

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 8th October, 2020

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

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

PRAYER

PAPER LAID

THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR FY2020/2021

Sen. Dullo: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 8th October, 2020-

The County Governments Cash Disbursement Schedule for the Financial Year 2020/2021.

Thank you.

(Sen. Dullo laid the document on the Table)

NOTICE OF MOTION

EXTENSION OF TIME TO CONSIDER THE RAILWAY CITY DEVELOPMENT AUTHORITY ORDER, 2020

Sen. Faki: Mr. Speaker, Sir, I beg to give notice of the following Motion-

AWARE that the Sessional Committee on Delegated Legislation is established under Standing Order 221 of the Senate Standing Orders and is charged with the responsibility of scrutinizing statutory instruments laid before the House and that pursuant to Standing Order 221 (3) (b), the Committee is mandated to consider, in respect of any statutory instrument, whether the statutory instrument “*infringes on fundamental rights and freedoms of the public*”;

FURTHER AWARE that on 26th May, 2020, the Senate referred the Railway City Development Authority Order, 2020 to the Sessional Committee on Delegated Legislation;

AWARE that the purpose of the State Corporation proposed in the Order is to provide for the coordinated planning, management, development and use of the Nairobi Railway Central Station and the surrounding land which has been designated as a special planning area;

ACKNOWLEDGING that the Regulations touch on existing land rights, particularly with regard to the Kenya Railways Corporation, Kenya Railways Pension Scheme and private land owners in the designated area;

NOTING that due to the gravity of the impact of the Regulations, the Committee met with the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works on Wednesday, 29th July, 2020 and the National Land Commission on 5th August and 16th September, 2020 and further invited the Ministry of Lands and Physical Planning to appear before it on Wednesday, 30th September, 2020;

NOTING that the Committee directed the Ministry of Lands and Physical Planning to provide clarity on the ownership of the land in the area defined under paragraph 2 of the Order which is defined as “*all the land measuring one hundred and seventy-two hectares consisting of the Nairobi Central Railway Station and the surrounding land*” and to submit supporting documentation on the same;

FURTHER NOTING that the Ministry of Lands and Physical Planning requested for more time until 13th October, 2020 to furnish the Committee with the requisite information and that this information is vital to the consideration of the Order;

APPRECIATING that under section 15(2) of the Statutory Instruments Act, 2013, the Committee is required to make a report within twenty-eight sitting days after the date of referral of the instrument by the Senate, or such other period as the Senate may, by Resolution, approve;

NOTING that with regard to the Railway City Development Authority Order, 2020, the twenty-eight sitting days lapse on 7th October, 2020;

NOW THEREFORE, pursuant to section 15(2) of the Statutory Instruments Act, 2013, the Senate resolves to extend the timelines for the consideration of the Railway City Development Authority Order, 2020 by a further period of twenty-one days to enable the Committee to scrutinize the submissions from the Ministry of Lands and Physical Planning with regard to land rights in the area designated under the Railway City Development Authority Order, 2020 and to conclude its consideration of the Order.

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

STATEMENTS

HALI YA BARABARA YA NAIROBI-MOMBASA

Sen. Faki: Asante, Bw. Spika, kwa kunipa fursa hii. Nimesimama kuambatana na Kifungu Nambari 48(1) cha Kanuni za Kudumu za Bunge la Seneti kuomba Taarifa kutoka kwa Kamati ya Barabara na Uchukuzi kuhusu hali ya Barabara ya Nairobi-Mombasa hususan maeneo ya karibu na Dongo Kundu, mjini Mombasa. Kwenye Taarifa hiyo, Kamati inafaa kuangazia yafuatayo-

(1) Kueleza sababu za sehemu ya Barabara ya Dongo Kundu iliyoinduliwa takriban mwaka mmoja na nusu uliopita kukarabatiwa mara kwa mara.

(2) Kufafanua chanzo cha maporomoko ya udongo yaliyo shuhudiwa kwenye barabara hiyo zaidi ya mwezi mmoja uliyopita na kusababishwa kufungwa kwa sehemu za barabara hiyo, na pia kusababisha msongamano mkubwa wa magari na wasafiri wanaotumia Bandari ya Mombasa.

(3) Kueleza iwapo wahandisi waliohusika na ujenzi wa barabara hiyo walifanya utafiti wa kutosha kuhusu mchanga uliopo katika maeneo hayo kabla ya ujenzi ili kuhakikisha ni salama kwa ujenzi wa barabara hiyo.

(4) Kutaja hatua zinazochukuliwa na Mamlaka ya Kitaifa ya Barabara Kuu, yani KeNHA, kudhibiti hali katika barabara hiyo na kuhakikisha madhara kama hayo hayatokei tena katika eneo hilo.

(5) Kueleza dhamana ya barabara hiyo ni ya miaka mingapi na ni nani anayegharamia ukarabati unaondelea kwenye barabara hiyo kwa sasa.

Barabara ya Dongo Kundu ni mojawapo ya barabara muhimu ambazo zinasaidia watu kuhamisha mizigo kutoka Bandari ya Mombasa na kupelekwa maeneo ya bara. Kwa hivyo, kuharibika mara kwa mara kwa barabara hiyo kunachangia pakubwa kupunguza hali ya uchumi na kuzuia biashara katika Mji wa Mombasa na maeneo jirani. Barabara hiyo ni kitengo muhimu katika uchukuzi wa Mji wa Mombasa.

Sen. (Eng.) Hargura: Mr. Speaker, Sir, of late, there has been a lot of constructions or infrastructural works around Mombasa. It is worrying if the latest section of the road to be constructed is already failing.

I would like to add that when the Chairman brings the responses, we need to know very clearly how that section was constructed. Whenever a road is completed, normally it should have well-built drains. We also need to know that so that we know where the problem is.

The Speaker (Hon. Lusaka): Hon. Senators, I have a communication to make.

(Interruption of debate on Statement)

COMMUNICATION FROM THE CHAIR

PROCESSING OF THE COUNTY GOVERNMENTS CASH
DISBURSEMENTS SCHEDULE FOR FY2020/2021

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The Speaker (Hon. Lusaka): Hon. Senators, this Communication relates to the County Governments Cash Disbursement Schedule for the FY 2020/2021.

Hon. Senators, Section 17(6) of the Public Finance Management Act states that at the beginning of every month and not later than the fifteenth day from the commencement of the month, the National Treasury shall disburse monies to the county governments for the expenditure of the following month.

Paragraph (7) of the same Section further states that the disbursement shall be done in accordance with a schedule prepared by the National Treasury in consultation with the Intergovernmental Budget and Economic Council (IBEC), with the approval of the Senate, and published in the *Gazette*, as approved, not later than 30th May in every year. Hon. Senators will note that this year, the aforementioned legal timeline has not been met owing to consultations, debate and eventual approval of the Third Basis for Revenue Allocation among the County Governments.

This approval paved way for the consideration of the County Allocation of Revenue Bill for FY 2020/2021 by the Senate and the National Assembly, which Bill was approved by both Houses of Parliament on 29th September, 2020, and on 6th October, 2020, respectively. I am happy to report that His Excellency the President has assented to the County Allocation of Revenue Bill (Senate Bills No.7 of 2020) today, Thursday, 8th October, 2020.

Hon. Senators, Standing Order No.183(1) states that-

“Not later than 15 days following the enactment of the County Allocation of Revenue Bill, the Cabinet Secretary responsible for Finance shall submit to the Senate the Cash Disbursement Schedule for county governments, which shall be deemed to have been laid before the Senate”.

This document has been laid on the Table of the Senate a few minutes ago by the Senate Majority Leader.

Standing Order No.183(2) mandates the Standing Committee on Finance and Budget to consider the Cash Disbursement Schedule and to table a report containing its recommendations, within seven days.

Owing to the urgency of this matter which has an impact on the normal operations of county governments, I am aware that the Standing Committee on Finance and Budget is working hard to table a report, and to give Notice of Motion for adoption of the Committee’s report, in the course of this afternoon’s sitting.

Hon. Senators, pursuant to Standing Order No.183(3), the approval of the Senate of the Motion on the report of the Standing Committee on Finance and Budget on the Cash Disbursement Schedule shall constitute the resolution of the Senate on the same, which in any event, must be made not later than 14 days after the tabling of the Cash Disbursement Schedule.

I thank you.

Sen. Wetangula, you wanted to comment on the Statement.

(Resumption of debate on Statement)

Sen. Wetangula: Mr. Speaker, Sir, the Statement by Sen. Faki, the distinguished Senator for Mombasa about Dongo Kundu Road is important and rings across the country. Key roads are rendering the movement of goods and services very difficult. In the case of Dongo Kundu, the Senator is right that a new road cannot start piling away and having soil scrambling if a proper design and investigation before the job was started was done.

It is important that the Chair of the Committee on Roads and Transportation liaises with the Ministry to see if the contractor has done substandard work. If that is the case, then such a contractor must be surcharged and retired from construction so that a better contractor is contracted because whether we use fuel levy funds, the Government of Kenya (GoK) funds or borrowed money, it is a burden to the taxpayer. We would like good work to be done.

Besides that, that road is important. We all know the nightmare of the Likoni Ferry Services (LFS). That is a road that connects Mombasa Island round Dongo Kundu to areas of Kwale, Diani and others in the South Coast where huge populations of people live and work in Mombasa.

In addition to that, I also want to draw the attention of the Committee Chair to the poor state of road service between Malaba International Border and the Port of Mombasa. As of last week, the queue of trucks from Malaba Border, which I have previously visited with among others, the Senator for Marsabit when we had a problem, was extending 65 kilometres from the border all the way past Webuye and Lwandeti to Turbo.

This is undermining business. If Uganda is Kenya's number one trading partner, it defeats logic for the Government of the Republic of Kenya not to ensure that goods and services move seamlessly. This is the case with Busia where my brother, Sen. Wako, comes from. Last weekend, the queues were from Busia Town to Bumala Town. In Bungoma, it is from Malaba Town to Turbo Town. This is unacceptable.

Mr. Speaker, Sir, if the President signed a loan for expansion of this road, we want to see it expanded all the way as a dual carriageway from Mombasa, through Nairobi, Nakuru, Eldoret, Webuye, Malaba to Uganda. This will help Gross Domestic Product (GDP) growth that we are looking for. If we do not do so, then we are not serious about growing our economy.

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

Sen. Madzayo: Asante, Bw. Spika. Ningependa kujiunga na wenzangu niseme Taarifa iliyoletwa na Seneta wa Mombasa, Sen. Faki, ni muhimu sana kwa uchumi wa taifa hili. Utaona ya kwamba wakati wowote Serikali ikifanya mipangilio ya kujenga barabara za pwani wanaangalia mabarabara ambayo inaenda maeneo ya utalii. Hawajali barabara zinazoenda sehemu ambazo watu wanaishi kwa wingi.

Bw. Spika, ni aibu kubwa kwa Serikali kuona kwamba barabara ya Dongo-Kundu ambayo haijamaliza miaka miwili, tayari imeanza kuporomoka na kuwa na mashimo. Uporomokaji huu umetokana na kutokarabatiwa kwa hali ya ustadi wakati wa ujenzi. Maeneo ya Diani, South Coast na Mji wa Mombasa kumejaa watu wengi sana. Kwa hivyo, ni lazima kuwe na barabara nzuri na hali ya usalama kuimarishwa, hasa wakati wa kusafirisha shehena kutoka na kuingia Bandari.

Tumeona ajali nyingi zikitokea katika barabara ya kutoka Mombasa kwenda Malindi. Barabara hiyo haijakarabatiwa kwa zaidi ya miaka kumi. Hivi majuzi wanakandarasi walikuja hadi Mtwapa na kuanza kubomoa pande zote mbili za barabara kwa minajili ya kukarabati. Hata hivyo, hakuna barabara ambayo wanajenga bali ni kumwaga mchanga na seruji. Kitendo hiki kinasababisha ajali nyingi wakati magari yanabishana na kujaribu kukwepa mashimo na vilinduko vya mchanga na seruji.

Barabara kama hizi zikiwa zinatengenezwa ni lazima watoe taarifa kuu katika mabango kuonyesha ni nani anayezijenga, ikiwa ni mkopo ni kutoka wapi na itachukua muda gani kukamilisha ujenzi. Barabara ambazo hunganisha maeneo mbalimbali ni lazima zikarabatiwe, haswa zile zinazoelekea kwenye maeneo ya wanaofanya biashara za kuuza mazao bidhaa ambazo zinaweza kuharibika kwa haraka kabla kufika Marikiti na masoko mengine.

Ninaiomba Kamati itakayoangalia jambo hili izingatie maeneo ambayo watu wengi wanaishi. Kwa mfano, barabara hii ya Dongo-Kundu ni muhimu sana kwa wanabiashara ambao husafirisha mazao yao kutoka sehemu mbalimbali.

Ninaiunga mkono Taarifa hii ya Sen. Faki.

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

Sen. Halake: Thank you, Mr. Speaker, Sir. I rise to support the Statement by the Senator for Mombasa, Sen. Faki. Infrastructure is the bedrock of competitiveness for us in the East African region. The most important infrastructure from the Port of Mombasa to Busia border is the northern corridor transit road. Ten years ago, we were told that it will be prioritized for the country to open up Eastern Africa. Since 2011 to date, the road is worse than it was then. At that time, 2.2 million tonnes of goods were transported all the way to the Kenyan inland as well as to the neighbouring landlocked countries. Today, I am sure this has doubled. I do not have the statistics, but it should be available with Kenya Transport Association (KTA).

