejelea katika uhubiri wa haya masharti ili kila mtu ajue kwamba ugonjwa bado upo. Nafasi tu imetolewa lakini ugonjwa bado upo na ugonjwa umekuwa hatari zaidi. Kwa sasa, wale ambao wameathirika na wakaaga ulimwengu hawakuchukua muda wa siku tatu au nne. Kwa siku mbili au tatu waliweza kupoteza maisha.

The Temporary Speaker (Sen. Nyamunga): Sen. Faki, your time is up.

Sen. Farhiya: Thank you, Madam Temporary Speaker, for giving me this opportunity. I would like to thank Sen. Khaniri for bringing this matter to the House.

There is a lot of work that needs to be done in this country in terms of how we prepare, how we prevent, how people are informed and the way forward. The Director of Medical Services has just confirmed that there is an interesting development at Oxford University in terms of the development of a vaccine. Whilst mass testing appears to be helping, are we waiting until that time, or should we start engaging now so that we collaborate in terms of that vaccine or having it available? Imagine a country like America with a big population and given the fact it is being affected that much, they will be the first ones to order. What are we doing about it? Should we not be proactive in terms of ensuring that we are next in line once we are convinced that it works?

COVID-19 is affecting the livelihoods of our people. COVID-19 is killing people who are active in terms of labour to ensure that food production and security of our livelihood is not being taken care of properly.

It was so heart breaking seeing a teacher who could not pay his rent for three months being locked up by his landlord. All of us went through teachers. It is high time that the Government pays private school teachers.

Some people are allergic to sanitizers. They are suffering in terms of getting reactions and looking for medication as a result of it. People need to take care of themselves---

The Temporary Speaker (Sen. Nyamunga): Sen. Farhiya, your time is up.

Hon. Senators, for the sake of time, we still have many Statements. We only have 10 minutes to go. We have to abide by our Standing Orders.

Hon. Senators, we have committed the three Statements to their respective committees and we give a timeline of two weeks to report back on the Statements.

The next Statement is by Sen. Kwamboka, but she is not in the House.

POLLUTION OF THE ENVIRONMENT BY

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

INDUSTRIAL EMISSIONS

The Temporary Speaker (Sen. Nyamunga): Sen. Kwamboka is not in. The Statement is, therefore, deferred.

(Statement deferred)

Next Statement is by Sen. Halake.

Sen. Halake: Thank you, Madam Temporary Speaker. I have two Statements on the Order Paper. I do not know if you will allow me to present them.

The Temporary Speaker (Sen. Nyamunga): Go ahead and read the two of them. Please, try to summarise, if possible.

PROVISION OF TRAINING OPPORTUNITIES FOR PLWDS
SERVING IN THE PUBLIC SERVICE

Sen. Halake: Thank you, Madam Temporary Speaker.

I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the provision of training opportunities for persons living with disabilities serving in the Public Service.

In the Statement, the Committee should state-

(1) Whether persons in the Public Service living with disabilities are accorded equal opportunity to attend training or workshops, especially those that are held outside of their duty stations.

(2) Whether there is a policy in place which caters for the welfare for them and provides them assistance or aids for the said persons when their trainings and workshops are held outside their duty stations.

(3) Provide a report of trainings and workshop opportunities, if any, that have been organised by the Public Service Commission and the Ministry of Public Service, Youth and Gender Affairs in which the said persons have benefited over the last two years.

(4) What provisions that have been put in place for them to be trained remotely or for them to participate remotely in meetings and other opportunities to do so.

Thank you, Madam Temporary Speaker.

STATUS OF AUTOMATION OF LAND REGISTRIES AND
GENERAL LAND RECORDS

Sen. Halake: Madam Temporary Speaker, I have a second Statement. This Statement has been in the Order Paper for quite some time now and it regards automation of Land Registries and general land records in the country.

Events have overtaken this Statement because I think there was a Petition to that effect. However, for purposes of emphasis on the need for this, I will just read through it because it will only take me two minutes.

I rise pursuant Standing Order No.48(1) to seek a Statement from the Standing Committee on Lands, Environment and Natural Resources on the status of automation of land registries and general land records in the country.

In the Statement, the Committee should provide a detailed report on the status of automation of all our land registries and general land records by the Ministry of Land and Physical Planning in all our counties.

Two, confirm the status of the new Digital Land Information Management System (LIMS) that was expected to be operational in all the 61 land registries countrywide by the end of April 2020 bearing in mind that the registries were put in place in February 2017 supplied with computers and connected to the internet to pave the way for the implementation of digital transactions for land.

Three, state the availability of online services from the Ministry of Land and Physical Planning to Kenyans across all counties; particularly given the prevailing COVID-19 circumstances, especially knowing fully well that land is an asset used by our communities for different things, including collateral and certain issues to perhaps liquidate the land to take care of different issues.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator.

Sen. Mwaruma, please make your Statement.

STATUS OF VOI POINT LIMITED, L.R. NO. 28683

Sen. Mwaruma: Thank you, Madam Temporary Speaker. I rise under Standing Order No. 48 (1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the status of Voi Point Limited formally known as Voi Sisal Estate which is on LR NO. 28683 Voi Town in Taita Taveta County.

In the Statement, the Committee should-

(i) Clarify whether the land is agricultural or commercial and state how much has been charged on the title deed;

(ii) Explain whether there has been a request for change of user by Voi Point Limited in accordance with the Physical Planning Act and the physical and land use planning regulations and if so, provide evidence of such request;

(iii) State whether approval was granted for the request by the County Government of Taita Taveta and whether the county government involved the public in compliance with Article 118 of the Constitution before giving consent for change of user;

(iv) Provide information on the amount of money paid by the Kenya Railways Corporation as compensation to either Voi Sisal Estate, Voi Plantation Limited or Voi Point Limited, as the case may be during the construction of Phase One, that is Mombasa-Nairobi, of the Standard Gauge Railway (SGR);

(v) Provide a detailed identity of the planners and the surveyors involved in the process of subdivision of the land on LR No. 28683 and outline the purpose of the subdivision;

(vi) State who authorized the subdivision of the land given that the parcel of land is charged to Diamond Trust Bank Ltd.; and

(viii) State the plight of the residents who live in the sisal estate and those who were chased out by Voi Sisal Estate investors and whose houses were demolished and are currently advocating for their land rights under Mkamenyi Cooperative Society.

Madam Temporary Speaker, let me just say one thing. We have gone with the Committee on Lands, Environment, and Natural Resources to this Voi Sisal Estate currently known as Voi Point Ltd. We promised the residents whose land was taken away through encroachment by Voi Sisal Estate that they will get back their land. We have not given the feedback to those people. We had given in 2019 a period of one year to respond to them.

We need to expedite action because people were removed from their land. We even saw graves as evidence that people were living there and they were chucked out. We need to really respond to these issues which are pertinent to these people.

I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator. Sen. Faki, proceed.

ON-GOING RECONSTRUCTION OF THE MAKUPA CAUSEWAY- DIGO ROAD TO JOMVU AREA

Sen. Faki: Madam Temporary Speaker, thank you. I rise pursuant to Standing Order No. 48 (1) to seek a Statement from the Standing Committee on Roads and Transportation concerning the ongoing reconstruction of the Makupa Causeway-Digo Road that leads to Jomvu area.

In the Statement, the Committee should-

(i) State the scope of the works being undertaken on the said road from Barclays Bank Digo Road Mombasa to Total Fuel Station in Jomvu area;

(ii) State whether the road works include demolition and reconstruction of the Makupa Causeway; and

(iii) State the cost of the said works and indicate the expected date of completion of the same.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator. Sen. (Dr.) Mwaura, proceed.

Sen. (Dr.) Mwaura: Sorry, Madam Temporary Speaker. Am I supposed to read my Statement as well?

The Temporary Speaker (Sen. Nyamunga): Yes, please.

STATUS OF THE PWDs WHO HAVE BENEFITTED FROM THE COVID-19 RESPONSE FUND SET UP BY THE NATIONAL GOVERNMENT

Sen. (Dr.) Mwaura: Thank you, Madam Temporary Speaker. I rise to seek a Statement from the Ad-hoc Committee on COVID-19 Situation in Kenya regarding the number of persons with disabilities (PWDs) who have benefited from COVID-19 response fund set up by the national Government.

May I also read the second one?

STATUS OF PLWDS WHO HAVE BENEFITTED FROM
THE KAZI MTAANI PROGRAM

Sen. (Dr.) Mwaura: Madam Temporary Speaker, I rise to seek a Statement from the Standing Committee on Roads and Transport regarding the number of persons with disabilities (PWDs) who have benefited from the Kazi Mtaani Program by the national Government.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator. I do not know if Sen. Cherargei is in the Chamber. Okay, Senator. You are not in your usual place so my eyes may fail to see you. Go ahead and make your Statement.