We are seeing a regression and wondering why the priorities are not where our economic bedrock is. Why is it that when we prioritize and do things, we do them where there is no impact for the people? Kenya should be the geopolitical leader in transportation, politics and other areas. If we continue to regress, then we will see our competitiveness go. As I speak, Ethiopia and other countries are coming up very quickly as a destination for investors. Even a small country like Rwanda is overtaking us simply because it takes seriously its competitiveness in their region.

Mr. Speaker, Sir, it is sad that Mombasa Road continues to suffer dilapidation, neglect and lack of investment. When we talk about where investment matters most, these are the kinds of critical infrastructure we are talking about.

Mr. Speaker, Sir, this Statement is under Standing Order No.47(1). However, I urge you to give it to a Committee to look at all critical infrastructure in the country and what is happening to it. Were the infrastructure projects white elephants as put by one of our committees? Is Kenya serious about competitiveness in the region?

The northern corridor has been highlighted in Vision 2030 and all economic blueprints in this country. What is happening to it? A road of about 900 kilometres which should take 12 hours is taking a total of almost four to five days as we were told by the

Bungoma Senator who has highlighted the line of trucks that has continued to waste time. During this period of COVID-19 pandemic, our truck drivers have been exposed to disease and inconvenience.

We were told about critical infrastructure in Vision 2030. One of them is the Isiolo Airport which is classified as an international airport. It covers 1.4 kilometres. The runway is short and cracked. I put the question to the same Committee and up to date, I have not received a satisfactory answer to the state of it. It is not an 'international airport,' but is international by signage. Critical infrastructure cannot be international because a signpost says so. Right now, not even a De Havilland Canada Dash 8 can land. There are no cargo facilities.

We are looking at the critical infrastructure that were promised under Vision 2030, but is becoming white elephants and the priority is upside down.

I support the Statement. It should not be the Senator for Mombasa crying alone, but everybody along the northern corridor.

Everybody along that line should be up in arms. I urge that you assign this to the Committee so that they tell us the status of all the critical infrastructure for the competitiveness of this country.

I support.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I rise to support the Statement by my brother, Sen. Faki. I sit in the Committee on Roads and Transportation. A year ago, I visited the said road. It is appalling to hear that less than two years after billions of shillings were sunk into it, it has cracks and landslides are blocking some sections of it. The question we should ask ourselves is whether a proper feasibility study was carried out before the construction commenced.

As many of my colleagues said, the national Government is undertaking quite a number of critical infrastructure projects, especially roads across the country. However, it is not enough to undertake them without doing a good job because we have borrowed heavily to construct them from our development partners. At the end of the day, we will repay these loans with interest. It would only serve us better if proper feasibility studies are carried out before construction commences so that we get value for that money.

Mr. Speaker, Sir, I also have a section of these infrastructure projects in County Kitui. That is Kibwezi-Kitui-Mutomo-Ikutha Road. Whereas we may not have problems with cracks and other issues relating to the quality of work, it is very appalling that the project is almost complete, but not a single person along it has been compensated for land which the Government acquired for its construction.

We, as the representatives of the people in this House, should get to a point to demand that before any of these mega projects are undertaken, the contractors and the Government agencies compensate people for land that is acquired.

Mr. Speaker, Sir, it is inhuman that you would take somebody's piece of land to construct a road for public utility and you ask them to locate to another place without compensating them. Human beings are not birds to take refuge on trees. They have to be compensated for their land.

I support the Statement and when referred to our Committee, we will deal with it.

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

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

Sen. Cherargei: Sen. (Arch.) Kasanga is the Vice-Chairperson of the Committee and I thought you would give us indulgence before her. She can write notes because she will make a comment later.

The Speaker (Hon. Lusaka): How did you know that I was going to give you a chance to talk?

Sen. Cherargei: I speak on behalf of others.

The Speaker (Hon. Lusaka): Let her talk, then you will close.

Sen. Kasanga: Thank you, Mr. Speaker, Sir. I thank Sen. Faki for the Statement. I want to let the House know that we have a problem when it comes to environmental degradation where our national infrastructural projects are concerned.

Now that this Statement will be referred to our Committee and we know that the National Environment Management Authority (NEMA) has a problem with the monitoring of infrastructure projects because of budget cuts, the Ministry of Transport and Infrastructure needs to tell us how they take care of the environment in the course of construction.

We have a Petition before the Committee on Lands, Environment and Natural Resources where infrastructure projects in Kajiado are causing siltation in Lake Magadi. This is the same case we are seeing where NEMA is not able to conduct their usual progress checking and monitoring because of budgets.

The Speaker (Hon. Lusaka): Sen. Cherargei, briefly, then finally Sen. (Dr.) Kabaka.

Sen. Cherargei: Thank you, Mr. Speaker, Sir. I support Sen. Faki for bringing this Statement. One of the campaign issues of the Jubilee Government was infrastructure. We all remember the other day the President was in France for Ksh180 billion loan to construct a road between Nairobi and Mau Summit.

Mr. Speaker, Sir, this aspect of infrastructure is very critical. If we are to move this country to from a third world country to a middle economy country, or even possibly first world country, we need to work on infrastructure. When you look at the issue of most of the projects that have been undertaken in the country, there has been inadequate oversight by the relevant agencies.

The Kenya National Highways Authority (KeNHA), the Kenya Rural Roads Authority (KeRRA), and the Ministry of Transport and Infrastructure have done nothing to ensure that they provide oversight to the contractors. It is sad that the cowboy contractors that were famous in the yesteryears are now on the loose.

In Nandi County, for example, the road between Mberere/Kopele in Kisumu County and Timboroa is substandard, yet we have KeRRA as a supervising authority. The road from Rivatex to Kapkatembu has been done in a substandard manner. The road from Chepterit to Moi University is being washed away by floods because of the substandard work. There is danger in Chemuswa. All the roads have been done poorly in a *mtumba* way, yet we have KeRRA which is supposed to be an oversight authority.

Mr. Speaker, Sir, the road going through Eldoret-Mosoriot-Kapsabet-Chavakali-Kopere needs to be expanded---

(Loud consultations)

The Speaker (Hon. Lusaka): Let us consult in low tones.

Sen. Cherargei: Mr. Speaker, Sir, I do not know why there is excitement in the House today. Maybe it is because of the expected recess.

The road going through Eldoret-Kapsabet-Chavakali connects Rift Valley and Western Kenya. It also connects Rift Valley and the Nyanza region. The contractor has been chronically doing substandard work for the last so many years, yet KeNHA has been sleeping on the job.

Mr. Speaker, Sir, I am happy that I see the Vice-Chairperson of the Committee on Roads and Transportation here. They should do an audit and call to order KeNHA and KeRRA for the lack of supervision and oversight of the roads being constructed in this country. I agree that KeRRA has done a little work through a roads maintenance levy, the National Constituency Development Fund (NCDF) and many other ways. KeNHA are not maintaining their roads.

I request the Chairperson and Vice-Chairperson of the Committee on Roads and Transportation to tell this House, apart from the one raised in Mombasa County, we must do a total audit of all the infrastructure. I request that KeRRA and KeNHA be restructured or disbanded, because they are not doing their work of supervising Government projects.

Thank you very much.

The Speaker (Hon. Lusaka): Proceed, Sen.(Dr.) Kabaka, then we move to the next Statement.

Sen. (Dr.) Kabaka: Thank you, Mr. Speaker, Sir, for giving me this opportunity to also air my views. It is amazing how things are done in Africa. All the Senators who have travelled to foreign countries have seen the kind of standards of the roads there. Roads in those countries outlive the current population. Some go for over 100 to 200 years, but in Africa, the way things are done, everything is lopsided.

If you look at the contracts of the roads, you realise that there are clauses--- Those in legal professions will tell you that in the law of the tort, there is the tort of negligence against the independent contractors. They have duty of care towards the client and citizens of the country where they are given the contracts.

I also apportion the big blame to the Kenyan engineers, especially civil, structural and mechanical engineers, who issue certification for completion of these roads. As the Senator of Mombasa has said, the Dongo Kundu Road has exhibited some cracks, potholes and all that. It means that the negligence is there.

In the Law of Torts, again, there is the doctrine of *res ipsa loquitur*, which means the things speak for themselves. In that kind of negligence, one does not need to prove the--- In future, it is not enough to disband the Kenya National Highways Authority (KeNHA) or those bodies; we need them. I think it is high time we amend the Penal Code, so that we prefer criminal liability against the errant professional engineers and

associate professionals. They will not only be surcharged, but also face a stiff penalty of even 50 years and above.

This is very serious and billions of Kenyan taxpayers' money has been spent to put up roads. Then, the Government has to revisit the same. It is very interesting that in Machakos there are very key roads which were started by the Jubilee Government. Examples are the road from Ekalakala to Matuu, Donyo Sabuk to Tala-Thika and Kathiani-Lower Kaewa which have stalled.

This Ministry should come clear and disclose what the problem is. Is it that the Government does not have the money? Where is the money that has been given by donors? We need real answers from this Committee.

I support.

The Speaker (Hon. Lusaka): Next Statement from Sen. Iman. I will not allow many riders because we have to vote.

CASES OF COVID-19 INFECTIONS IN NAIROBI REMAND PRISON AND
PREPAREDNESS TO DEAL WITH THE PANDEMIC
IN CORRECTIONAL FACILITIES

Sen. Iman: I rise pursuant to Standing Order No.48 (1) to seek a Statement from the *Ad Hoc* Committee on the COVID-19 Situation in Kenya concerning cases of COVID-19 infections in Nairobi Remand Prison and the general state of preparedness to deal with the pandemic in correctional facilities in the country.

In the Statement, the Committee should-

(1) State the measures put in place by the Government to isolate and treat prisoners infected with COVI-19 at the Nairobi Remand Prison;

(2) Elucidate on the measures deployed by the prison authorities to ensure safety of prisoners in all prisons across the country, particularly against the infections by COVID-19.

(3) Explain the measures taken by the Government to prevent gross management failures, negligence and leadership voids that could lead to infections and deaths arising from preventable diseases within correctional facilities in the country, including COVID-19.

(4) Explain whether adequate medical personnel have been deployed across all prisons to aid in combating the spread of COVID-19 in the correctional facilities.

Sen. (Dr.) Ochillo- Ayacko: Mr. Speaker, Sir, I support this Statement and ask the Committee responsible for the response, that is, the Committee on the COVID-19 Situation in Kenya, whose Chairperson is seated next to me---

When one is condemned to prison - and many Kenyans who are corrupt are headed there - one is not condemned to die. This Committee should also tell the plans that are there on how to treat people who are confined for offences that do not necessarily require incarceration. People who are remanded are there just because they cannot raise bail.

Prison is run at a cost to taxpayers. It is a place where we ought to be rehabilitated and given a second chance in life. It is not a place where we are dehumanized and made to suffer and face death at the cost of being neglected and forgotten.

Mr. Speaker, Sir, it is important that as we talk about the rights of many Kenyans, we also talk about the rights of the voiceless who are in prison. Many people are in prison inside and outside, but it does not mean they should be condemned to die and forgotten.

That aspect of response would be necessary, so that we are mindful of the marginalized and the imprisoned because they are forgotten. Remember in the Bible it is written, "You did not visit me when was in prison." Let us use this Senate to visit the prisoners.

Thank you.

The Speaker (Hon. Lusaka): I had called Sen. (Rev.) Waqo, but I want to rearrange. We will come back. Just bear with us so that I call the Chair of the Committee to lay the Report and give notice of Motion. Do not worry, Sen. Dullo. We will come back because this is also very important.

(Interruption of debate on Statement)

PAPER LAID

REPORT ON THE COUNTY GOVERNMENTS CASH SCHEDULE FOR FY2020/2021

Sen. Kibiru: Mr. Speaker Sir, I beg to lay the following Paper on the Table of the Senate, today, Thursday, 8th October, 2020-

Report of the Standing Committee on Finance and Budget on the County Governments cash disbursement schedule for Financial Year 2020/ 2021.

(Sen. Kibiru laid the document on the Table)

NOTICE OF MOTION

ADOPTION OF REPORT ON THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR FY 2020/2021

Sen. Kibiru: Mr. Speaker, Sir, I beg to give notice of the following Motion-

THAT the Senate adopts the Report of the Standing Committee on Finance and Budget on The County Governments Cash Disbursement Schedule for Financial Year 2020/2021;

AND THAT pursuant to Section 17 (7) of the Public Finance Management Act and Standing Order 183 (3), the Senate approves the County Governments Cash Disbursement Schedule for Financial Year 2020/2021, laid on the Table of the Senate on Thursday, 8th October, 2020.

The Speaker (Hon. Lusaka): Hon. Senators, I wish to rearrange the Order Paper and direct that we go to Order No.10.

MOTION

ADOPTION OF REPORT ON THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR FY 2020/2021

Sen. Kibiru: Mr. Speaker, Sir, Hon. Speaker, I beg to move the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Cash Disbursement Schedule for the Financial Year 2020/2021 and that pursuant to Section 17(7) of the Public Management Act and Standing Order No. No.183(3), the Senate approves the County Governments Cash Disbursement Schedule for Financial Year 2020/2021, laid on the Table of the Senate on Thursday, 8th October, 2020.

Mr. Speaker, Sir, it is our cardinal duty that once we have the CARA, then we must also be able to pass the disbursement schedule. We have debated and I know the counties are waiting for the monies to get to them so that they can be able to utilize the monies to offer services to Kenyans. I would not want to spend a lot of time, but one of the things that the Committee did was to make a few recommendations. If you will allow me, I will just read the recommendations of the Committee while we were doing the report.

The Committee after making some observations, made the following recommendations-

That the County Governments Cash Disbursement Schedule be approved as tabled on 8th October, 2020.

That the National Treasury should transfer equitable shares to the counties without undue delay and without deductions as per Article 219 of the Constitution and submit quarterly reports of the transfers to the Senate.

That the National Treasury should transfer Kshs79.125 billion, the total funds meant for the first quarter of the Financial Year, 2020/2021 within seven days after the approval of the cash disbursement schedule.

Finally, the Committee recommended that pursuant to Article 225 of the Constitution, the county governments should expeditiously prepare and adopt annual budgets and Appropriation Bill to ensure service delivery is smoothly continued.

As I conclude, in the interest of time, I want to make the following acknowledgments. I will start by acknowledging that the National Treasury did their duty and in hours, they were able to give us the cash disbursement schedule once the Act was signed.

The Committee thanks the office of the Speaker and Clerk of the Senate for the support extended to the Committee in execution of its mandate.

Appreciation also goes to Members of the Committee for their patience, sacrifice and commitment to complete the assigned task within the stipulated time especially those who keep time like Sen. Millicent Omanga and Sen. Farhiya.

(Laughter)

(Sen. Omanga walked around in the Chamber)

It is now my pleasure, duty and privilege---

The Speaker (Hon. Lusaka): Order, Sen. Omanga! What are these rituals you are performing in the House?

(Laughter)

Sen. Kibiru: It is now my pleasure, duty and privilege on behalf of the Standing Committee on Finance and Budget, to present to the Senate, this Report of the Committee on the County Governments Cash Disbursement Schedule for the Financial Year 2020/2021.

I beg to move the Motion and ask my distinguished friend and the Vice-Chairperson of the Committee, Sen. (Dr.) Ochillo-Ayacko to second the Motion.

Thank you, Mr. Speaker, Sir.

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

Sen. Kinyua: Bw. Spika, Nashukuru kwa kunipa fursa hii niulize tu kwa hoja ya nidhamu hata ijapokuwa amemaliza. Nilitaka kujua, Kamati ile ina Maseneta wengi lakini inaonekana ya kwamba yeye anafuatilia vizuri ile *gender* rule. Nimesikia ya kwamba ni Sen. Farhiya na Sen. Omanga ambao wanafuatilia muda vizuri. Kwa hivyo, inaonekana ya kwamba wale wengine wamezembea katika kazi yao, na ndio tulikuwa na jukumu kubwa kupitisha hii formula---

The Speaker (Hon. Lusaka): Hoja yako ya nidhamu ni gani?

Sen. Kinyua: Hoja yangu ni kusema ya kwamba pengine sababu yetu kuwa na shida kubwa kupitisha Mswada huu ni kwa sababu wengine wamezembea katika kazi yao.

The Speaker (Hon. Lusaka): Hakuna mtu amezembea.

You are out of order, Senator for Laikipia.

Proceed, Sen. Ochillo-Ayacko.

Sen.(Dr.) Ochillo-Ayacko: Thank you, Mr. Speaker, Sir. I rise to second this Report and urge the House to approve it without much ado.

I just want to make two remarks and allow the House to conclude this matter.

One, is to thank you for adjusting the Order Paper today and allowing this Report to be considered as a matter of priority and to also thank our colleagues who are available today to vote and approve it.

Secondly, out there, governors have been threatening to close the counties. They have been saying that there is no money. So as a House, let us say, let there be money so

that they use it, but they must use it well so that we do not have issues when it comes to oversighting the use of that money.

Since this matter has been debated by all of us, we have pulled and pushed one another over it, I believe its passage will unite us, this Senate and also the nation. As we utilize it, let it be of benefit to all of us in Kenya.

I beg to second.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Hon. Senators, I want to propose the question, but I will also request, like we have done in the past, that after that we shall vote. Then, because there are committees that are travelling to Mombasa, we shall vote and then those who want to make comments on this will make after.

(Question proposed)

Ring the Division Bell.

(The Division Bell was rung)

Let us have the tellers. Sen. Cherargei is the teller for the “Noes.”

(Voting in progress)

DIVISION

ROLL CALL VOTING

(Question, that the Senate adopts the Report of the Standing Committee on Finance and Budget on the Cash Disbursement Schedule for Financial Year 2020/2021 and that pursuant to Section 17(7) of the Public Finance Management Act and Standing Order 183(3), the Senate approves the County Governments Cash Disbursement Schedule for the Financial Year 2020/2021, laid on the Table of the Senate on Thursday, 8th October 2020 put, and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi City County; Sen. (Eng.) Hargura, Marsabit County; Sen. Iman, Garissa County; Sen. (Dr.) Kabaka, Machakos County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Maina, Nyeri County; Sen. Moi, Baringo County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaruma, Taita/Taveta County; Sen. (Dr.) Ochillo-Ayacko, Migori County; Sen. Olekina, Narok County; Sen. Outa, Kisumu County; Sen. Prengei, Nakuru County; Sen.

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Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. Wario, Tana River County; Sen. Wetangula, Bungoma County; Sen. (Dr.) Zani, Kwale County.

NOES: Nil.

The Speaker (Hon. Lusaka): Hon. Senators, these are the results of the vote: -

AYES: 33

NOES: Nil.

ABSTENTIONS: Nil.

The “Ayes” have it.

(Question carried by 33 votes to Nil)

The Speaker (Hon. Lusaka): I will seek your indulgence for the next Order since most of the work was done yesterday for the Division of Order 11 and 12.

BILL

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Chairperson (Sen. (Dr.) Lelegwe) in the Chair]

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

(Resumption of Debate interrupted on 7.10.2020)

The Temporary Chairperson (Sen. (Dr.) Lelegwe): Hon. Senators, we will consider the two Bills. We will start with the Sectional Properties Bill (National Assembly Bills No.23 of 2019). We will vote on two questions on the Sectional Properties Bill (National Assembly Bills No.23 of 2019). Each side should provide a teller.

(Loud consultations)

Do not move out because we are voting on the two Bills.

Whips, kindly confirm whether we have the numbers.

Hon. Senators, when you are voting, kindly vote for two questions.

(Voting in progress)

Sen. Sakaja: Mr. Temporary Chairman, Sir, Sen. Omanga will vote for Nairobi City County.

The Temporary Chairperson (Sen. (Dr.) Lelegwe): You are out of order!

Sen. Sakaja: I vote “Yes” for both, but I can delegate to any of my delegation.

(Voting in progress)

The Temporary Chairperson (Sen. (Dr.) Lelegwe): Hon. Senators, do not leave because we have another Bill to vote on.

DIVISION

ROLL CALL VOTING

*(Question, that Clause 12 be amended as proposed,
put and the Senate proceeded to vote by county delegations)*

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. (Dr.) Kabaka, Machakos County; Sen. Kajwang’ M., Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang’ata, Murang’a County; Sen. Kibiru, Kirinyaga County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Maina, Nyeri County; Sen. Moi, Baringo County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaruma, Taita/Taveta County; Sen. Ndwiga, Embu County; Sen. Olekina, Narok County; Sen. Outa, Kisumu County; Sen. Poghisio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. Wario, Tana River County; Sen. Wetangula, Bungoma County; and, Sen. (Dr.) Zani, Kwale County.

Teller of the Ayes: Sen. Farhiya

NOES: Nil

Teller of the Noes: Sen. Cherargei

The Temporary Chairperson (Sen. (Dr.) Lelegwe): Hon. Senators, the results of the Division are as follows-

AYES: 32

NOES: Nil

ABSENTIONS: Nil

The “Ayes” have it.

(Question carried by 32 votes to Nil)

DIVISION

ROLL CALL VOTING

(Question, that Clauses 4, 5, 6, 7, 8, 9, 10, 11, 12(as amended), 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, Clauses 3 and 2, the Title and Clause 1 be part of the Bill, put and the Senate proceeded to vote by county delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. (Dr.) Kabaka, Machakos County; Sen. Kajwang' M., Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Linturi, Meru County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Maina, Nyeri County; Sen. Moi, Baringo County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaruma, Taita/Taveta County; Sen. Ndwiga, Embu County; Sen. Olekina, Narok County; Sen. Outa, Kisumu County; Sen. Poghisiio, West Pokot County; Sen. Prengei, Nakuru County; Sen. Sakaja, Nairobi City County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. Wario, Tana River County; Sen. Wetangula, Bungoma County; and, Sen. (Dr.) Zani, Kwale County.

Teller of the Ayes: Sen. Farhiya

NOES: Nil

Teller of the Noes: Sen. Cherargei

The Temporary Chairperson (Sen. (Dr.) Lelegwe): Hon. Senators, the results of the Division are as follows-

AYES: 32

NOES: Nil

ABSENTIONS: Nil

The "Ayes" have it.

(Question carried by 32 votes to Nil)

The Temporary Chairperson (Sen. (Dr.) Lelegwe): Hon. Senators, we will now proceed with The County Outdoor Advertising Control Bill (Senate Bills No.19 of 2018). Let us have the tellers.

Whips, confirm if we have the numbers.

Sen. Mutula Kilonzo Jnr.: We have the numbers. We should proceed.

The Temporary Chairperson (Sen. (Dr.) Lelegwe): Okay.

THE NATIONAL ASSEMBLY AMENDMENTS TO THE COUNTY
OUTDOOR ADVERTISING CONTROL BILL
(SENATE BILLS NO. 19 OF 2018)

The Temporary Chairperson (Sen. (Dr.) Lelegwe): Hon. Senators, we are now considering the National Assembly Amendments on the County Outdoor Advertising Control Bill (Senate Bills No.19 of 2018). The question is one.

(Voting in progress)

DIVISION

ROLL CALL VOTING

(Question, that the National Assembly Amendments to Clauses 2, 3, 4, 10, 15 and 21 of the County Outdoor Advertising Control Bill, (Senate Bills No.19 of 2018) be approved put and the Senate proceeded to vote by county delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County, Sen. Kibiru, Kirinyaga County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. M. Kajwang', Homa Bay County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Maina, Nyeri County; Sen. Moi, Baringo County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaruma, Taita/Taveta County; Sen. Ndwiga, Embu County; Sen. Olekina, Narok County; Sen. Omanga, Nairobi City County; Sen. Outa, Kisumu County; Sen. Poghio, West Pokot County; Sen. Prengei, Nakuru County, Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County; Sen. Wambua, Kitui County; Sen. Wario, Tana River County, Sen. Wetangula, Bungoma County; and, Sen. (Dr.) Zani, Kwale County.

NOES: Nil

The Temporary Chairperson (Sen. (Dr.) Lelegwe): Hon. Senators, these are results of the division:

AYES: 31

NOES: Nil

ABSTENTIONS: Nil.

The "Ayes" have it.

(Question carried to by 31 votes to Nil)

The Temporary Chairperson (Sen. (Dr.) Lelegwe): Hon. Senators, I call upon the Mover.

The Senate Majority Leader (Sen. Poghisio): Hon. Chairperson, I beg to move that the Committee do report to the House its consideration of The National Assembly Amendments to the County Outdoor Advertising Control Bill (Senate Bills No.19 of 2018) and its approval thereof.

(Question put and agreed to)

(The House resumed)

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

The Temporary Speaker (Sen. (Dr.) Mwaura): Turejelee kikao. Mwenyekiti, Sen. (Dr.) Lelegwe.

REPORTS AND CONSIDERATION OF REPORTS

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO.19 OF 2018)

Sen. (Dr.) Lelegwe: Mr. Temporary Speaker, Sir, I beg to report that a Committee of the Whole has considered The National Assembly Amendments to The County Outdoor Advertising Control Bill (Senate Bills No.19 of 2018) and its approval thereof.

The Temporary Speaker (Sen. (Dr.) Mwaura): Kiongozi wa Walio Wengi.

The Senate Majority Leader (Sen. Poghisio): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said report and ask Sen. Farhiya to second.

Sen. Farhiya: Mr. Temporary Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. (Dr.) Mwaura): Waheshimiwa Maseneta, sasa hivi tutausoma Mswada huu kwa Mara ya Tatu. Tafadhali nawaomba msiondoke. Sasa hivi ninamuita Mwenyekiti.

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

Sen. (Dr.) Lelegwe: Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered The Sectional Properties Bill (National Assembly Bills No.23 of 2019) and its approval thereof with amendments.

The Temporary Speaker (Sen. (Dr.) Mwaura): Kiongozi wa Wengi.

The Senate Majority Leader (Sen. Poghio): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee in the said report and ask Sen. Farhiya to second.

Sen. Farhiya: Mr. Temporary Speaker, Sir, I second.

The Temporary Speaker (Sen. (Dr.) Mwaura): Ninapendekeza sasa hivi kwamba Mswada huu usomwe kwa Mara ya Tatu.

Samahani kidogo, bado tunasoma hii kazi.

Ninapendekeza ramsi kwamba Seneti hii ikubaliane na ripoti ya Kamati. Tutaweka swali baadaye.

Nimekanganyika kidogo, lakini ni sawa tuu.

(An hon. Senator spoke off record)

Si mambo ya Kiswahili na Kiingereza, ni mambo ya mpangilio. Wacha nirudie tafadhali.

(Question proposed)

(Question put and agreed to)

Sasa nitamwita Mdhamini wa Mswada apendekeze kuwa Mswada huu usomwe kwa Mara ya Tatu.

The Senate Majority Leader (Sen. Poghio): Mr. Speaker, Sir, I beg to move that The Sectional Properties Bill (National Assembly Bills No.23 of 2019) be now read a Third Time, and ask Sen. Farhiya to second.