Sen. Cherargei: Thank you, Madam Temporary Speaker. I have two Statements.

ALLEGED LOSS OF KSHS.7 BILLION IN PENALTIES PAID TO
INVESTORS IN THE LAKE TURKANA WIND POWER PROJECT

Sen. Cherargei: Madam Temporary Speaker, I rise pursuant to Standing Order No. 48 (1) to seek a Statement from the Standing Committee on Energy on the issue of loss of Kshs7 billion penalties paid to investors behind Lake Turkana Wind Power Project.

In the Statement, the Committee should-

(i) Explain why the Ministry has paid over Kshs7 billion for penalties to contractors yet the 430-kilometer highway voltage power project from Lake Turkana to Suswa in Narok which is worth Kshs28.9 billion has not been completed;

(ii) State the cost of the project since from June 2018, the Government was to pay one billion shillings monthly for these delays in connecting the plant to the national grid, and the suspect declaration of bankruptcy in the Spanish company which could have been a well-drawn script to swindle the public funds for the delays;

(iii) Explain why the Government has spent billions of shillings to pay for penalties since over one thousand laborers were shipped from China to complete the project after the exit of the Spanish company;

iv. State why the Kenya Electricity Transmission Company (KENTRACO) has ceded to punitive clauses in the contract that it would pay the penalties if they complete the project before the transmission line is completed; and

(iv) Explain why the Government has paid the latest Kshs1.6 billion despite the National Assembly recommendation that no payment should be made until special audit is done in all the payments done.

PUBLIC NOTICE ISSUED BY KEMRI ON HANDLING
OF SAMPLES AND TESTING FOR COVID-19

Sen. Cherargei: Madam Temporary Speaker, in my second request for Statement, I rise to seek a Statement from the Standing Committee of Health on the issue of public notice issued by KEMRI that they will no longer be handling samples and testing of COVID-19.

In the Statement, the Committee should-

(i) Explain why KEMRI has stopped collecting, handling and testing of COVID-19 in their headquarters and all their branches in the country;

(ii) Explain the roles of the institution and the reason why no any walk-in by the members of the public will not be tested of COVID-19 at any KEMRI laboratories in Kenya thus exposing Kenyans to extortion from the private laboratories; and

(iii) State the action, if any, that has been taken by the Ministry of Health to ensure accuracy and credibility of the samples being tested in both private and public laboratories to avoid wrong results being given to Kenyans as witnessed in the past few days.

I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senators. That brings us to the end of the Statements. Under Standing Order No. 48 (1), we commit all the Statements to respective committees. I give a timeline of two weeks for them to bring the concerns or the replies to the Statements and the concerns of the Members of the Senate.

Honorable Senators, because of time and under normal circumstances and under our Standing Orders, it is not a must that we make comments on Statements under Standing Order No. 48 (1). We go ahead to the next Order.

The Chairperson of the Sessional Committee on Delegated Legislation, proceed.

STATUS OF STATUTORY INSTRUMENTS REFERRED TO THE
COMMITTEE ON DELEGATED LEGISLATION

Sen. Faki: Thank you, Madam Temporary Speaker. Standing Order No. 51 (1) of the Senate provides that a Committee Chairperson may make a Statement relating to a matter for which the Committee is responsible. In fulfillment of this provision, I wish to make a Statement regarding some of the statutory instruments referred to the Sessional Committee on Delegated Legislation.

On 5th and 19th May, 2020, during sittings of the Senate, the Senate Majority Leader tabled The Public Procurement and Assets Disposal Regulations, 2020 and The Traffic Driving Schools, Driving Instructors and Driving Licenses Rules, 2020 respectively.

The Traffic Driving Schools, Driving Instructors and Driving Licenses Rules 2020 were published on 20th March, 2020. The rules seek to streamline the operations of driving schools and driving instructors, with the aim of ensuring competency of drivers on our roads. The Regulations set out a comprehensive curriculum to be used in the

training, testing and licensing of driving instructor, motor cycle riders and drivers of different categories of vehicles.

At its 18th sitting on 15th June, the Committee scrutinized the rules and resolved to approve them pursuant to Standing Order No. 221(4) (a). The Clerk of the Senate conveyed the resolution of the Committee to the Ministry of Interior and Coordination of National Government, the Ministry of Transport, Infrastructure, Housing and Urban Development and Public Works and the National Transport and Safety Authority (NTSA).

The Committee also scrutinized the Public Procurement and Assets Disposal Regulations, 2020 published on 22nd April, 2020. The Regulations have been long awaited and will replace the Public Procurement and Disposal Regulations, 2006. The operationalization of these regulations will enhance procurement processes in the counties as well, because the 2006 Regulations did not envisage a devolution.

The Regulations will operationalize various provisions on the Public Procurement and Asset Disposal Regulations, 2015 and strengthen procurement procedures.

Some of the provisions introduced by the Regulations include-

(a) shorter timelines in the procurement procedures that will enhance service delivery to citizens;

(b) promotion of local industries by ensuring that tender documents targeting multinational agencies contain requirements for inclusion of at least 40 per cent inputs sourced locally and reservation of employment opportunities for Kenya citizens;

(c) requirement of payment within 60 days from the date of receipt of the invoices subject to availability of funds, to ensure prompt payment of suppliers;

(d) responsibilities of county governments with respect to public procurement and asset disposal;

(e) management of procurement contracts;

(f) disposal of assets; and,

(g) procedures to be followed while using the existing methods of procurement of goods, works and services, and inclusion of community participation as a procurement method.

The Committee held a total of 17 sittings to consider the regulations, including meetings with stakeholders, Council of Governors (CoG), Ethics and Anti-Corruption Commission (EACC), Law Society of Kenya (LSK), the Kenya Institute of Supplies Management on 3rd and 4th June, 2020.

The Committee also met the Cabinet Secretary (CS) for National Treasury and Planning on 17th June, 2020. The Committee expressed its reservations in a few of the provisions of the Regulations, which needed to be aligned to the parent Act and the Statutory Instruments Act, 2013.

The CS for National Treasury and Planning took note of the Committee's concerns and gave an undertaking to remedy the offensive provisions and republish the same in the *Kenya Gazette*.

At its 25th sitting held on 4th July, 2020, the Committee resolved to approve the Public Procurement and Asset Disposal Regulations, 2020. Pursuant to Standing Order

No. 221(a), the Clerk of the Senate has conveyed the resolution of the Committee to the CS National Treasury and Planning.

This is, therefore, to bring to the attention of the Senate the approval of The Public Procurement Regulations, 2020 and the Traffic Driving Schools, Driving Instructors and Driving Licenses Rules, 2020.

I take this opportunity to thank the various Ministries, departments and institutions that have continued to support the Committee while discharging its mandate. We shall continue to give our regular updates to the Senate on the status of the various instruments that are pending before the Committee.

Thank you, Madam Temporary Speaker.

Sen. Mutula Kilonzo Jnr.: On a point of order, Madam Temporary Speaker. The Statement read by Sen. Faki is a very important one, but based on regulations that area also very critical. Maybe I missed one session, and the Chair can clarify. Would it not have been better to get a Committee report on those regulations? We, in this House, made a lot of effort in doing amendments to the Public Audit and Asset Disposal Act.

The Statement is good, but we are left shorthanded in terms of information. Can the Committee Chair clarify whether there is a report available, which can be circulated in the normal manner to Senators on these regulations? This is because I have participated in some of the things about blacklisting contractors and would greatly benefit from seeing how the Committee has handled the regulations in respect of blacklisting people - cowboy contractors - who continue violating the law on public procurement.

The Temporary Speaker (Sen. Nyamunga): Sen. Faki, can you react to the concerns of Sen. Mutula Kilonzo Jnr?

Sen. Faki: Under the Statutory Instruments Act, where the Committee resolves to approve the Regulations, we do not need to make a Statement to the Senate. It is only where we are rejecting that we make a Statement to the Senate and that particular Statement will be voted on by the Senate, in order to be approved or rejected. Under the Statutory Instruments Act, we are not obliged to make a Statement, unless the Senate obliges us.

The Temporary Speaker (Sen. Nyamunga): Sen. Mutula Kilonzo Jnr., are you satisfied with that response?

Sen. Mutula Kilonzo Jnr.: Absolutely, not. Sen. Faki and I served in the Committee on Justice, Legal Affairs and Human Rights when we discussing the COVID-19 rules. We were supposed to come up with a report under the same statutory instruments. I was just asking whether it would not be plausible for the Committee to consider, irrespective of what the statutory instrument says.