Sen. Farhiya: Mr. Temporary Speaker, Sir, I second.

(Question proposed)

The Temporary Speaker (Sen. (Dr.) Mwaura): Namuona Sen. (Rev.) Waqo, Sen. Cheragei, na pia Sen. Zawadi. Sijui ni nani angependa kuzungumza wa kwanza.

Kwa sababu nimeambiwa kuwa hakuna watu wako tayari kuchangia, ninapendekeza rasmi kwamba Mswada *The Sectional Properties Bill (National Assembly Bills No. 23 of 2019)* usomwe kwa Mara ya Tatu.

Nafikiri kuwa tuko na idadi ya kutosha kupiga kura. Tupige Kengele kwa dakika moja.

(The Division Bell was rung)

Baada ya kengele kupigwa tutapiga kura rasmi. Makarani wa Bunge wawe tayari kupigisha kura.

(Hon. Senators proceeded to vote by Roll Call)

THIRD READING

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

DIVISION

ROLL CALL VOTING

(Question that The Sectional Properties Bill (National Assembly Bills No.23 of 2019) be read a Third Time put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. (Eng.) Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. (Prof.) Kamar, Uasin Gishu County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. (Dr.) Lelegwe, Samburu County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Maina, Nyeri County; Sen. Moi, Baringo County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Mwangi, Nyandarua County; Sen. Mwaruma, Taita/Taveta County; Sen. Mwaura, Kiambu County; Sen. Ndwiga, Embu County; Sen. Olekina, Narok County; Sen. Outa, Kisumu County; Sen. Poghisio, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Wako, Busia County; Sen. Wario, Tana River County and Sen. Wetangula, Bungoma County.

Tellers of the Ayes: Sen. Prengei.

NOES: Nil

Tellers of the Noes: Sen. Were.

The Temporary Speaker (Sen. Mwaura): Waheshimiwa Maseneta, haya ndio matokeo ya kura ambayo tumepiga-

AYES: 29

NOES: Nil

ABSENTIONS: Nil.

(Question carried by 29 votes to 0)

(The Bill was accordingly read the Third Time and passed)

The Temporary Speaker (Sen. Mwaura): Waheshimiwa, nadhani tumemaliza kupiga kura. Naomba radhi kwa wale ambao mlikuwa na Miswada ambayo tulikuwa tunataka kupitisha katika Kamati Nzima ya Bunge hili kwamba kwa sababu ya muda, tulikuwa hatujamaliza kauli rasmi. Sasa nitampa nafasi Sen. Aaron Cheruiyot.

(Resumption of debate on Statements)

STATEMENTS

OPERATIONS OF MOBILE MONEY-LENDING PLATFORMS IN KENYA

Sen. Cheruiyot: Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Finance and Budget regarding the operations of mobile money-lending platforms in Kenya.

In the Statement, the committee should-

(1) Provide a list of all the licensed mobile money lenders and explain the process followed in granting them operating licenses.

(2) Explain whether the said mobile money lenders are permitted, through their licences, to constantly invite people to borrow through unsolicited messages and calls to potential borrowers.

(3) State the reasons for mobile money lenders charging exorbitant interest rates which are not in conformity with the Central Bank of Kenya (CBK) capping on interest rates to be charged by financial institutions.

(4) Outline the steps the national Government will put in place to mitigate against this digital borrowing that has become a social menace responsible for depression, suicide, divorce, family breakups and increased listing of loan defaulters by the Credit Reference Bureau.

(4) Elucidate on the policy and mitigating measures that the CBK and Competition Authority of Kenya (CAK) have put in place to protect Kenyans from the exorbitant interest rates, harsh recovery processes, including forwarding names to the CRB and unauthorized usage of personal information by digital mobile lenders.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Mwaura): Asante sana, Sen. Cheruiyot. Sitampa Seneta wowote muda wa kuzungumzia swala hili kwa sababu ya muda.

Sen. (Dr.) Langat: On a point of order, Mr. Temporary Speaker, Sir. The Statement by Sen. Cheruiyot is so important such that, I would wish that you would have given some three other Senators two minutes to make comments on it.

The Temporary Speaker (Sen. Mwaura): Tafadhali Waheshimiwa Maseneta, kwa sababu ya muda, bado tuna Miswada mingi sana. Nitampatia mtu mmoja pekee yake. Kwa hivyo, kama Sen. Langat yupo tayari kuzungumza, nakupatia dakika mbili uzungumzie swala hili.

Nafikiri hayupo tayari. Basi Sen. Dullo.

DISMISSAL OF STAFF BY EWASO NGIRO
NORTH DEVELOPMENT AUTHORITY

Sen. Dullo: Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.47(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the recent unlawful dismissal of staff by the Ewaso Ngiro North Development Authority (ENNDA). The ENNDA recently dismissed 56 casual labourers who had been working at the Authority for over 10 years.

The casual labourers were dismissed without notice or benefits contrary to the prevailing laws. The Authority proceeded to advertise the jobs in a bid to replace them with individuals from outside.

In addition, the ENNDA has a poor work environment characterized by impunity, nepotism, tribalism and violation of the rights of staff over the years. Several reports have surfaced of staff being transferred from their departments without due process and their positions being taken up by unqualified junior staff yet certain individuals are favored and given promotion despite lacking qualifications.

In the Statement, the Committee should-

(1) Urgently investigate the unfair and illegal dismissal of staff at the ENNDA without following legal and ethical procedures.

(2) Conduct a probe into the poor work environment at ENNDA, including unprocedural transfers and unmerited promotions.

(3) An urgent intervention in order to prevent the dismissal of the 46 Kenyans who are from low level cadre.

I thank you.

The Temporary Speaker (Sen. Mwaura): Asante sana. Nani angependa kuchangia? Mtu mmoja pekee yake.

Sen. Cherargei: Thank you, Mr. Temporary Speaker, Sir. I want to congratulate Sen. Dullo for that Statement of unfair dismissal. It is so sad that parastatals, Government agencies and county governments nowadays fire their staff in a wishful thinking.

I request the Committee on Labour and Social Welfare, where I used to be a Member, to look into this matter expeditiously. We are worried when such agencies like ENNDA are accused of issues of nepotism. According to Public Service Commission's audit report that was released on September, 2020, the parastatals and many Government agencies should reflect the face of Kenya. They should have high professional standards.

The cases of nepotism among other issues that the agency has been accused of, I think they must be called to order. I hope the parastatal such as this, the county governments and any Government agencies that are firing officers in the wishful way they imagine, it is sad.

I request the Committee on Labour and Social Welfare, in line with the Public Service Commission's Report that was released in September, 2020, to tell us how

parastatals are operating because they have become the bastions of negative ethnicity, promoting nepotism and cronyism.

Mr. Temporary Speaker, Sir, we hope when we come back from recess, the Committee on Labour and Social Welfare Committee will table a report.

As I conclude, Article 41 of the Constitution talks about labour rights. Where are the labour rights in this country to protect 96 Kenyans who have been working for 10 years as casual labourers? That is unfair, unconstitutional and illegal. It is infringing on their labour rights and abuse of their dignity.

The Authority must be called to order and they must rectify. The Ethics and Anti-Corruption Commission (EACC) and Directorate of Criminal Investigations (DCI) must investigate them for abuse of human rights and firing 96 people who have worked there for the last 10 years.

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana, Sen. Cherargei. Sasa hivi nampa nafasi Mwenyekiti---

Sen. Kasanga, jambo la nidhamu ni lipi?

CASES OF COVID-19 INFECTIONS IN NAIROBI REMAND PRISON AND
PREPAREDNESS TO DEAL WITH THE PANDEMIC
IN CORRECTIONAL FACILITIES

Sen. Kasanga: Thank you. Mr. Temporary Speaker, Sir. There was a Statement by Sen. Iman that was committed to the *Ad Hoc* Committee on the COVID-19 Situation in Kenya. As you are aware, our mandate is coming to an end at the end of this month as we come out of recess. I request if you can redirect that Statement to the Committee on Health.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana. Hilo ni jambo la wazi kuwa kauli itatekelezwa na Kamati ya Kudumu ya Afya.

*(The Statement was committed to the
Committee on Health for consideration)*

Sasa hivi nampa nafasi Mwenyekiti wa Kamati ya Haki, Sheria and Haki za Kibinadamu aweze kujieleza kuhusu kazi ya Kamati yake na mikakati ile ambayo imekuwa nayo.

Sen. (Rev.) Waqo, naomba uendelea tafadhali.

ACTIVITIES OF THE COMMITTEE ON JUSTICE,
LEGAL AFFAIRS AND HUMAN RIGHTS

Sen. (Rev.) Waqo: Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.51(1)(b) of the Senate Standing Orders to make a Statement relating to the activities

of the Standing Committee on Justice, Legal Affairs and Human Rights during the first three quarters of the Fourth Session; that is January to September, 2020.

Mr. Temporary Speaker, Sir, the Standing Committee on Justice, Legal Affairs and Human Rights is established under Standing Order No.218(3) of the Senate Standing Orders and is mandated to inter alia-

“Consider all matters relating to constitutional affairs, the organization and administration of law and justice, elections, promotion of principles of leadership, ethics, and integrity; agreements, treaties and conventions; and, implementation of the provisions of the Constitution on human rights.”

During the period under review, the Committee held 44 sittings during which it considered various legislative proposals, Bills, statements, petitions, and inquiries as set out below-

(A) Legislative Proposals

The Committee undertook pre-publication scrutiny on three legislative proposals which were referred to it, pursuant to Standing Order No.125(3)(a) of the Senate Standing Orders, namely-

(1) The Draft Constitution of Kenya (Amendment) Bill, sponsored by Sen. (Dr.) Isaack Mwaura, CBS, MP;

(2) The Draft Political Party Primaries Bill, sponsored by Sen. (Dr.) Isaack Mwaura, CBS, MP; and,

(3) The Draft Constitution of Kenya (Amendment) Bill, sponsored by Sen. (Dr.) Michael Mbiti, MP.

The Committee proceeded to examine the said proposals against the criteria set out in the Standing Orders and invited the respective sponsors during consideration of the proposals by the Committee. Pursuant to Standing Order No. 125(3)(a) of the Senate Standing Orders, the Committee transmitted its comments to the Hon. Speaker of the Senate on 3rd July, 2020, 18th July, 2020, and 25th September, 2020, respectively.

(B) Bills

Mr. Temporary Speaker, Sir, the Committee considered 11 Bills during the period under review, as follows-

(1) The Office of the County Attorney Bill (Sen. Bills No. 3 of 2018); and

(2) The Petition to County Assemblies (Procedure) Bill (Sen. Bills No. 22 of 2018).

The Committee received and considered the National Assembly amendments to the two Bills during which it engaged key stakeholders; among them the Council of Governors (CoG) and the County Assemblies Forum.

The Committee concurred with the National Assembly amendments to the said Bills and recommended that the Senate approves the same, which the Senate did on 30th June, 2020. The two Bills received Presidential assent on 9th July, 2020 and were published as Acts No.14 and 15 of 2020, respectively.

(3) The Independent Electoral and Boundaries Commission (Amendment) (No. 3) Bill (National Assembly Bills No.35 of 2019).

The Committee considered the Bill and proposed several amendments thereon,

which were approved by the Senate on 23rd July, 2020. The Bill was thereafter transmitted to the National Assembly for its concurrence to the said Senate amendments.

(4) The Elections (Amendment) Bill (Sen. Bills No.18 of 2019).

The Committee tabled its Report on the Bill on 4th August, 2020, in which it has proposed several amendments to the Bill. These are due for consideration at Committee of the Whole stage.

(5) The Constitution of Kenya (Amendment) Bill (Sen. Bills No.16 of 2019);

(6) The Law of Succession (Amendment) Bill (Sen. Bills No.1 of 2020); and,

(7) The Parliamentary Powers and Privileges (Amendment) Bill (Senate Bills No.4 of 2020).

The Committee has concluded its consideration of the three Bills and is due to adopt the Reports thereon for tabling.

(8) The Alternative Dispute Resolution Bill (Sen. Bills No.19 of 2019);

The Committee has concluded its consideration of the Bill and drafting of the Committee amendments thereon is underway.

(9) The Lifestyle Audit (No. 2) Bill (Sen. Bills No. 21 of 2019); and,

(10) The Representation of Special Interests Groups Laws (Amendment) Bill (National Assembly Bills No.52 of 2019).

Consideration of the two Bills by the Committee is ongoing.

(11) The Government Contracts Bill (National Assembly Bills No. 9 of 2018).

The Committee deferred consideration of the Bill at the request of the Attorney-General and has sought direction from the Senate Business Committee (SBC) on the way forward regarding the Bill.

Mr. Temporary Speaker, Sir, in considering the said Bills, the Committee has ensured that it complies with the requirements to undertake public participation, as set out under Article 118 of the Constitution and Standing Order No.140 (5) of the Senate Standing Orders. Where it has not been possible to hold a physical public hearing, due to the COVID-19 prevention measures in place, the Committee has undertaken virtual public hearings, during which it has received views and recommendations of the public on the said Bills.

On Statements, the Committee considered requests for Statements by seven Senators during the period under review, as follows-

(1) Statement sought by Sen. Millicent Omanga, on compulsory management of copyright and other related rights;

(2) Statement sought by Sen. James Orengo, EGH, SC, M.P on the fight against corruption by the Multi-Agency Team (MAT); and,

(3) Statement sought by Sen. Malalah, on the move by the National Government to halt gaming business in Kenya.

The Committee has concluded its consideration of the three Statements and is due to adopt the Report thereon for tabling. Additionally, there are also the following statements-

(4) Statement sought by Sen. Mutula Kilonzo Jnr., on the delays in the appointment of 41 Judges of the High Court and the Court of Appeal.

(5) Statement sought by Sen. Johnes Mwaruma on the administrative boundary between Taita/Taveta and Makueni Counties.

The Committee has partially considered the requests by the two Senators for statements and is scheduled to conclude on the same during the month of October.

(6) There is also the statement sought by Sen. George Khaniri on inhumane evictions of families in Chepturo Village, Kiptuiya Ward, Chesumei Sub-County in Nandi County.

The Temporary Speaker (Sen. (Dr.) Mwaura: Samahani, Sen. Waqo. Naomba uweze kumalizia kwa sababu tuko na Ripoti zingine nne za Kamati.

Sen. (Rev.) Waqo: Mr. Temporary Speaker, Sir, that is noted.

The Committee planned to visit the site in Nandi County in April, 2020. This was, however, deferred following the outbreak of the COVID-19 pandemic. The Committee now plans to visit the site and meet with stakeholders later this month.

We had another Statement sought by Sen. Halake on the use of derogatory terms in the Penal Code in reference to mentally challenged victims of sexual violence.

On Petitions, we had two Petitions; one by Julius Masiva Obuga on the amendment of the Constitution to delete the cockerel and axe from the Coat of Arms and the Public Seal; and the Petition by Bernard Waheire and Jacqueline Mutere on delayed implementation of the Report of the Truth, Justice and Reconciliation Commission (TJRC).

We also had another Petition by Abdalla Suleiman and Elkana Kitur on mass examination failure at the Kenya School of Law (KSL); and another one by Sammy Muriuki on lack of support to families of victims of the Ethiopian Air Crash.

We also had three more Petitions, which I will not get into. For inquiries, the Committee has undertaken two inquiries during the period under review.

Under consideration of Statutory Instruments, during the period under review, the Committee considered three sets of regulations, namely-

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

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

(3) The Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) Rules, 2020, and the Orders made thereunder.

On vetting of appointment to public office, during the period under review, the Committee undertook the vetting of a nominee for appointment to the position of Member of the Parliamentary Service Commission (PSC), under Article 127(2)(d) of the Constitution.

Under other stakeholder engagements, the Committee also undertook this. On county visits, we did not make that, but we are in the process of visiting Nyamira County very soon.

On upcoming businesses, in addition to the businesses listed above, the Committee intends to focus on the following during the remainder of the Fourth Session and in the Fifth Session-

(1) Electoral reforms required to be undertaken ahead of the 2022 General Elections;

(2) Audit of the national policy and legislation with a view to ascertaining the extent to which they conform to the devolved system of governance; and,

(3) Audit of outstanding gaps in laws and policies to entrench and strengthen the devolved system of government.

I wish to thank your office for the support accorded to the Committee in undertaking its work. I also wish to acknowledge the secretariat support that the Committee has received from the Office of the Clerk.

Lastly, I wish to thank my predecessor, the Senator for Nandi County, who steered the Committee from December, 2018 until May this year, as well as the past and present Members of the Committee for their diligence in executing the mandate of the Committee.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana Naibu Mwenyekiti kwa Ripoti hiyo ambayo ni nzuri. Ni wazi kwamba Wakenya wengi wanapendelea kuleta mambo yao katika Bunge la Seneti.

Ningeomba wale Wenyekiti wanaofuata kufupisha Ripoti zao kwa sababu ya muda.

Nampa nafasi Sen. Halake kuwakilisha Kamati ya Mawasiliano na Teknolojia.

ACTIVITIES OF THE COMMITTEE ON INFORMATION AND TECHNOLOGY

Sen. Halake: Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.51(1) (b) to make a Statement on the activities of the Standing Committee on Information and Technology for the period commencing 1st January to 31st August, 2020.

I have a bulky Report, but I will truncate it and skip to the main issues because we have decided to give specific and detailed report on certain topical issues that have emanated during this review period.

During the period under review, our Committee held a total of 23 sittings and considered one Bill and one Statement. At the advent of the COVID-19 pandemic, accelerated the adoption and use of technologies had quite an impact on the work of the Committee. This Committee has been a champion for inclusion and transformation through ICT. In the period under review, we canvassed a series of issues including-

(a) Closing the connectivity gap in Kenya, especially in marginalised and underserved areas;

(b) The status of the national broadcaster, the Kenya Broadcasting Corporation (KBC), which is undergoing certain trouble with sustainability and viability as an organization;

(c) ICT and Education, including the Digital Literacy Programme;

(d) ICT and Health;

(e) ICT and Land;

(f) 5G Technology;

(g) Taxation of the technology space, including the Digital Service Tax (DST), among many other issues that I will enumerate shortly.

The reason I am jumping to this is so that when I truncate and jump some of these things, that is the scope of the things that the Committee has canvassed during the period under review.

In respect of Bills, the following Bill were considered during the period under review-

(1) The County Outdoor Advertising Control Bill (Senate Bills No. 19 of 2018);

(2) The County Outdoor Advertising Control Bill, (Senate Bills No. 19 of 2018) was published on 13th July, 2018 and read a First Time in the Senate on 11th September, 2018. If you recall, yesterday was when we voted and passed it.

I will skip the details of all the work that has been done by this Committee because as the Report has been given, the details of the numerous engagements, public participation and other engagements with stakeholders are enumerated in the Report.

Regarding Statements, pursuant to Standing Order No.48 (1), one Statement by Sen. Kasanga was referred to the Committee during the period under review. At the Sitting of the Senate held on 30th May, 2019, Sen. Sylvia Kasanga requested a Statement on the Status of Mobile Connectivity for marginalised areas and special projects.

The Committee held a sitting with the Cabinet Secretary for ICT, Youth and Innovation and the Communications Authority of Kenya (CAK) on 19th August, 2020, where they report on the various measures being deployed to close the connectivity gap in the country, primarily through the use of the Universal Service Fund. The Committee noted that over and above connectivity challenges, there were also concerns about access to smart devices.

Moving forward, the Committee has resolved to conduct inspection visits to assess the status of connectivity especially in traditionally marginalized counties like Isiolo, Turkana, Kwale and Kitui among others. The Committee will continue to closely monitor the use and implementation of projects through the Universal Service Fund (USF), especially the voice infrastructure and connectivity projects.

The Committee also deliberated on issues of national concern. Firstly, the Committee has been concerned by the financial status of the national broadcaster, the Kenya Broadcasting Corporation (KBC). The Committee constituted a subcommittee to delve keenly into the matter.

In March, the Committee met with the management of the KBC who informed the Committee of various challenges facing the Corporation, including debts arrears owed in statutory deductions and technical capacity challenges. The Committee remains committed to assisting the KBC chart its way back to health. To this end, the Committee is exploiting legislative avenues and amendments to the Kenya Broadcasting Act, CAP 221. It is scheduled to have a consultative meeting with the Cabinet Secretaries for ICT and the National Treasury to explore ways to support the KBC.

Secondly, continuity of education through the use of technology has taken centre stage. That is one of the issues that we canvassed. I do not want to go into the details of that.

The Committee jointly with counterparts of the Standing Committee on Education and the *Ad Hoc* Committee on COVID-19 met with the Cabinet Secretary on 18th June, 2020. Most recently, the Committee met with the Cabinet Secretary for ICT on 16th September, 2020, to deliberate on ICT policies that support education and a transition to a fully digital education platform.

Thirdly, taxation of digital space continues to be a big hindrance to the growth of the space. The Committee on 3rd June, 2020, met with the Cabinet Secretary for the National Treasury to deliberate on the Digital Services Tax (DST) that came into effect with the passing of the Finance Act, 2020. The DST is 1.5 per cent tax on gross value of transactions to be levied at the point of transfer of payment for the services to service providers.

The Committee was informed that the rationale of DST was to create a legislative framework for the collection of taxes from business activities in digital marketplaces due to increasing internet penetration. The Committee was informed that the tax would be levied on income earned by digital platform owners who are non-resident companies.

The Committee also met with the Global System for Mobile Communication (GSM) who presented their findings from their Mobile Sector Taxation Study, 2020. The Committee is continuing discourse in the space and will report to this House its findings in due course.

Fourthly, concerning the closing of connectivity---

The Temporary Speaker (Sen. Mwaaura): Tafadhali fupisha.

Sen. Halake: Nitafupisha.

Mr. Temporary Speaker, Sir, we were told about balloons that will close the gap. We have balloons that float in the stratosphere delivering the internet through the terrestrial network. This is something that the Committee will go out to ascertain if it is working or not. We will bring a detailed report to the House on that.

The Committee also delved into the question of e-health. The details of that are in the report. We will also deliver specific information on some of the key issues.

Most importantly, there is a long list of stakeholders we engaged. As we know, this is a sector of economic growth. It is a sector that is driving most other sectors. The sector became important especially at the onset of the pandemic. That is the reason our report is a bit detailed because everything that we have done is touching on this.

Our Committee notes that innovation is more often than not private sector driven. In this regard, the Committee has been making a deliberate effort to engage with other stakeholders in the private sector. The Committee noted the opportunities the technology presents for the country in the areas of the internet, telemedicine, among other areas. The Committee will be holding a consultative meeting with the Cabinet Secretary for ICT and other stakeholders on the development of a national 5G Strategy.

The Committee on 15th July, 2020, held a consultative meeting with the Kenya ICT Action Network (KICTANet) to take stock of progress made in addressing emerging policy challenges.

Lastly, on 25th August, 2020, the KICTANet presented its finding in the County ICT Survey 2019/2020, a study they undertook at the request of the ICT Authority. The report on the status of ICT in the counties of Uasin Gishu, Taita/Taveta and Kajiado gave the Committee some insight into the situation in counties on several metrics. This is something that we will invite hon. Senators to help us get the reports of the respective counties.

Mr. Temporary Speaker, Sir, in this quarter, the Committee will be working to conclude its business of the year by considering the following issues-

In respect of Bills, the Committee will be completing its consideration of the Copyright (Amendment) Bill (Senate Bills No.13 of 2020) and report to the House per the set timelines.

In respect of Statements, pursuant to Standing Order No.47 (1), at the sitting of the Senate held on 17th September, 2020, Sen. Iman requested a Statement on the use of Chinese owned social media application known as *TikTok* in respect to concerns related to data privacy. The Committee will be taking up the matter and will hold a consultative meeting with the CS for ICT and Sen. Iman will be invited.

Pursuant to Standing Order No.48(1), at a sitting of the Senate held on 8th September, 2020, Sen. Faki requested for a Statement on the state of affairs---

The Temporary Speaker (Sen. Mwaura): Samahani. Taja tu hizo kauli.

Sen. Halake: It is the last one. We will finalise that. We have already met the Cabinet Secretary.

The Committee will conclude its inquiry into the status of affairs at the KBC. The Committee will also conduct an inspection visit to Kitui County to inspect the installation of masts. We will also have a meeting with the Cabinet Secretary for ICT to deliberate on the various policy issues that will emanate.

Mr. Temporary Speaker, Sir, let me take this opportunity to thank your office and Senators who have been very supportive and have participated alongside the Committee Members.

I thank you for the opportunity to present this Report. Given the topical matters in this, we will request to table different reports from different areas that I mentioned.

The Temporary Speaker (Sen. Mwaura): Asante sana kwa kuwa na ari na motisha ya kuwafanyia Wakenya kazi.

Sasa hivi nampa nafasi Mwenyekiti wa Kamati ya Ardhi, Mazingira na Mali Asili. Sen. Mwangi, nakuomba uchukue kama dakika nne.

ACTIVITIES OF THE COMMITTEE ON LANDS,
ENVIRONMENT AND NATURAL RESOURCES

Sen. Mwangi: I will try to be fast, Mr. Temporary Speaker, Sir.

Thank you, for giving me this opportunity. I rise pursuant to Standing Order No.51(1)(b) to make a Statement on the activities of the Senate Standing Committee on Lands, Environment and Natural Resources for the period commencing 20th January to 31st July, 2020.

During the period under review, the Committee held a total of 28 sittings, considered three Bills, one legislative proposal, nine Petitions and seven Statements. The Committee also held three engagements with stakeholders and held three public hearing forums on the Bills.

In respect of the Bills, the following Bills were considered-

(1) The Sectional Properties Bill (National Assembly Bills No.23 of 2019) which has just been passed by this Senate;

(2) The National Drought Management Authority (Amendment) Bill (National Assembly Bills No.26 of 2019); and,

(3) The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No.24 of 2019).

Our Committee conducted public hearing forums on The Sectional Properties Bill (National Assembly Bills No.23 of 2019) and The National Drought Management Authority (Amendment) Bill (National Assembly Bills No.26 of 2019), considered the submissions received from the public and tabled the report in the Senate on 12th May, 2020.

With regard to The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No.24 of 2019), a Bill sponsored by Sen. Mwaruma, who is a Member of the Committee, was also considered in detail by the Committee. The Committee conducted public hearings and further tabled a report in the Senate on 16th June, 2020.

During the period under review, the Committee considered and sponsored a legislative proposal, The Geologist Bill, 2020 that has since been published and is undergoing concurrence before it is brought to this House for First Reading. The Bill was read the First Time yesterday.

Regarding Statements, two of the Statements sought had timelines within which the Committee was expected to have considered them. One Statement was requested pursuant to Standing Order No.47(1) by Sen. Murkomen, on an issue of national concern regarding the landslide that occurred in Kerio Valley affecting residents of West Pokot and Elgeyo-Marakwet counties. Noting that the disaster caused loss of lives and affecting many residents residing in the two counties, the Committee requested for written submissions from the Ministry of---

The Temporary Speaker (Sen. (Dr.) Mwaura): Samahani Mwenyekiti. Tafadhali fupisha Ripoti yako.