This is a matter that is so important to all of us, on public audit, that the Committee tables a report so some sort that they agree with the regulations in some form. This is because the report of the Committee would not only tackle regulation by regulation, but would help us in terms of information on how to have made sure the Public Audit and Asset Disposal Act is now being implemented through these regulations.

I appreciate the portion where the law does not require a report. I am asking whether the Speaker can find it necessary to direct the Committee to prepare a report on

the regulations themselves because we have not had sight of them. This is a very important Statement, but it will just slide away without any input from us or any reading.

Thank you.

The Temporary Speaker (Sen. Nyamunga): The request by Sen. Mutula Kilonzo Jnr. is fair. We are in this House to educate ourselves and to get as much information as possible. It is in the interest of all of us and the people we represent. Information is very critical.

Chair of the Committee on Delegated Legislation, is it possible that you provide such information because it is in the interest of all of us?

Sen. Faki: Madam Temporary Speaker, Standing Order No. 221(4) says-

“If the Committee accedes to the Statutory Instruments, the Clerk of the Senate shall convey the message to the relevant authority.”

If the Committee does not accede, the Committee may recommend annulment of the instrument to the Senate. If the Committee fails to avail agree, the instrument shall stand approved.”

I am entirely in the hands of the Senate. If you guide us to make a Statement, we shall make a formal report with regard to these Regulations. However, our Standing Orders say that it is only when we annul that we are supposed to make a Statement to the House.

Our own Standing Orders say that if we annul, then we are supposed to make a Statement to the House. If we accede to the regulations, then the Clerk should convey the information to the relevant Ministry and that will be the end of the matter.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Senator, I think we can refer ourselves to Standing Order No.51(b) where at least once in every 3 months a committee is required to give a report. Maybe you can make it a bit more detailed so that it satisfies the needs of other Members of this House.

Next Order.

Where is the Leader of Majority? We do not have anybody who can be delegated that responsibility so we move on to the next Order.

Sen. Mutula Kilonzo Jnr.: *(Inaudible)*

The Temporary Speaker (Sen. Nyamunga): Do you have that information? Are you a Member of the Senate Business Committee (SBC)?

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, under the Standing Orders, in the absence of the Majority Leader, any Member designated in the Majority side, the Minority Leader and a Member of the Senate Business Committee - if I read the Standing Orders correctly - can make that Statement so that we do not have to wait.

The Temporary Speaker (Sen. Nyamunga): Senator, you can go ahead and make that Statement. I hope you have the information.

Sen. Mutula Kilonzo Jnr.: No, I do not have it but the Majority Leader is here after all. He is just on time.

The Temporary Speaker (Sen. Nyamunga): Majority Leader, you are just on time. We were almost passing the Order.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 28TH JULY, 2020

The Senate Majority Leader (Sen. Poghisio): Thank you very much Madam Temporary Speaker. I am sorry about that.

Pursuant to Standing Order No. 52(1), I hereby present to the Senate, the business of the House for the week commencing Tuesday, 28th July, 2020.

On Tuesday, 28th July, 2020, the Senate Business Committee (SBC) will meet to schedule the business of the Senate. On that day, 28th July, 2020, the Senate will consider Bills scheduled for Second Reading and those at the Committee of the Whole stage.

The Senate will also continue with the consideration of business that will not be included in today's Order Paper in addition to Motions, Petitions and Statements.

Madam Temporary Speaker, I had mentioned in my Statement last week that Bills that are due for Second Reading are 19 while another 20 Bills are at the Committee of the Whole stage, including those in the Order Paper for today.

The SBC will prioritize these Bills accordingly. In respect of this, I continue to urge the relevant standing committees to use the available opportunities on Mondays, Wednesdays and Thursdays and even Fridays and various electronic virtual means of holding committee meetings to expeditiously conclude consideration of these Bills and table reports pursuant to the Standing Orders.

Individual Senators who may have amendments to Bills are encouraged to file the same in good time to allow the SBC to schedule the Bills.

Before I conclude, I also wish to draw the attention of the House to 57 Petitions pending before respective standing committees. I urge the standing committees to expeditiously conclude with the Petitions and to table the reports pursuant to Standing Order No. 232(2).

I hereby lay the Statement on the Table of the House.

Thank you, Madam Temporary Speaker.

(Sen. Poghisio laid the document on the Table)

Sen. Wetangula: Madam Temporary Speaker, I am happy that the Majority Leader has mentioned the issue of pending Petitions. Kenyans have a lot of faith in this House. That is why every single sitting day, we have three or four Petitions. However, every time Petitions come here, the Chair commits them to committees and that is virtually the end of the matter. I want to urge the Leader of Majority and the leadership of the House particularly the Committee on Procedure and Rules to amend our Standing Orders so that, one, we bring back the Implementation Committee that can deal with the resolutions of the House and committees.

We had that committee but it was mysteriously scrapped and this House has no implementation mechanism of following up our resolutions and committee resolutions.

Secondly, every time the Petitions are committed to committees under our Standing Orders to bring back the outcome within 60 days, no committee ever meets that. We have Petitions that have been pending before committees for up to a year. This is

going to demoralize *wananchi* and people who have faith in this House. Comparatively, when you look at the number of Petitions that go to our counterpart House, they are fewer than Petitions that come here. I want to urge the Chair and the leadership:

(i) to find a better mechanism within our Standing Orders on how to process Petitions and bring back results and;

(ii) an implementation mechanism not only on Petitions but all other resolutions of this House.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, I want to agree with those sentiments. I am also a Member of the SBC, and I am similarly warning myself. I just want to propose to the Majority Leader because I am aware, like in the Committee on Justice, Legal Affairs and Human Rights, we have completed all our Petitions. Perhaps the Majority Leader should find space somewhere in the Order Paper where the responses to these Petitions are listed until they are completed. This will ensure that if, for example, you have the Petition from the person who said we should remove the cockerel from the Coat of Arms; this is listed and therefore, the Chair is obligated to stay here until that report is tabled.

There is a reason why we have so many Petitions including a very urgent Petition filed by the Deputy Speaker about the sale of a building in Eldoret. When that Petition takes a year, then it defeats the purpose of bringing it to this House. As a result, the County Government of Uasin Gishu will quietly buy an old ramshackle building for an exorbitant price and it will be water under the bridge. When the SBC and the Liaison Committee meet, they should agree on the format of how committees can conclude these matters quickly.

Even when the Petitions come here, they are only tabled and then the petitioner is given a report. The Chair is only required to say something if it is necessary. So, there is no reason for those delays.

Thank you, Madam Temporary Speaker.

Sen. (Dr.) Zani: Thank you, Madam Temporary, Speaker. Just very quickly on the Petitions, I think Sen. Mutula Kilonzo Jnr. has already mentioned that they are time bound. One of the techniques that some committees use is just to have sub-committees. This is because if you have a committee of about nine Members and you have a sub-committee of about three Members, each is able to fast track consideration of that Petition. Maybe we can encourage some of our committees to do that.

Looking at the Order Paper, we had a Motion on Order No.9 which is to help us to use virtual methods. I think that is going to be very critical for us. The reason why I am raising this is because of the issues of the Bills. If you look at Bills from Orders No. 13 up to 21, we have had these on the Order Paper for the last subsequent sittings and maybe we need to find a way to balance. I know Statements also come and they also have their own priority but some of these Bills also have to do with current issues that will lose their momentum if they do not come at the specific time. I know the Pandemic Response and Management Bill has already gone through. This is only one example of a Bill.

This is an example of a Bill that is aligned to what is happening in the country. I just urge that we find very ingenious ways of pushing the agenda. We will support the proposals in Motion No. 9 and find mechanisms to do this. I appreciate that we have a lot

of business on the Order Paper. We are up to the task and we will have it all done very well.

I thank you.

The Temporary Speaker (Sen. Nyamunga): Sen. Faki, kindly, proceed.

Sen. Faki: Thank you, Madam Temporary Speaker. I want to echo what Sen. Wetangula and Sen. Mutula Kilonzo Jnr., have said with regard to Petitions. On Statements, I made that Statement in the month of May concerning the shooting of a Kenyan aircraft in Somalia. Up to now, nothing has been done about that Statement.

According to the International Air Transport Association (IATA) Regulations, there is supposed to be an interim report within 30 days after the incident. That report has not been issued. Although it has been signed by the Kenyan Government and the investigator, the Somali Government has refused to sign that Statement. Up to now, there is nothing that is going on.

Madam Temporary Speaker, the danger here is that members of the public are going to lose confidence in the Senate's ability to deal with these issues. At the moment, the families are in agony. About five Kenyans died and none of them has been compensated. The insurance company cannot process the payments because at the moment, there is no report on the accident that has been released.

Madam Temporary Speaker, there is urgency in terms of disposal of Statements and Petitions, so that members of the public continue to have confidence in the Senate as a House that considers their issues promptly and in a manner that satisfies their rights and obligations.

I thank you.

The Temporary Speaker (Sen. Nyamunga): Finally, Sen. Farhiya, kindly, proceed.

Sen. Farhiya: Thank you, Madam Temporary Speaker. This is almost the fourth week I am sitting here with a Bill that is almost on the top of all the Bills. They have never reached my Bill.

Madam Temporary Speaker, we either bring the morning session so that we allocate some time for Statements and the Bills where Members with Bills can attend the morning sitting. This is because if we do not dispense with these Bills, we have limited time. Unfortunately, our Bills have to go to the other House. Therefore, they take a lot of time.

We need to find a solution and one of them would either be to deal with Statements on alternate Tuesdays or sit in the morning where Members with Bills can come to dispense with their Bills and then in the afternoon, we have the usual Statements and issues that are pressing for this county.

Madam Temporary Speaker, we need to find a solution. The Senate Business Committee (SBC) needs to tackle this as a matter of urgency.

I thank you.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senators, for your concerns. It has been brought to my attention that the Speaker has scheduled a meeting on Thursday with the SBC where all the issues pertaining to Petitions, pending business and

Statements will be addressed. Let us leave that to rest, wait or look forward to the resolution of that meeting.

I thank you.

Next Order.

MOTIONS

PROVISION OF CEMETERY, FUNERAL PARLOURS AND CREMATORIA IN ALL COUNTIES

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

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

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

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

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

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, we cannot execute that business because of lack of numbers. We will, therefore, defer it.

(Motion deferred)

Next Order.

The Temporary Speaker (Sen. Nyamunga): Chairperson, Procedure and Rules Committee, the Deputy Speaker, Sen. (Prof.) Kamar, kindly, proceed.

APPROVAL OF THE THIRD REPORT OF THE PROCEDURE AND RULES COMMITTEE ON AMENDMENTS TO THE SENATE STANDING ORDERS TO FACILITATE VIRTUAL SITTINGS OF THE SENATE AND ITS COMMITTEES

Sen. (Prof.) Kamar: Thank you, Madam Temporary Speaker.
Madam Temporary Speaker, I beg to move -

THAT, Pursuant to Standing Order Nos.252 and 255, the Senate approves the Third Report of the Procedure and Rules Committee on amendments to the Senate Standing Orders to facilitate virtual sittings of the Senate and its committees, laid on the table of the Senate on Tuesday, 16th June, 2020, and pursuant to the provisions of Article 124(1) of the Constitution and Standing Order Nos.255 and 257-

- (i) resolves to amend its Standing Orders as contained in Appendix 1 to the Report; and,
- (ii) orders that the amendments to the Standing Orders as contained in Appendix 1 to the Report shall come into effect upon approval.

Madam Temporary Speaker, Article 124 of the Constitution mandates each House of Parliament to establish committees and make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees. The current Senate Standing Orders were adopted by the Senate on 14th June, 2017, pursuant to Article 124 of the Constitution of Kenya.

The Standing Orders have subsequently been amended by the Senate on 14th December, 2017 and 9th August, 2018, pursuant to Standing Orders 248 and 249 of the Senate Standing Orders.

Standing Order No.252 stipulates that the Procedure and Rules Committee may, at any time, propose amendments to the Senate Standing Orders. The Procedure and Rules Committee is expected to make a report to the Senate recommending the standing orders, if any, to be amended.

Standing Order No. 85 of the Senate Standing Orders establishes the Procedure and Rules Committee, with the mandate to, among others, proposing and considering proposed amendments to the Senate Standing Orders.

Madam Temporary Speaker, the Membership of the Committee is as follows-

- | | | | |
|--------|-----------------------------------|---|--|
| (i) | Sen. Kenneth Lusaka, EGH, MP | - | Speaker of the Senate/
Chairperson |
| (ii) | Sen. (Prof) Margaret Kamar, MP | - | Deputy Speaker of the
Senate/Vice Chairperson |
| (iii) | Sen (Dr.) Ltumbesi Lelegwe, MP | - | Member |
| (iv) | Sen. Rose Nyamunga, MP | - | Member |
| (v) | Sen. Judith Pareno, MP | - | Member |
| (vi) | Sen. (Dr.) Christopher Langat, MP | - | Member |
| (vii) | Sen. Beth Wambui Mugo, MP | - | Member |
| (viii) | Sen. (Dr.) Agnes Zani, MP | - | Member |

Madam Temporary Speaker, in view of the COVID-19 pandemic, Parliaments across the world have had to modify their rules of procedure in order to transact business in a safe environment. The Senate Business Committee thus resolved that the Procedure and Rules Committee review the Standing Orders to provide for the Senate to sit in exceptional circumstances.

Madam Temporary Speaker, the Senate Business Committee, at its Sitting held on Monday, 18th May, 2020, considered a paper on the use of online meeting platforms for the Senate plenary and committee sittings and resolved that the Procedure and Rules Committee reviews and amends the Senate Standing Orders to actualize virtual meetings and other alternative arrangements for sittings during the COVID-19 pandemic.

In particular, the Procedure and Rules Committee was mandated to table proposals for amendment of the Standing Orders to provide for the following-

- (a) online, virtual or remote meetings for Plenary and Committee sittings during the COVID-19 pandemic period and any other time when the Senators are not able to physically meet due to a national emergency or catastrophe;
- (b) mechanisms to determine attendance and quorum for the Plenary and committee sittings and prescribe the manner of voting during such meetings;
- (c) Plenary and committee sittings to be recorded and documented in the HANSARD and posted in the Parliament website for access by the public;
- (d) Issues of privileges and immunity of Senators during a virtual sitting vis-à-vis the location of Parliament and Parliamentary precincts;
- (e) e-etiquette including dress code and order in virtual meetings;
- (f) Mechanisms for access and admission of witnesses and stakeholders into the online/virtual/remote committee meetings; and
- (g) Mechanisms for access and admission of the media into the online/virtual/remote plenary and committee sittings.

Madam Temporary Speaker, according to the World Health Organization (WHO), Coronavirus (COVID-19) is an infectious disease caused by a newly discovered coronavirus. COVID-19 spreads primarily through droplets of saliva or discharge from the nose when an infected person coughs or sneezes. Most people infected with COVID-19 will experience mild to moderate respiratory illness and recover without requiring special treatment. Older people, and those with underlying medical problems like cardiovascular disease, diabetes, chronic respiratory diseases, and cancer are more likely to develop serious illness.

At this time, there are no specific vaccines or treatments for COVID-19. However, there are many ongoing clinical trials evaluating potential treatments. The best way to prevent and slow down transmission is to be well informed about the COVID-19 virus, the disease it causes and how it spreads. Protect yourself and others from infection by washing your hands with soap and water or rub frequently using an alcohol-based sanitizer; maintain social distance, especially from anyone exhibiting flu-like symptoms; avoid touching your face; practice respiratory hygiene by coughing and sneezing into a tissue or a flexed elbow; and, stay at home.

The first COVID-19 case was confirmed in Kenya on 13th March, 2020 by the Ministry of Health. The Government immediately put in place prudent and necessary measures to curb the spread of the disease forcing organizations, including Parliament to re-evaluate the manner in which it carries out its operations.

[The Temporary Speaker (Sen. Nyamunga) left the Chair]

[The Temporary Speaker (Sen. (Dr.) Mwaura) in the Chair]

Mr. Temporary Speaker, Sir, with regard to the Senate Continuity Plan-

(1) In a circular dated 13th March, 2020 (see annex II), both Speakers of Parliament issued guidelines to all Members of Parliament and staff to prevent, and where necessary, contain and mitigate against the spread of the coronavirus which included suspending all foreign travels and official engagements within Parliament precincts.

(2) On 31st March, 2020, the Speaker of the Senate issued Guidelines regarding Senate Plenary and Committee sittings during COVID-19 pandemic (see annex III). Some key highlights of the guidelines were that- plenary sittings would commence at 2.30 p.m. and end no later than 4.30 p.m.; during plenary sittings, the Chamber would sit a maximum of 28 Senators only; immunosuppressed Senators and staff, those aged 58 years and above, and those with chronic illnesses such as hypertension, diabetes, cancer and HIV were encouraged to work from home; the Speaker's Gallery and the Public Gallery would not be occupied by any person except the four technical staffers facilitating the sitting; and, there would be no consultations at the Speaker's Chair or at the Clerk's Table.