Sen. Mwangi: I am trying to make it brief.

The Temporary Speaker (Sen. (Dr.) Mwaura): Usisome yote.

Sen. Mwangi: Fine, Mr. Temporary Speaker, Sir. The Committee requested for written submissions from the Ministry of Interior and Coordination of National Government, who responded to the concerns raised. The other Statement was requested pursuant to Standing Order No.48(1) by Sen. Sakaja on demolition of houses in

Kariobangi North Ward, Embakasi North Constituency, Nairobi City County. The matter was critical noting that it affected residents who had their homes demolished. We also got submissions from the Ministry of Interior and Coordination of National Government and completed the Report.

Pursuant to Standing Order No.48 (1), eight Statements were referred to the Committee during the period under review. The Committee has already commenced enquiries into the Statements and further involved the Senators who had requested for the Statements. The Statements include-

(1) A Statement requested by Sen. (Dr.) Alice Milgo on waste management in Bomet County and another on the implementation of the National Land Use Policy in the counties;

(2) Statement requested by Sen. Omogeni on the recent demolition of houses and homesteads carried out in Keroka and Nyamira town, Nyamira County; and,

(3) Statements requested by Sen. Sakaja on the planned repossession.

Since I want to be fast on this one, we invited the Cabinet Secretary for Environment, Forestry and Climate Change and he gave us the details. We agreed that he is not going to demolish anymore houses until the matter has been handled properly by the Committee and completed. On some Statements, supplementary questions arose and the Committee has scheduled meetings with the relevant Ministries and county governments, among other institutions, to interrogate the issues arising.

Mr. Temporary Speaker, Sir, with regard to Petitions, the Committee has one of the most critical mandates that directly affect the citizens of this country. As a result, 23 Petitions have been referred to the Committee and enquiries have already commenced with some concluded. The Committee will be tabling reports of 11 of these Petitions, following its conclusion of investigations into the matter raised by the Petitioners. The Committee expects to have wound up with the remainder of the Petitions during the next reporting period.

Finally, in respect to county visits in the period under review, the Committee was unable to actualise its scheduled county visits due to the COVID-19 pandemic hampering in its movement. Following the ease of restrictions, the Committee has currently planned to undertake site visits to Kisumu, Kericho and Nandi counties, to interact with residents affected by the alleged environmental degradation and irregular dumping at a land view in Kajulu, Kisumu East constituency; residents of Kericho and Bomet counties following on the status of land owned by multinationals. The minority Ngerek community following their proposed evictions from Southern Nandi Forest and residents of Tinderet Sub-County in Nandi County on the operations of Karebe Gold Mining limited.

The Temporary Speaker (Sen. (Dr.) Mwaura): Tafadhali maliza.

Sen. Mwangi: I am just finishing, Mr. Temporary Speaker, Sir. The Committee would like to highlight the following areas that will form part of its business from the next quarter-

(1) Publication of the Survey Bill, 2020 and The Valuers Bill, 2020, that were both proposed by the Institution of surveyors of Kenya.

(2) Intervene on the matter Internally Displaced Persons (IDPs) as a result of forest evictions that has relatively brought more Petitions touching on persons evicted from alleged forest land in most parts of the country.

(3) Engage relevant stakeholders on the matter of human wildlife conflict that has continued to be challenged.

(4) Engage the National Treasury and other stakeholders on the matter of mining royalties and the status of disbursement to communities.

Signed by Sen. Mwangi Paul Githiomi, M.P., Chairperson of the Committee.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana, Mwenyekiti wa Kamati ya Ardhi, Mazingira na Mali Asili kwa umahiri wako. Ni ajabu sana kuona kuwa hiyo kazi yote inafanywa na Maseneta ilhali pia wanawashughulikia wananchi kwa kazi za kila siku.

Sasa hivi nampa fursa Mwenyekiti wa Kamati ya Kudumu ya Uwiano wa Kitaifa, Usawa wa Fursa na Ujumuishwaji wa Kimaeneo, Sen. Shiyonga. Utatupatia Ripoti rasmi ya Kamati.

ACTIVITIES OF THE STANDING COMMITTEE ON NATIONAL
COHESION, EQUAL OPPORTUNITY AND REGIONAL INTEGRATION

Sen. Shiyonga: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I would like to give a Statement relating to the activities of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration, pursuant to Standing Order No.51(1)(b), for the period commencing 1st January to 30th August, 2020.

During the period under review, the Committee held a total of 38 sittings. The Committee considered two Statements by Sen. Malalah on ethnic and regional distribution of higher cadre jobs in all Government institutional agencies and another Statement from Sen. Mutula Kilonzo Jnr. on the plight of the IDPs. The response was considered and the Statement seekers were present during the meeting with the relevant Ministries, to raise supplementary questions and the matter was concluded.

Mr. Temporary Speaker, Sir, with regard to Petitions, the Committee considered-

(1) Petition concerning Kibera IDPs, which was committed to the Committee on 19th November, 2018. The Committee met the petitioners, considered the matter and met the Cabinet Secretary (CS) in charge of Internal Security and Coordination of National Government, and concluded on the issues related to the Petition. The report has been adopted awaiting tabling.

Mr. Temporary Speaker, Sir, the Committee held another meeting with the Ministry of Transport and Infrastructure, Housing, Urban Development and Public Works, regarding its policies and laws to ensure the implementation of conventions on the rights of Person with Disabilities (PWDs).

It is worth nothing that the Ministry is currently in the process of petitioning Parliament in the enactment of the relevant Bills to effect full protection and realization of access rights for PWDs to buildings and other public works. The proposed Bills are,

the draft National Building Regulations, the draft Housing Bill, and the draft Slum Upgrading and Prevention Bill.

Mr. Temporary Speaker, Sir, the Committee held a consultative meeting with the National Council for Persons with Disabilities (NCPWD) on the measures taken to assist PwDs during the Coronavirus Disease (COVID-19) Pandemic, the impact of various measures in place for the prevention and control of the pandemic on PwDs, and steps taken to alleviate adverse effects on such measures on PwDs.

Mr. Temporary Speaker, Sir, the Committee also met with the National Cohesion and Integration Commission (NCIC) to deliberate on the NCIC report on ethnic and adverse audit on the County Public Service Board. However, due to the COVID-19 pandemic, the Committee was unable to undertake the county visit to ascertain the adversely mentioned counties, but with the flattening curve of COVID-19, the Committee will pursue the county visits as per the programme of activities.

The Committee also held a meeting with the Kenya Members of the East Africa Legislative Assembly (EALA) to deliberate on issues of regional integration and conflict resolution. During the sitting, a quarterly meeting was agreed on to be held between the Committee and the EALA Members to discuss issues of non-tariff barriers, mutual recognition agreement, and the challenges of the East Africa Community (EAC).

Mr. Temporary Speaker, Sir, during the period under review---

The Temporary Speaker (Sen. (Dr.) Mwaura: Samahani, tafadhali malizia.

Sen. Shiyonga: During the period under review, the Committee participated in the International Peace Day held in Narok County on Monday, 21st September 2020. The International Peace Day is an annual event observed globally on 21st September. The peace day provides a platform for humanity to strengthen the ideals of peace, non-violence, ceasefires, and offers the opportunity to mitigate and envision peace in the world. The Committee is scheduled to consider the report on the relevant event.

Mr. Temporary Speaker, Sir, the Committee intends to carry out the following activities- undertake county visits in the region affected by conflicts, namely, the Kisumu-Nandi border, Baringo and West Pokot, the Makeni-Taita/Taveta-Kajiado border, the Marsabit-Ethiopia-Turkana border, and the Kitui-Tana River border.

Also, the Committee intends to consider the NCIC report on ethnic and audit the county public service board, and the county assemblies service board, to report to the Senate.

Lastly, to ensure that the National Action Plan Disaster Risk Reduction, 2020 is valid, the Committee has today held a meeting with the National Land Commission (NLC) and the Independent Electoral and Boundaries Commission (IEBC), and has deliberated on issues that affect boundaries and demarcation. We are yet to write a report on the same.

This is signed by Sen. Naomi Shiyonga, the Chairperson of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration. At this time, I want to acknowledge my predecessor, Sen. (Rev) Waqo, who handed over the work to me. I appreciate the members and the secretariat for their support with this report.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Mwaura): Asante sana kwa ripoti hiyo ambayo imetuonyesha kazi nzuri mnayofanya, hususan kuhusa maswala ya watu walio na ulemavu. Ikumbukwe kwamba Kamati hiyo imeongozwa na kina mama wawili walio shupavu. Hongera sana, Sen. Shiyonga. Tunatumai kwamba mtaendelea kuwa na nafasi ya kusawazisha fursa kwa watu wote ambao wamenyanypaliwa katika jamii.

Kulingana na Kanuni za Bunge la Seneti 52(1), ninampa fursa Kiongozi wa Walio Wengi kutupatia kauli rasmi kuhusu ratiba ya shughuli za Bunge la Seneti kuanzia Jumanne, tarehe tatu Novemba.

BUSINESS OF THE SENATE FOR THE WEEK
COMMENCING TUESDAY, 3RD NOVEMBER 2020

The Senate Majority Leader (Sen. Poghio): Mr. Temporary Speaker, Sir, pursuant to Standing Order No.52(1), I hereby present to the Senate the business of the House for the week commencing Tuesday, 3rd November, 2020. As indicated in today's Order Paper at Order No. 8, I will move a Motion for the alteration of the Senate calendar to enable the Senate to proceed on recess starting tomorrow, Friday 9th October 2020, and to resume sittings on Tuesday 3rd November 2020, in accordance with part IV of the Senate calendar.

I take this opportunity to thank all Senators for their patience and hard work through the process of passing the Third Generation Formula for allocation of monies to county governments, and the County Allocation of Revenue Bill (Senate Bills No. 7 of 2020) for the Financial Year 2020/202021. I also take this opportunity to thank His Excellency the President for assenting to the County Allocation of Revenue Bill (Senate Bills No. 7 of 2020) into law earlier this morning.

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

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

What was pending in relation to financial matters is the consideration and passage of the county governments cash disbursements schedule. We have done that this afternoon. This document has been tabled; we passed it just this afternoon. The Senate is now required to consider and pass the same, and we have done that. Allow me to join you in your communication urging the Standing Committee on Finance and Budget to expeditiously consider this matter and make a report pursuant to the Standing Orders.

Mr. Temporary Speaker, Sir, if the Motion on the alteration of the calendar to Tuesday, 3rd November 2020 is approved, the Senate Business Committee (SBC) will meet to schedule the business of the Senate. On that day, the Senate will consider the Bills Scheduled for the 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 concluded in today's Order Paper, including the Motions, Petitions, and Statements.

Mr. Temporary Speaker, Sir, a total of 23 Bills are due for Second Reading, and another 20 Bills are at the Committee of the Whole stage. The SBC will prioritize these Bills and in respect, I urge the relevant Standing Committees to expeditiously conclude considerations, and to table reports pursuant to the Standing Orders, for purposes of enriching debate at the Second Reading Stage and to effectively navigate amendments during the Committee of the Whole stage. As you will see in today's Order Paper, we have two Bills pending Division at the Committee of the Whole Stage. All these were done and covered.

Mr. Temporary Speaker, Sir, I thank you and hereby lay the Statement on the Table of the House.

(Sen. Poghiso laid the document on the Table)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Next Order.

Order, Hon. Senators, I take this opportunity to inform you that we are re-arranging the Order Paper. We will begin with Order No. 9.

MOTION

EXTENSION OF TIME TO CONSIDER THE RAILWAY CITY DEVELOPMENT AUTHORITY ORDER, 2020

The Temporary Speaker (Sen. (Dr.) Lelegwe): Chairperson, proceed.

The Senate Majority Leader (Sen. Poghiso): Mr. Temporary Speaker, Sir, I am a member of the Committee, standing in for the Chairperson. I beg to move-

AWARE that the Sessional Committee on Delegated Legislation is established under Standing Order No.221 of the Senate Standing Orders and is charged with the responsibility of scrutinizing statutory instruments laid before the House and that pursuant to Standing Order No.221(3)(b), the Committee is mandated to consider, in respect of any statutory instruments, whether the statutory instrument "infringes on fundamental rights and freedoms of the public";

FURTHER AWARE that on 26th May, 2020, the Senate referred the Railway City Development Authority Order, 2020, to the Sessional Committee on Delegated Legislation;

AWARE that the purpose of the State Corporation proposed in the Order is to provide for the coordinated planning, management, development and use of the Nairobi Railway Central Station and the surrounding land which has been designated as a special planning area;

ACKNOWLEDGING that the Regulations touch on existing land rights, particularly with regard to the Kenya Railways Corporation, Kenya Railways Pension Scheme and private land owners in the designated area;

NOTING that due to the gravity of the impact of the Regulations, the Committee met with the Cabinet Secretary for Transport, Infrastructure, Housing,

Urban Development and Public Works on Wednesday, 29th July, 2020 and the National Land Commission on 5th August and 16th September, 2020 and further invited the Ministry of Lands and Physical Planning to appear before it on Wednesday, 30th September, 2020;

NOTING that the Committee directed the Ministry of Lands and Physical Planning to provide clarity on the ownership of the land in the area defined under paragraph 2 of the Order which is defined as “all the land measuring one hundred and seventy-two hectares consisting of the Nairobi Central Railway Station and the surrounding land” and to submit supporting documentation on the same;

FURTHER NOTING that the Ministry of Lands and Physical Planning requested for more time until the 13th October, 2020 to furnish the Committee with the requisite information and that this information is vital to the consideration of the Order;

APPRECIATING that under section 15(2) of the Statutory Instruments Act, 2013 the Committee is required to make a report within twenty-eight sitting days after the date of referral of the instrument by the Senate, or such other period as the Senate may, by Resolution, approve;

NOTING that with regard to the Railway City Development Authority Order, 2020, the twenty-eight sitting days’ lapse on 7th October, 2020;

NOW THEREFORE, pursuant to Section 15(2) of the Statutory Instruments Act, 2013, the Senate resolves to extend the timelines for the consideration of the Railway City Development Authority Order, 2020 by a further period of twenty one days to enable the Committee to scrutinize the submissions from the Ministry of Lands and Physical Planning with regard to land rights in the area designated under the Railway City Development Authority Order, 2020 and to conclude its consideration of the Order.

Mr. Temporary Speaker, Sir, I did not want to go into the details or the background information, but many Members may not know what this is about. The proposed authority is supposed to manage the Nairobi Railway City. The project is one of the priority undertakings embodied under the Nairobi Integrated Urban Development Plan. For that reason, it must be scrutinized extremely well so that mistakes are not made. It is a very big undertaking by the Government and the private sector. Due to the work our Committee has done in this, we ask that this House agrees with this request, so that we can now have the 21 extra days to enable the Committee to scrutinize these documents, as I have already alluded to.

This will enable the Committee to scrutinize these submissions from the Ministry of Lands and Physical Planning with regard to land rights in the area designated under this Authority. I do not want to give any more details.

I beg to move and ask Sen. Halake to second.

Sen. Halake: Thank you, Mr. Temporary Speaker, Sir. I rise to second this Motion by one of our Committee Members, who is also our Senate Majority Leader.

As we know, some of these orders need a lot of public participation. There is need to get it right with regard to ownership of some of the land that is being used or

earmarked for this project. There is also need to ensure that we keep to the many statutory requirements and the legalities of this. Given that the railway sector has had ownership from the SACCO, Kenya Railways, Nairobi City County and the rest, this Committee has done a lot of work.

We still need to make sure we get this right, so that when developments are done the right compensations and ownerships are established. This is not something we can gloss over. It is something that the Committee has done quite a lot already, but needs further delving into, with a view to ensuring that development does not disenfranchise other people as well, and it is done within the context of our laws. The Committee needs more time to do these orders justice.

I support.

(Question proposed)

Sen. Kasanga: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity, and I want to congratulate this Committee. Thank you, Senate Majority Leader. Consideration of instruments like this is so critical.

In fact, we have a situation in one of our committees, where this same Ministry went ahead and rolled out some regulations without proper public participation, and it has taken a fraternity of stakeholders to bring it to the attention of this House. As a result, we have been forced to actually have the Ministry withdraw those regulations because of lack of proper public participation.

I want to commend this Committee. I have seen from the Motion here that they have asked for further clarification and questions from the Ministry of Lands and Physical Planning. I commend them for this because this particular project has a lot of interest. Many Kenyans want to participate in this project. We are very keen on this one and Kenyans are also watching. It is important that the Ministry comes clean on everything to do with this land which is going to be quite a project in Nairobi.

In fact, it is something we are really looking forward to because it is a sort of urban renewal. We need a new and green city in the sun. We have seen the masterplans and where they want to go. However, it is very critical that everything is done with a lot of transparency and openness. This is the sort of thing we are calling out; that even when the developments begin to roll out because we are aware that the calls for tenders have already gone out, we hope that a lot of transparency will take place and many Kenyans will be allowed to participate in this sort of project that can change the lives of very many Kenyans and our small businesses right now that have been greatly affected because of the COVID-19 pandemic. This could be a lifeline if it is done properly.

I commend this Committee and agree that they should be given ample time because of the magnitude of this project that we know. Let them thrash it out completely. We look forward to see their final report, and more importantly, that the regulations are a proper representation of what Kenyans want to benefit Kenyans; most importantly, that the Ministry will do things with a lot of openness and transparency.

Mr. Temporary Speaker, Sir, I support the Motion.

Sen. (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to support this Motion. Nairobi is actually the Capital City of Kenya. It is a cosmopolitan and a very busy town. People keep migrating to Nairobi. There is already a proposition to have the Kenya Railway place become a special planning area.

Even as we think through this issue, we really must empathize and put ourselves in the shoes of Kenyans who are already living there. I am fully aware that there are quite a number of Kenyans who have lived there. They were born there. They even got married there. They have children and grandchildren there. Some of them have not known any other home other than that particular area. As the Ministry of Lands and Physical Planning requests for more time, it is my plea, as a Senator, that we also look into the plight of these Kenyans.

At one point, I saw youth in the media saying they have no other home to go to; they have not known any other home. It is important also that even as this preparation and planning is being done, these Kenyans are brought on board. If you are saying that it will be a private enterprise, there is need to ask ourselves: where will these Kenyans go? This will ensure that they are also placed somewhere and do not become desperate.

As a Senate, we are actually mandated constitutionally to protect every Kenyan, even those Kenyans who are unable to protect themselves and provide security for themselves and their families. The State is supposed to provide security for them.

That is a constitutional demand, which we must respect and honour. Even if that place will be bought, we should not be in a hurry. We should not be happy about taking out tenders and people bidding. Even as people bid, we have to ask ourselves: where will these Kenyans go? Some of them were left by their grandfathers and fathers in that place and do not know any other home. The issue of placement should be at the centre of this timeframe that they have been given.

This Committee ought to have presented the report on the Floor of the Senate in 28 days, but it is well-meaning and well-thought that the report should come much later. This will ensure that a lot of interrogation is done and even the Ministry of Lands and Planning also finds out, in terms of ownership, if we have Kenyans who have legal documents that speak to the issue that they are the ones who possess that land.

Therefore, there is need to compensate them. When I talk about issues of compensation, they should take into consideration the issue of market rates; that this area is in Nairobi and there is actually need to place them.

I stand here to say that, as a Senate, we must protect the vulnerable and those who cannot support themselves. Those Kenyans who are living there need to be compensated and the Government should ensure that they are living, just like any other Kenyan. This is so that whatever issues that are done, even when it comes purchasing, bidding for tenders and all that, people are even free at heart. They should ensure that they do not hurt the vulnerable and poor families.

People also do business in that place. So, there is need to consider what will happen to their businesses because the vote is what will really make us stand as a Senate; that we defended the vulnerable and protected Kenyans because we have a constitutional duty to do that.

People should not be happy to offer tenders and bids. Let us also think about the poor and the vulnerable because it is not only our mandate, but is also godly to protect the poor and the vulnerable in this country.

In as much as I support this Motion, I want to suggest that the poor and vulnerable of this country must be at the centre stage of whatever is going to happen.

I support with the considerations that I have given.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Lelegwe): Hon. Senators, there are no more requests on this Order. I, therefore, call upon the Mover to reply.

The Senate Majority Leader (Sen. Poghisio): Mr. Temporary Speaker, Sir, I beg to reply. In replying, I would like to consider those Members who have made the contribution in allowing the Sessional Committee on Delegated Legislation to have the extended time to consider those documents that are coming from the Government, in order for us to finalize our report and consideration of the regulations of the Railways City Development Authority.

Mr. Temporary Speaker, Sir, I want to thank Sen. Kasanga and Sen. (Dr.) Musurube for being very supportive of the same.

With those few remarks, I beg to reply.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, we have determined that the Motion does not affect counties. I will, therefore, proceed to put the question.

(Question put and agreed to)

Hon. Senators, we will go back to Order No.8

MOTION

ALTERATION OF THE SENATE CALENDAR (REGULAR SESSIONS) FOR THE FOURTH SESSION, 2020

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

THAT, notwithstanding the Resolutions of the Senate made on 27th February, 2020 (Approval of the Senate Calendar) and on 15th September, 2020 (Alteration of the Senate Calendar), and pursuant to Standing Order No. 29(4), the Senate resolves to further alter its Calendar (Regular Sessions) for the Fourth Session, 2020, in respect of Part IV, to proceed on Recess starting on Friday, 9th October, 2020, until Monday, 2nd November, 2020, and thereafter resume sittings on Tuesday, 3rd November, 2020, as set out under Part V of the Calendar, and that the Senate Calendar (Regular Sessions) for the Fourth Session, 2020, be altered accordingly.

Mr. Temporary Speaker, Sir, I do need to belabour this particular point. This Senate has been so busy and has achieved so much during this period. The moment has

come for the Members to proceed on a very short recess of about three weeks to reenergize, serve the people in their various counties and also work on committees. Some of them are finalizing committee reports and so on.

Mr. Temporary Speaker, Sir, there will be visits to counties, and there are many other programmes as per committees. Therefore, if you look around this environment today, I see Members have already proceeded on recess on their own. We are simply confirming that Members are anxious to go on recess.

I do not want to belabour this point. I want to thank Members for the amount of work they have done. A lot of energy was consumed during the process of trying to find the formula for allocating funds to counties. We needed this break. I saw this afternoon how active the House was. We were able to do a lot; beginning with the County Governments Cash Disbursement Schedule for the Financial Year 2020/2021 and two Bills that we were able to pass.

Mr. Temporary Speaker, Sir, it is a very well deserved break for Members of this Senate. Therefore, I would like to move and ask the Senate Minority Whip, Sen. Mutula Kilonzo Jnr., to second.

Thank you.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Temporary Speaker, Sir. I never thought I would say this, but we deserve and need a break. From the work that we have been doing, you also know that we deserve a break, including our staff who have persevered this COVID-19 pandemic to work with us throughout. They need the break more than us because we will continue working.

We thank the members of staff of the Senate Secretariat and all who have made sure that we have managed to comply with all the timelines. If it was not for the Committee and Secretariat of the Committee on Finance and Budget, we would not have worked tirelessly to ensure that we have the County Governments Cash Disbursement Schedule for the Financial Year 2020/2021.

There are those who work behind the scenes - who never come to the Floor of the House – but we recognize them. Allow me to recognize Members of the Senate and the Speaker for guiding us through this very challenging time. We never thought we would get back together, where the Senate Majority Leader would be talking to me and Sen. Orenge calling me. We were divided, but God is with us.

I beg to second.

(Question proposed)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order, hon. Senators! I can see from the screen here that there are no requests.

Sen. Sakaja, proceed.

Sen. Sakaja: Mr. Temporary Speaker, Sir, I can see the mood is to go. I just want to add where Sen. Mutula Kilonzo Jnr. has left off. Indeed, it has been a few months of the long knives in the Senate. It has been tough, and you have gone through it. You were one of the victims.

During this time, the Senate has distinguished itself as one House that shall not be ignored in the framework of legislation in this country. Secondly, the fact that we can agree, disagree and agree to disagree, but ultimately, we can have resolutions by this House.

Mr. Temporary Speaker, Sir, in this Session that we have had, we have dealt with numerous Bills. I thank Senators that even today we have cleared a number of Bills. In this Session we have dealt with the issue of the formula. In fact, what this Senate has done in the last two months, ordinarily and Sen. Mutula Kilonzo Jnr. and those who have been in the Senate will tell you, that it would have taken this Senate another five years to move equitable share of revenue from Kshs316 billion to Kshs370 billion. What would have taken five years for this country and for devolution has been done within one or two months. We are grateful.

Mr. Temporary Speaker, Sir, I take this opportunity to thank our secretariat as well. They need more rest than we all do. They have been tremendous. They have given us support in our committees and in the House. Through this tough process, they have remained extremely, as I always say, professional in the work that they are doing.

I know many Members are not here, but I am sure many consult the HANSARD. I think the three weeks, as we take time with our committees and to rejuvenate as Senate Majority Leader has said, it is a time for us, as the Senate, and elders of this country--- The Senate, as a House, even if it has young people, it is seen as the elder of this country. We shall take time to help our country get back on track.

Mr. Temporary Speaker, Sir, there is political rhetoric that is going on and the temperatures that are premature. What has been happening from whichever side you look at it is not good for this country. The antagonism, the kind of narratives that are creating hate and the actions by different parties are destructive. When I speak on these things, I do so extremely objectively and from a neutral point of view as a Kenyan and as a leader.

I am not speaking as a supporter of any side, but as a supporter of Kenya, because this country has no servants' quarter. When we were discussing the formula we said that there is no Kenya 'A' or 'B.' What I am saying now is that there is no Kenya annex; that if we burn this one, we will go next door to another country. This is the only Kenya that we have and we must bring it together.

This is a time when we need a lot of focus on the post-Coronavirus disease (COVID-19) economic recovery strategy. People are hurting and the economy is doing bad and there is suffering. I really feel for the parents who on Monday have to take their children to school. Yesterday, I said - because I have children who are below ten years - that children at that age, and all of you have seen, have become fat because of staying home. Therefore, they need new uniform.

Mr. Temporary Speaker, Sir, at least the Class Eight pupils and Form Four students have reached their--- These young ones have actually increased in weight and need new uniforms. Many parents have been laid off their jobs and they do not have a source of income. As these decisions are made, we need to think of the normal *mwananchi*. I still believe there should not have been any rush. Since we are in October, we should have gone to January next year to reopen schools.

Having said that, we give the Government the benefit of doubt. We wish our teachers all the best and our students who are going back to school on Monday. I hope our Committee on Education will monitor. I am concerned in my county that the facilities are not enough. Maybe now that it is just three classes that are reopening, it could work, but I do not think there has been enough preparedness. Reopening schools is not just announcing a date. We will continue oversight.