(3) Senate committees were encouraged to transact as much business as possible remotely to reduce the need for physical meetings. Where it was absolutely necessary to hold a physical sitting of a Committee, such sittings would be held only in the Senate Chamber or in the Mini Chamber. Not more than one Committee sitting would be held in either Chamber on any day. The Senate Chamber would not be available for Committee sittings on the days on which the Senate is scheduled to hold its sittings. Additionally, the media and the public were barred from accessing Committee sittings. Committees were encouraged to make use of written submissions or responses from the public.

(4) On 17th April, 2020, the Speaker of the Senate issued further guidelines for Senate Plenary and committee sittings during the COVID-19 situation (see annex III). The guidelines, as with the guidelines issued on 31st March, 2020, were limited in their application to the duration of the COVID-19 situation. The salient features of which were as follows -

(a) On a day when a plenary sitting of the Senate was scheduled, a Senator who was not among the 28 Senators formally designated to be present in the Chamber would be deemed to have attended and to be present during the sitting, if the Senator-

- (i) Had come to the precincts of Parliament for purposes of the sitting;
- (ii) Was at the Senator's office within the precincts of Parliament; and
- (iii) Had been recorded and certified by the Clerk to be present.

(b) A Senator who was deemed present, in terms of paragraph (a) above, would be considered and reckoned to be present for purposes of voting. Their vote would be conveyed through the Senate Majority Leader, Senate Minority Leader or a Senator so designated by them.

(5) Mr. Temporary Speaker, Sir, such guidelines have continued to facilitate smooth operation of plenary and committee proceedings. However, they have not been without

challenges. For instance, at a sitting of the Senate held on Tuesday, 5th May, 2020, you, rose on a point of order and sought the guidance of the Speaker on the matter of the voting procedure in the Senate citing the guidelines issued on 17th April, 2020 as having been misconstrued as depriving Senators of their right to vote.

(6) The issues were clarified in a Communication issued on Tuesday, 19th May, 2020, where it was noted that “the guidelines that were issued on 17th April, 2020 were introduced to ensure efficiency in the roll call method and for better time management in the Chamber, as well as to ensure that all county delegations have an equal opportunity of voting on matters concerning counties whether they made it to the list of the twenty-eight Senators designated to sit in the Chamber or not. This was achieved firstly by construing the term “present and voting” as used in the Constitution to mean not just the Senators sitting in the Chamber, but also those others within the designated places in the precincts of Parliament that were deemed to be part of the extended Senate Chamber, and secondly by allowing all the votes (once cast by the Senators themselves) to be communicated at once by the respective leaders during the roll call instead of each Senator in the Chamber standing to answer the roll call and the votes of those outside the Chamber being communicated by a different medium.

Further, at a sitting held on 22nd May, 2020, a special Motion to remove the Deputy Speaker of the Senate from office was moved. It was the first such kind of Motion in the history of Kenya. Such a Motion can only pass by a resolution supported by the votes of at least two-thirds of Members. This is just one of the matters that have a constitutional threshold of two-thirds majority.

Resultantly, in light of the COVID-19 pandemic, the Speaker issued further guidelines on how to facilitate such kind of a sitting, in line with the tenets of the Constitution. The concept of designating rooms adjacent to the Chamber was further refined in the Communication.

The lounge area in the New Wing was designated as an extension of the Chamber. Noting that only 28 Senators can be accommodated in the Chamber, seats were designated for the Senate leadership and other Senators were admitted on a first-come-first-served basis. Senators who missed a seat in the Chamber were directed to sit in the newly designated area in the New Wing.

In addition to this, a Senator seated in the extended Chamber in the New Wing, wishing to contribute to the debate, was required to record his or her name with the clerks. The list of Senators wishing to contribute to the debate was handed to the Speaker, who called out the Senators to speak.

A Senator whose name had been called out to contribute to the debate walked into the Chamber, bowed at the Bar and proceeded to make his or her contribution from the Dispatch Table. Upon conclusion, the Senator withdrew from the main Chamber and resumed his or her seat in the extended Chamber in the New Wing.

During voting, the Senators in the extended Chamber walked into the main Chamber and cast their vote from the Dispatch Table, in the manner set out in Standing Order No.83(5), and thereafter, withdrew from the Chamber to their respective seats in the Lounge.

As such, the disruptions to the operations of the Senate brought about by the outbreak and spread of COVID-19 continue to pose unprecedented legal and procedural challenges in conducting virtual Plenary and committee sittings such as procedures for verification of identity of Members, voting, privileges and immunities of Members, verification of quorum on commencement and during the sitting and access by the media and the public to the proceedings of the Plenary and committee sittings, particularly when the Plenary and committee sittings are held virtually.

These challenges may be adequately addressed through designing virtual platforms and having the rules in place to ensure that Plenary and committee sittings comply with the law and practice on each of these areas in a manner that can be documented and verified.

Mr. Temporary Speaker, Sir, the conduct of business in Plenary is mainly executed through parliamentary debates, deliberations and resolutions. Matters requiring the decision of the House are always decided by putting the question from the Chair once a Motion has been made by a Senator.

Debates are designed to assist Senators reach an informed decision on any subject matter. When the debate ends, the Chair normally puts the question and the House proceeds to a Division, that is, voting to determine which side has the majority votes.

On the other hand, the Senate committees enable the House to organize its work in such a way as to perform numerous activities simultaneously and expeditiously. Their roles include finding out the facts of the case, examining witnesses, sifting evidence and drawing up reasoned conclusions. Their composition and methods of procedure are structured to reflect those which prevail in the Houses, making them microcosms and extensions of the House.

The proceedings of a committee, which meets without a quorum, are invalid and decisions taken are not binding. The Senate Standing Orders specify the quorum of committees and provide that unless a quorum is achieved within 30 minutes of the appointed time, a meeting of a committee shall stand adjourned.

Committees are also expected to facilitate public participation during the lawmaking process, through inviting submissions of memoranda, holding public hearings, consulting relevant stakeholders in a sector and consulting experts on technical subjects.

The above procedures have been defined in the traditional parliaments, where physical presence is a must for a decision to be recorded. However, the current COVID-19 pandemic, thus, presents a new challenge where the business has to be conducted virtually with requirements to meet the threshold as set out in law and parliamentary standing orders. Fundamentally, virtual parliaments make use of online tools like video conferencing to permit parliamentarians to participate in proceedings without being physically present.

Whereas such a model would adhere to the World Health Organization (WHO) and the Ministry of Health of Kenya guidelines on social distancing, a virtual and hybrid model would enable the application of the guidelines on social distancing. It would present constitutional and legal concerns and deny the House an opportunity to practice

crucial traditions and customs that have and are important to order decorum in the House proceedings.

Such practices include, but are not limited to, when a Senator is called out to speak, he or she rises in his or her place to Speak. The sitting arrangement in the House is such that the Majority side is on the right side of the Speaker, whereas the minority side is on the left and the political leadership have seats designated on either side.

The sitting position of the Speaker and the clerks-at-the table; bowing at the bar when Senators enter and leave the Chamber; tabling of documents; significance of the Speaker's Chair, for instance, application of Standing Order 112 and 113 when crossing the Floor of the Senate; and Senators remaining seated in their seats; and application of Standing 114 on Senators remaining in their places until the Speaker has left the Chamber; vacating from the Speaker's Chair during Committee of the Whole; drawing of the bar; and ringing of the division bell, amongst many other traditions and practices.

Mr. Temporary Speaker, Sir, concerns are also likely to be raised about the place of the Mace, which is one of the most important symbols in the House, as a symbol of the constitutional authority of the Senate and the Speaker. Without its presence in the Chamber, the Senate cannot lawfully meet, debate or pass laws. Although the Standing Orders of the Senate do not recognize the Mace, its significance cannot be gainsaid. The National Assembly Standing Orders recognize the Mace in Standing Order 2(a) that provides that-

“The Mace of the House embodies the authority of the Speaker and the House, and shall be kept in safe custody by the Serjeant-at-Arms”.

In a remote or virtual model, the place of the Mace would be difficult to define or even place.

A hybrid model entails combining the current system as it is and one that allows a Senator, who is not physically present in the House or a committee meeting to participate remotely through a designated virtual platform. Such a model will enable the Senate to preserve its traditions and practices.

The Committee is of the view that the hybrid system will, therefore, be the most ideal. Whereas such a model is not perfect, with modifications, it addresses the constitutional and legal concerns that arise with a full virtual or remote model.

Mr. Temporary Speaker, Sir, I beg to move and ask Sen. (Dr.) Zani to second.

The Temporary Speaker (Sen. (Dr.) Mwaura): Thank you very much, Mover. Secunder.

Sen. (Dr.) Zani: Thank you very much, Mr. Temporary Speaker, Sir. I beg to second this Motion on the approval of the Third Report of the Committee on Procedure and Rules on amendments to the Senate Standing Orders to facilitate virtual sittings of the Senate and its committees. The Motion has been moved by Sen. (Prof.) Kamar very aptly.

This is a very interesting area because many parliaments did not foresee that the Coronavirus Disease (COVID-19) would happen, yet a balance has to be created to ensure that legislative matters get addressed on a continuous basis. The Standing Orders that we have, therefore, do not have a provision for virtual interactions, as we know it. Therefore, the timing for this Report is very critical.

Mr. Temporary Speaker, Sir, I am a Member of this Committee, and I remember that even this meeting was held virtually and very aptly. Over time, I think we have been able to innovate ourselves in a very comprehensive manner. We have been able to take the situation that we have been in, in such a way that we have been able to progress. Already, quite a number of committees are able to now meet through the *ZOOM* online meeting platform. We have also been having a hybrid system of meetings within the Senate, where we have been having the extended Chamber.

I think what the Third Report intends to do is to identify those nitty-gritty areas that might move us away from constitutionality and application of rules within the Senate, and address this in a very precise way. This is what this Committee sought to do to ensure that as we have our online virtual or remote meetings during this particular period, whether Plenary or Committee, Senators will be able to understand exactly how to go about it.

Looking at the mechanisms to determine attendance, quorum and how to present ourselves in detailed aspects, a lot of input has been made about how Senators will present themselves and have the camera on them. This is when it comes to issues like voting, knowing very clearly that we would not want a situation where somebody can vote on behalf of somebody else or might even have the whole system hacked.

Mr. Temporary Speaker, Sir, you can imagine somebody else turning up for that meeting making themselves look like you, talking like you, and then later on, we come to find out it was not you. It would be completely catastrophic. Therefore, how are we able to ensure that the identity is well in place? Many forums have suggested that the person must appear.

Sometimes, we also have situations where you find that somebody has put their photograph. That photograph should not be of them cycling at the park, because it might distract people. I know that you have been watching and following up on social media about the various incidences that have happened during video conferencing calls. We have had members stand up or accidentally take a picture in an area like the kitchen and they expose what they are cooking, *et cetera*. We wanted to ensure that we are able to put all these things in place; a mechanism for determining attendance and quorum, and how to organize our Plenary and committee sittings.

Mr. Temporary Speaker, Sir, what we have adapted in this Senate so far is a hybrid system. It is not completely virtual because we have the issues that Sen. (Prof.) Kamar raised very well about where we put the Mace. I know that in even other forums where we have gone virtual, it has not been completely virtual. There is an element of a hybrid system where we have just fewer people, like we have seen for masses and other services like television transmissions, where we can aptly have the necessary things that are meant to be there. We will have the Speaker there, but will definitely have fewer people.

The issue of recording and how that recording is meant to be done and documented in the HANSARD is very critical, and still needs to be maintained. Indeed, in many of the meetings and the prepositions that we are making in these Standing Orders, we have HANSARD reports, reference points and the same audio recordings. In

essence, what we are diverting and changing a little bit is the fact that we are not able to meet in the physical space, but can conduct our business as though we are still together.

Mr. Temporary Speaker, Sir, the rules of speaking and muting, and not everybody speaking at the same time, are all very critical and have been addressed within these Standing Orders. This is so that when somebody is given a chance to speak, that is when they will speak. When one person is speaking, another person will not interrupt, so that people can mute and unmute themselves at the right times.

The issue of privileges and immunity of the Senators during virtual sittings *vis-à-vis* the location of Parliament and parliamentary precincts is also addressed. Once we are in either a fully virtual or hybrid system in a meeting, which is considered a Plenary sitting of the Senate, we are still able to have the issues of privilege and immunity in place.

The precincts are specifically being destined to be in the County of Nairobi, which is our main sitting space in Nairobi. However, I am also sure that the Standing Orders will be versatile enough, so that even as we move within the counties during the Senate *Mashinani* engagements, we will be able to factor that into place.

The etiquette of the dress code and order in virtual meetings is very key, and I have already mentioned that. Mechanisms for access and admission of witnesses and stakeholders into the meeting---

The Temporary Chairperson (Sen. (Dr.) Mwaura): Sen. (Dr.) Zani, are you suggesting that in virtual meetings, people can dress half formal and half informal?

Sen (Dr.) Zani: Thank you, Mr. Temporary Speaker, Sir. I was just about to crack a joke as I went there. We have seen incidences of people who are very informal, but they have specific suits that they have made, which are overall suits. They just put them on, get on to the set up, and get out. I think it is about presentation. In our case, it is indeed about formality. We already have a dress code that we use when we come to the Plenary. That is expected also within the virtual setting.

For example, you cannot appear there with a swimming costume, in a designer suit or looking casual because of the nature of the work that we do. Likewise, even when it comes to the pictures that you put in the background.

Most of the setups that have already put video conferencing have already set these specific rules. We are also coming in very strongly to contextualize them within the Session of the Senate.

Mechanisms for access and admission of witnesses and stakeholders into the meeting are key in the sense of identity. For example, ensuring that the person coming on can do what they are expected to do and is come in at the right time. If they have material, that material has been vetted by the Clerk. This is what the Standing Orders prescribe; that the Clerk vets the material and that people can share the material virtually on the various forums that they are using.

Mechanisms for access and admission of the media into the online virtual or remote Plenary has also been put into place in the sense that media is allowed. In many of the Committees where we have met virtually, we have had media being able to come in.

The experiences across the world have made people to be innovative. This report gives in details, and I will not go into that, the various experiences and benchmarking that

this Committee has done, to show what other countries are doing and how Kenya has been able to handle it. For example, the United Nations, the European Parliament, Brazil, Germany, Spain, Italy, Romania, France, Estonia, Australia, Maldives, Poland, South Africa, Norway, and the United States of America; all of them have been in one way or another using these practices.

Mr. Temporary Speaker, Sir, by stating it this way, it gives us the confidence that we are on the right track. More importantly, we are not only setting the pace for understanding of COVID-19 and its effects, but also trying to mitigate for these particular factors ourselves.

The issue of social distancing, being able to keep the space, security and safety and not infecting others are very critical. This is what the various procedures are meant to put into place.

Fundamentally, we have the pros and cons of meeting virtually or through the hybrid system. I think I have mentioned a bit about the practice of standing to speak and how that is going to be handled. I think it is going to be handled by somebody sitting respectfully and being able to face their camera and say what they need to say.

There is the issue of security and logistical concerns and hacking threats have to be minimized. The report advocates that they should be. People are moving to forums where we can have access to round the clock technical support, where we can ensure that the proceedings are safe and can be conducted well, in such a way that people can understand what is happening.

The hybrid system that we have used, even though it seemed a bit complicated initially, we had the Speaker sometimes calling somebody from the other Chamber and they have to rush to this Chamber. However, over time, that has been streamlined, and somebody from the other Chamber can indicate that they want to speak and they are given a chance. In advance, a person can know that their turn is coming and they can quickly come into the House.

The hybrid model entails combining the current system as it now in that it allows the Senator that is not physically present in the House to participate remotely through a designated virtual forum.

Mr. Temporary Speaker, Sir, there are specific amendments that are recommended in this Report in Appendix 1. Just to go through some of them quickly. One, is a Sitting of the Senate, where a physical sitting is not possible, as the Speaker might in consultation with the Senate Business Committee determine. That is formalizing that specific process. This will be both of the Plenary and also within the Committees.

The Speaker may also issue guidelines for the conduct of a virtual sitting of the Senate or a meeting of the Committee of the Senate, including guidelines for the effective participation by persons with disabilities in a virtual sitting meeting. That consideration is very important, so that, for example, in a Parliament where we have a Member who is abled or gifted differently--- For example, if it is somebody who needs to use braille, that is availed to them. This is because these systems should not create further inequalities in any way.

If I may refer to what has happened in the education sector, a big debate has ensued over time. This is because in many of the schools, for example, where virtual

learning has taken place, we know that it is not all students who have been able to have access. Therefore, it is an experience

I know that within the University of Nairobi, for example, and other universities countrywide, people are grappling about the issue of how to issue exams and how to handle it at such times. Is the student going to fill an exam form alone, for example, in a cybercafé? Will that exam be valid? Should the exam be made more critical analysis oriented rather than memory recall? All these issues are coming.

The same issues will come within the precincts of the Senate like here, when we include this sort of thing. It is very important to ensure that everybody can communicate, brought up to speed and be in the space where the virtual Sitting gives everybody a chance.

At 251(b), convening of a virtual setting, where the Speaker determines that a Sitting of the Senate is held virtually, the Speaker shall issue a notice, just like the way any notice is given about the business that needs to be transacted.

In a very innovative way, already through this virtual method, a lot of Committee work is being done by sending these agendas in advance, the memo for the business that is going to be transacted, the date and time of the Sitting on the online platform.

The issue of the date and the other logistics being put into place is very critical. If it is an online platform, how do we access it? The details of that are given, whether it is a password or direct entry into *ZOOM*.

Mr. Temporary Speaker, Sir, you will be pleased to know because I know you have been part of the Inter-Parliamentary Union (IPU) family that at the IPU level, meetings are being held through virtual networks, to ensure that agenda and the discussions are taking place. Once the time, date and place have been allocated, then people can move to do exactly what is expected.

Also, in this particular 251(b), in terms of the amendments that have been made, in the case of a hybrid system, the venue for purposes of the Senators who shall be physically present at the meeting. Any time we have a hybrid meeting, we will ensure that there is physical space for some of the Senators and the various other procedures.

There is also the issue of a notice and adequate time being given as well. The other key thing also is the powers and privilege and order in the virtual Sitting. I had mentioned about the immunities that are bestowed.

Lastly, 251(d) deals with the issue of decorum. I will not repeat that because I had already mentioned it. However, the Chairperson, the presiding officer or the Clerk will also be virtually responsible for ensuring that the Senator who is on a point of order on the procedure, wants to talk or has a technical issue is taken care of.

In most of the virtual meetings, and in our case, the Clerk plays a critical role in admission, giving a chance and dealing with any technical issue that comes. A Senator participating will adhere to the standards set, and that is key. The issue of a secure link is also given within those particular specific amendments. Also, there is the issue of how to deal with a technical problem.

Every time somebody gets a technical problem, other Members start to feel that they now have a technical problem. There is nobody who does not end up having a

technical problem. Technology is technology, and it tends to always backfire when you do not want it to backfire.

Sen. (Prof.) Kamar will remember when we had a meeting recently in the Committee and Members were just waiting to submit their input. Some Members had an unfortunate incident of them being completely switched off until much later.

I think the technology and the technical problems will need very innovative ways. For example, I see many Senators calling in and being put on loud speaker, so that they can speak.

Therefore, all these have to be quite well navigated across our Standing Orders, so that they run like we would practically run within the Senate. The issue of quorum should also be addressed. The issue of voting on time and a specific time being given for the voting should be done.

Mr. Temporary Speaker, Sir, the names of Senators and how they have voted should be spelt out very quickly and easily. The issue of Roll Call or Electronic voting should be well-handled within the system. The system must verify the votes either electronically or manually.

The integrity and confidentiality of the vote must be maintained. The technology is simple, accurate, verifiable, secure and transparent. Therefore, voting can take place without a problem. Clause 25 (1) (g) deals with access, public participation and witnesses. Clause 25 (1) (h) deals with receipts and transmission of documentation virtually through the sharing that is done within those particular setups. There is facilitating access for electronic documents to everybody.

The Temporary Speaker (Sen. (Dr.) Mwaura): Senator, kindly wrap up.

Sen. (Dr.) Zani: Mr. Temporary Speaker, Sir, I am wrapping up in a minute.

There is the issue of witnesses and broadcast of virtual sittings. If there is a virtual sitting of the Senate, it stipulates how that is meant to be done and how it is meant to be recorded.

Finally, as I wrap up, we have two systems available to us. There is a virtual system and a hybrid sitting. The recommendation that is being made on this Report is that we can go hybrid, especially for the Plenary sittings. Also, for the virtual sittings, especially in committees, we can go completely virtual. All the rules have been put in place.

Mr. Temporary Speaker, Sir, I thank this Committee for having done this Report. I second this Motion on the adoption of these particular rules to facilitate virtual sittings of the Senate and its committees.

Thank you.

The Temporary Speaker (Sen. (Dr.) Mwaura): Thank you very much for that.

(Question proposed)

The Temporary Speaker (Sen. (Dr.) Mwaura): Senators, I have three requests from Sen. (Dr.) Musuruve, Sen. (Dr.) Milgo and Sen. Farhiya. Looking at the time, I would kindly ask of you to share this time well, so that everybody can speak. As you also make your contributions, it would be good to profit from your observations around how

the Senate needs to conduct its business, especially because you are seeing that we are talking up to around 5.30 p.m., and still discussing about Statements.

Statements are not really the substantive business of the House. The substantive business of the House is Bills, Motions, and especially legislative work. If you can look at our Standing Orders from No.10, we were supposed to go to the Committee of the Whole.

Kindly, also address yourselves to that. Give us thoughts about whatever innovative ideas around how to ensure the legality of such proceedings are. You can see the Committee has done a very good job in regard to looking at all the various aspects.

To begin with, Sen. (Dr.) Musuruve, you are the first on the Floor.

Sen. (Dr.) Musuruve: Mr. Temporary Speaker, Sir, thank you for giving me the opportunity to support this Motion. Allow me a second. I know that the Statements Hour is over, but there is an issue that was raised that needs to go on record concerning Persons Living with Disabilities (PLWDs).

The Temporary Speaker (Sen. (Dr.) Mwaura): Sorry, Senator. Mover, kindly approach the Chair.

(Sen. (Prof.) Kamar approached the Chair)

Proceed, Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Mr. Temporary Speaker, Sir, you raised a Statement about *Kazi Mtaani* Initiative, where youths were supposed to be given jobs in the 47 counties. There was a statement by the Principal Secretary (PS) of the Ministry of Interior and Coordination of National Government, Mr. Kibicho, who *tweeted* that people can apply as long as they are able-bodied. This is very discriminatory.

This kind of statement was from a State officer, and it should not happen. There is need to investigate how many PLWDs have been given these jobs. Also, there is the issue of PLWDs training. Many PLWDs are not given an opportunity to train even in the Public Service and other organizations. There is need for these two Statements to be pursued, so that PLWDs have equal rights, just like anybody else.

Thank you.

Mr. Temporary Speaker, Sir, back to the Motion, I would like to say that this has come at a good time. It has come at a time when, globally, people are just wondering how to behave with this pandemic. Everyone will agree with me that the children yet to be born will know about the economic depression that this Coronavirus (COVID-19) has caused the entire world.

This is a time when many governments are looking for ways and means of surviving politically, economically and socially. This pandemic has affected people worldwide and there is need to come up with a mechanism that will ensure that they still go to work despite the fact that there is COVID-19.

There is the issue of social distancing. You will also agree with me that so many people are getting infected and becoming victims, whereas we have to flatten the curve. To flatten the curve, we have to encourage people to work from home. We have to

continue raising awareness and sensitizing among the citizenry. The world should not come to a stop because of the COVID-19 pandemic.

Mr. Temporary Speaker, Sir, I commend this Committee for amending the Standing Orders. It is important because Standing Orders are there to ensure that there are orderly proceedings. In as much as we are carrying out our mandate, there has to be order.

I am happy and commend the leadership of the Senate for the many amendments they have come up with. I remember, at one point, 28 Senators were supposed to be in the House and others in the extended Chamber. After some time, other amendments also came up that 28 Senators would be in the House; those in leadership positions and those with Statements.

Mr. Temporary Speaker, Sir, I should go on record that Kenya is a country to emulate. Even in the amendments, they stated that PWDs should be given space. This is something very commendable. I have seen a situation where the leadership has felt me so much and empathized with my situation.

For someone with disability, sometimes you have a contribution to make and when you have to move on crutches from the extended Chamber to the main Chamber, and sometimes you want to go to the washroom first, it becomes a bit difficult. You end up not making your contribution.

However, because of the Senate leadership and the amendments, I am able to come here and make contributions that will benefit Kenyans. I am able to give my views and speak out my thoughts.

Mr. Temporary Speaker, Sir, modification of Standing Orders is paramount. If we are to move on as a country, we have to see what other modifications we can make. This is because everyone is affected globally. I am happy with the Committee because it has done an in-depth research on what is happening worldwide, for example, New York, where it is happening.

Virtual communication is happening in Estonia, Norway, Germany and in many other countries.

There is something to learn from South Africa---

The Temporary Speaker (Sen. (Dr.) Mwaura): Sen. (Dr.) Musuruve, kindly, wind up in the next one minute or so.

Sen. (Dr.) Musuruve: Mr. Temporary Speaker, Sir, there is the virtual communication in South Africa, which is open to the public. However, sometimes it is hacked and pornographic material was infiltrated into it. In as much as we want public participation on this platform, our Clerks need to safeguard it, so that it is not hacked as it happens in South Africa.

In a situation where there are committee meetings, let them not be done at the same time, so that we avoid overlaps. We can have one committee meeting at 11.00 a.m. and another one at 1.00 p.m.

When conducting online meetings, as usual, it is important for us to dress formally because these are formal meetings. Members should not dress like cowboys for the online meetings.

I support.

The Temporary Speaker (Sen. (Dr.) Mwaura): I heard you saying that people should not dress as cowboys. That is very interesting. I did not hear you saying how people can be in two meetings at the same time. That is also a concern. These COVID-19 virtual ZOOM meetings and Skype have taught us that you can be multitasking. It may favour ladies more than men. As a result, there is some mischief that is happening.

Sen. (Dr.) Milgo: Thank you very much, Mr. Temporary Speaker, Sir, for giving me this time to also support his Motion. I thank the Procedure and Rules Committee for a wonderful proposal. Having improved from the first, the second and third, I am sure by the time we go to the fourth proposal, they would have refined in terms of amendments to the Standing Orders. These forms of amendments will improve the way we conduct meetings in the Senate and ensure we dispense with our work efficiently.

The work of this Committee will act as a benchmark to all other institutions in this country in terms of innovation. Courts have been grappling with how to deal with their huge backlog of cases. If they can learn from us, they will dispense with many of their cases within a very short period.

If the Senate will adopt this hybrid system of virtual and physical, it will join the league of the rest of the countries, particularly, become the second in the African continent after South Africa in terms of innovation. This is a time when those that are able to innovate will become very effective and able to exist post this pandemic.

The fact that COVID-19 has affected very many businesses and activities in this country and the world cannot be overemphasized. As I speak, schools are closed. As we prepare to open them in January, we do not even know whether they will be well prepared in terms of protocols and social distancing.

Committees in this House have been doing very well in terms of online and virtual meetings. We have been able to conduct several meetings. The raising of quorum for the meeting is no longer an issue. I am sure this hybrid system will bring on board many of the Senators and, therefore, many activities will be discharged. With the advancement in technology, many of Senators here are able to login and conduct several meetings via this method.

I thank this Committee for their work. I am sure we will be able to deal with 20 Bills before this Senate expeditiously. Some of them are in the Second Reading, while others are in the Committee of Whole. If we do not embrace this technology, it will take us two years to dispense with these Bills.

I wish we could organize ourselves as we used to do in the past. Out of the three sitting days, we dedicated a day for Statements and Motions. The other two days we can deal with Bills. I know all the three items are equally important. However, it is critical to give Bills more time.

Maybe with this hybrid system, we will have morning and afternoon sessions for those who would be available. If it would not be possible, we now start alternating, so that we will be able to dispense of the Bills that before us. There are a number of bills that may speak to a number of issues in this country that should be passed before the close of business of this Senate.

I laud the Committee because they have gone ahead to even speak to the issues of etiquette in dress and appearance during virtual meetings and following the standard on how to join the meeting. No Senator will be affected in any way.

Mr. Temporary Speaker, Sir, once the Senators adopt this method, it will only be number two in Africa. I have seen that the European countries have already adopted this. For example, we have the UK, Estonia and the USA. These countries have gone a long way not only to adopt this method of work in Parliament, but also in their courts, learning and even conducting businesses. We will be able to borrow what this Committee has done and apply it to other institutions in this country.

This Government promised to ensure that every child had a laptop. Had that been done, right now the whole country would be conducting education via virtual learning. I am sure this is the way to go. We encourage our Government to ensure all parts of this country are connected to electricity, internet and supply computers to all students in this country.

I support.

The Temporary Speaker (Sen.(Dr.) Mwaura): Thank you very much, Sen.(Dr.) Milgo. Finally, we have Sen. Farhiya.

Sen. Farhiya: Mr. Temporary Speaker, Sir, I want to join my colleagues in congratulating the Committee for coming up with concrete solutions. They say that extraordinary times call for extraordinary solutions, and that is exactly what our Committee has done. The fact that we are taking this innovation to the next level is good.

As mentioned by Sen. (Dr.) Musuruve, as much as our deliberations are public, and the Committee work and everything that we do is for the public, there is need for some level of protection in terms of unwarranted interference in terms of people who are getting into the space without the permission of the Committee or the House. We need to put in place extra measures to ensure that, that is safeguarded.

Mr. Temporary Speaker, Sir, sometimes in these virtual committee meetings, I just see either an empty picture of a participant or an empty screen, and the person does not contribute. Therefore, you just wonder whether the person is in the meeting or out of that meeting. Those are some of things that I wonder how we can mitigate, to ensure that there is a little bit more transparency in how we conduct our business. This is so that the rest of the participants can know that you are there and are transacting business. If you do not contribute, nobody knows whether you are there or not.

There is also the issue of people who have health problems, the threshold required for voting and all that. I think we need to address that bit more conclusively, so that we understand what the procedure is. A Member who was not able to be present to this House sitting because of their age and other problems, at one time requested me to vote on their behalf, but later that vote was not counted.

I think we need to be specific in terms of how such a person can authorize another Member either through writing to the Speaker or any other prescribed process, to be able to vote on their behalf. It is unfair that a Member is unable to participate in the voting in the House because of their age and health problems. We need a solution for that, which is definite and very clear in these procedures. This will ensure that a Member follows that procedure and then they are assisted in a way that is more acceptable.

We should organize our agenda in such a way that during voting, Members are able to move from the extended Chamber to come and vote here, so that their votes are recorded in the HANSARD. We do not want a situation where a person voted, but their vote is not counted. This is because we are here to transact business in a manner that is acceptable.

Due to these current solutions are innovations in Parliament, I think we are creating an environment that is also friendly to our environment. Imagine the number of traffic jams that we would avoid if we can conduct some meeting virtually, because people will avoid travelling to one place to have the meeting. They can still participate in the debate virtually. Committees can also cover a lot of ground in terms of what they are able to do if we continue to hold virtual meetings.

I was surprised that in our Standing Orders, the Mace has not been included to be present in the virtual meetings. We have parliamentary practices and traditions that happen within the Commonwealth countries. Therefore, whether or not we should conduct business without the Mace in our sittings, is something that needs to be looked at in the amendments of our next Standing Orders, so that it is taken care of. Alternatively, we can call a committee so that it is part of this amendment, and then we dispense with it.

Thank you, Mr. Temporary Speaker, Sir, for allowing me to contribute.

The Temporary Speaker (Sen. Mwaura): I now call upon the Mover to reply.

Sen. (Prof.) Kamar: Thank you, Mr. Deputy Speaker, Sir. Let me take this opportunity to thank the Senators for their wonderful contributions. I want to thank Sen. (Dr.) Agnes Zani who seconded this Motion in a very articulate manner. She is a wonderful Member of the Committee. I want to thank Sen. (Dr.) Musuruve for a wonderful contribution. I want to thank Sen. (Dr.) Milgo for expounding on the issues raised. I also want to thank Sen. Farhiya for giving us a very detailed analysis.

Mr. Temporary Speaker, Sir, these are times when we have to make a difference. The document that was presented by the Committee was intended to help facilitate us to be able to transact our business at a time like this. It is true that the Committee looked at each and every aspect of our participation, both in the House and the Committees. We want to assure Kenyans that the pandemic will not stop us from transacting our businesses. We will adapt, be flexible and make sure that all Members exercise their right to represent their counties, delegations and do presentations on time.

With those remarks, I beg to move.

The Temporary Speaker (Sen. Mwaura): Hon. Senators, this is not a matter that concerns counties, so I will put the Question.

(Question put and agreed to)

Hon. Senators, as you can see from the Order Paper, we will not be able to transact Orders No.10, 11 and 12. Therefore, they stand deferred.

COMMITTEE OF THE WHOLE

THE INDEPENDENT ELECTORAL AND BOUNDARIES

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

COMMISSION (AMENDMENT) (No.3) BILL
(NATIONAL ASSEMBLY BILLS NO.35 OF 2019)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY TOURISM BILL
(SENATE BILLS NO.5 OF 2019)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE CARE AND PROTECTION OF CHILD PARENTS
BILL (SENATE BILLS NO.11 OF 2019)

(Committee of the Whole deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Mwaura): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The House, therefore, stands adjourned until Tuesday, 28th July, 2020, at 2.30 p.m.

The Senate rose at 6.30 p.m.