Mr. Temporary Speaker, Sir, I support this and thank the Senate Majority Leader, Sen. Poghisio. He became the Senate Majority Leader in this tumultuous Session. He got baptism by fire, but I want to assure him that from the Majority side, we have a lot of confidence in him as our Majority Leader. He needs to know that even when there are situations where we may not agree, we still consider him as our Majority Leader. The same applies to our Senate Majority Whip. As they continue learning on the job, fortunately, Sen. Poghisio has been in this House for long. The other day I said that it was before I was born, and I think I was right. He has been in Parliament and seen it. There is nothing new under the sun.

Mr. Temporary Speaker, Sir, take heart. Sen. Malalah, Sen. (Dr.) Lang'at and I, in politics the late Masinde Muliro used to say that we must be ready for three things. One, is to be arrested, two, is to go broke or three, to die. Uneasy lies the head that wears a crown.

Let us put everything that happened behind us. Let us forget and forgive and come back together as one team; the Senate of the Republic of Kenya that has a role that has not been amended in the Constitution. It is not just to protect the interests of our counties because our counties make up this country, but to protect the interests of Kenya.

Mr. Temporary Speaker, Sir, I support.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Shiyonga, proceed.

Sen. Shiyonga: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I congratulate the Senate Majority Leader on the Motion regarding the adjournment of the House. As many have said, we are tired. However, we are not tired because we have been doing nothing; we have been doing something. We have shown Kenya that we were here and this is the "Upper House" that can decide the direction of Kenya. Indeed, we have done it. At this time, I congratulate the "12 disciples," who made it to where we are. Some of them are here, while some vanished somewhere. The good thing is that we achieved what Kenyans wanted.

Mr. Temporary Speaker, Sir, I urge my colleagues to maintain peace, order and restrain from unnecessary politics. When we are going to rest, we really do not need to entertain anything other than peace. Let us make peace with our families and fellow citizens.

It has been work well done and achieved. We know that Kenyans have been watching and they have realized that in the Twelfth Parliament there is a Senate that is alive and full of enthusiasm. I am proud to be part of it.

As I finish, it is good that we are going on recess as one, the way we came. Sen. Mutula Kilonzo Jnr. and I were even looking eye to eye. He used to put on a tie that I did not want to look at. Whenever I looked at that tie, I was so afraid. However, at the end of

it all, he removed the tie and he is back to his normal tie. That means that the white smoke came out of the chimney.

Mr. Temporary Speaker, Sir, thank you very much. We hope that peace will prevail, so that Kenya can be taken to another level.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Mover, proceed.

The Senate Majority Leader (Sen. Poghio): Mr. Temporary Speaker, Sir, I beg to reply. On the basis that Members have supported to go home, I thank everybody. I thank you and members of the secretariat for the work you have done.

I beg to reply.

(Question put and agreed to)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, we proceed to Order No.13.

BILL

Second Reading

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

(Sen. Poghio on 6.10.2020)

(Resumption of debate interrupted on 7.10.2020)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, during the last discussion on this Bill, on the Second Reading, Sen. Mutula Kilonzo Jnr. was on the Floor. He had a balance of 19 minutes to contribute on the Bill.

Therefore, I give chance to Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Temporary Speaker, Sir. I want to take less time so that we can prosecute something else. First, I was on the Floor yesterday and said that the Committee on Finance and Budget, which I am a Member, has done a good job in terms of making sure that this Bill aligns to what the contributors were saying. However, I want to bring to the attention of the Senate something that we should consider. I hope that the Liaison Committee and the Speaker, wherever you are, I hope you are listening. Article 216 (4) says-

“The Commission shall determine, publish and review policy in which itself sets the criteria by which to identify the marginalized areas for purposes of Article 204.”

Mr. Temporary Speaker, Sir, what that simply means, because I heard the contributions of Senators, is that once the policy is tabled, there is no framework in the Constitution or the Standing Orders for us to challenge the marginalized areas for those

Senators, like you, Mr. Temporary Speaker, Sir, who were in the first policy and are not in the second policy.

The way the Constitution is framed, once the policy has been tabled, there is nothing much we can do. Therefore, for the Members who were worried, the question of areas is now settled until we go to the third policy.

Mr. Temporary Speaker, Sir, the second issue I want to raise is from the ruling of the Council of Governors (CoG) versus the Attorney-General. Since Members have asked, the court has said this, and I want to put it on record so that this is settled. The court said it is much appreciated that the basic services for which the Equalization Fund is to be used under Article 204 of the Constitution such as water, roads, health facilities, and electricity at the local level, are county government functions under Paragraph 2 of the Fourth Schedule. For that reason, they can only be implemented by the county governments.

That being the case, implementation of the projects supported by the Equalization Fund through line ministries of the national Government as alleged by the respondents to have happened and as provided in the guidelines, has no legal basis, as the national Government has no function in the Fourth Schedule.

Mr. Temporary Speaker, Sir, and hon. Senators, what this means is that the court has determined that the national Government has no role, except under Section 18 of Public Finance Management Act, to disburse the funds. Therefore, there are our amendments that we are going to table at the Third Reading.

I hope the Chairperson can explain. All of them are anchored on that principle. The board that we have set up, the money they are going to spend of three per cent and the local committees that are going to identify projects; all those are anchored on the principle that this is entirely a county function.

Mr. Temporary Speaker, Sir, thirdly and lastly, those Senators who were concerned about the projects identified in the first policy--- Samburu, West Pokot, Mandera, Isiolo counties, *et cetera*, are some of them. Those of you who were worried that these projects are going to be lost in the second policy, this Bill and the amendments done by the Committee on Finance and Budget have created a transition to the extent that those projects will not be lost. Therefore, you are still beneficiaries. You are a lucky lot that the Government only spent Kshs1.1 billion. The balance is still a huge sum of money to cater for your counties.

There should be no worry about this. However, to say that we have a marginalized area in every part of the country is just trying to spread this money in such a way that everybody feels as if they are part of Kenya. That is why the mantra of “Team Kenya” applies to this. Let the person who is in Mandera and Isiolo counties, and even some places in Nyeri County called Kireini, where people are suffering, can also feel as if they belong because they are also marginalized.

Mr. Temporary Speaker, Sir, I beg to support.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. (Dr.) Musuruve, proceed.

Sen. (Dr.) Musuruve: Mr. Temporary Speaker, Sir, thank you for giving me this opportunity to support this Bill. This Bill is very important because it will help in

effecting Article 204 of the Constitution. It is very clear that there are some areas that are unequal.

When we are talking of areas that are unequal, I am not referring to just a section of Kenya, but many parts. You will even find that there are some areas in Kitui, Kakamega and Turkana counties and all over, where accessibility is difficult. The roads are inaccessible. When it comes to development, it is painfully slow.

Mr. Temporary Speaker, Sir, this Bill comes in handy to ensure that these areas that are hard to reach and far-flung are helped to also develop. This is so that every Kenyan can have a feel of devolution.

When you look at Article 204 (6) of the Constitution, we find that this Bill has a timeframe, which is 20 years. There is need for us to ask ourselves as a country; for the past ten years look at the far to reach counties and unequal areas. If money was being disbursed there, what exactly has been done in those areas?

Mr. Temporary Speaker, Sir, we must have indicators of improvement. When you talk of the indicators of improvement, we are looking at the tenets of Article 204 (2) and (3). Those areas must have basic services such as electricity, water and accessibility. These basic needs are also enshrined in Article 43 of our Constitution. We are talking of socioeconomic rights.

There is need for county governments to ensure that they are effecting this Article, so that Kenyans have value for devolution because this Article speaks to devolution. When these areas are enriched and improved, then everyone will be happy about devolution.

Mr. Temporary Speaker, Sir, indeed, when you are talking about the lapse, it is seven years. However, still in the same Article 204, this lapse can be extended for a further time period. We need to look the deliverables and not the extension. We need to have indicators of success in these areas.

There are some areas where there are no teachers. You know very well that when it comes to education, it is a basic right. Everyone needs to be educated. When it comes to health, it is a basic right. However, you still find that there are some areas where we do not have trained teachers or teachers employed by the Teachers Service Commission (TSC).

Even this Equalization Fund can be used to ensure that there is training, recruitment and promotion of teachers.

I am a teacher by profession. I taught in Chebuyusi High School immediately after I finished my diploma course, but it was inaccessible. I used to go to Kakamega Town for my salary and paraffin every end month. I used to carry a jerry can for paraffin.

Mr. Temporary Speaker, Sir, when we talk of hardship areas, I am quite versed to them. There are some parts of this country that have lagged behind in terms of development for years. This money can be used to equal development in this country. The good thing about this money is that once it is released by the Treasury, it does not go back even if it is not spent. The balance is utilized in the subsequent years. There is need for an audit to find out whether, if that money was not utilized within a financial year, it

was allocated to another project in the subsequent year, because there is an unequal development in areas.

Mr. Temporary Speaker, Sir, with the Equalization Fund, all Kenyans will enjoy all services. There are a lot of disparities in terms of development in this country; some counties have more health facilities than others. It is a pity that in some schools classes are made of mud and plastered with cow dung. This should not happen with this Equalization Fund.

Mr. Temporary Speaker, Sir, Sen. Mutula Kilonzo Jnr. is tickling me.

(Laughter)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order, hon. Senators!

Sen. (Dr.) Musuruve: Mr. Temporary Speaker, Sir, as we are thinking of reopening schools, this Fund can be used to buy masks and put up more classrooms.

This Bill involves locals in identifying a project of their choice. When they are involved, they end up owning it because they were given opportunity to identify their needs.

This Bill also talks about Persons with Disabilities (PWDs) being members of the Equalization Fund Committee at ward level. When we talk of PwDs sitting on the board, they should not just sit there to rubberstamp the decisions of others. We must come up with economic activities for the PwDs.

Mr. Temporary Speaker, Sir, I support.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Halake, proceed.

Sen. Halake: Mr. Temporary Speaker, Sir, there is need to reply to this. I will concede my time and say that I support. Perhaps, what we need to do is to look at the Article 204 (7), which gives us an opportunity to extend the sunset clause and make sure that we kill two birds with one stone with this Bill. At the Committee Stage, we have amendments such that we can recover the lost time.

I support.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, there being no other request to contribute to the Bill, as set out in Order No.13, I request the Mover to reply.

The Senate Majority Leader (Sen. Poghio): Mr. Temporary Speaker, Sir, I beg to reply. This is a very significant matter in our country. I would like to thank the Members who have spoken. I would like to thank Sen. Orengo who seconded and Sen. Mutula Kilonzo Jnr. who has included things that enriched the Bill that we did not even have from the Committee. Now we have a better picture of what this Equalization Fund Bill is all about. Thank you, Sen. (Dr.) Musuruve, Sen. Halake and all those who spoke.

I beg to reply and ask the Speaker to defer the putting of the question to a later date, pursuant to Standing Order No.63.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, we will not proceed to put the question today. We defer the putting of the question to another date.

(Putting of the question on the Bill deferred)

Next Order!

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, we defer Orders No.14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 because there are no Movers of all those Motions and Bills.

COMMITTEE OF THE WHOLE

THE ELECTIONS (AMENDMENT) BILL
(SENATE BILLS NO. 18 OF 2019)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE STREET VENDORS (PROTECTION OF LIVELIHOOD)
BILL (SENATE BILLS NO. 10 OF 2019)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE KENYAN SIGN LANGUAGE BILL
(SENATE BILLS NO. 15 OF 2019)

(Committee of the Whole deferred)

MOTIONS

ADOPTION OF THE NINTH PROGRESS REPORT OF THE *Ad-Hoc*
COMMITTEE ON THE COVI-19 SITUATION IN KENYA

THAT, the Senate adopts the Ninth Progress Report of the *Ad-Hoc* Committee on the COVID-19 Situation in Kenya, laid on the table of the Senate on Tuesday, 29th September, 2020.

(Motion deferred)

DEVELOPMENT OF LEGISLATION AND POLICIES BY COUNTY
GOVERNMENTS TO PROTECT THE ELDERLY

THAT, AWARE that in 2006, the National Government initiated the Older Persons Cash Transfer (OPCT) Programme, popularly known as *Pesa ya Wazee*, which is an unconditional cash transfer programme to destitute elderly persons above the age of 65 years to cater for their subsistence needs;

NOTING THAT the beneficiaries receive a monthly stipend of Kshs2,000, delivered every two months through appointed payment agents, and also entitled to medical insurance through the National Health Insurance Fund (NHIF);

CONCERNED HOWEVER THAT the programme's credibility is marred by issues of delayed payments to beneficiaries, difficulties in processing of payments through the stipulated agents and payments to unregistered persons;

NOW THEREFORE, the Senate recommends that the County Governments complement the efforts of the National Government and assist in resolving these challenges by:-

1. Developing legislation and policies to protect the elderly including ensuring all elderly persons in their counties are registered in the OPCT programme; and

2. Organise value addition mechanisms such as financial training to help the beneficiaries of the programme to efficiently utilise this allowance.

ADOPTION OF REPORT ON INQUIRY INTO OPERATIONALIZATION OF THE
NATIONAL CONSTRUCTION AUTHORITY (DEFECTS LIABILITY)
REGULATIONS, 2020

THAT, the Senate adopts the report of the Standing Committee on Roads and Transportation on its inquiry into the operationalization of National Construction Authority (Defects Liability) Regulations, 2020, laid on the table of the Senate, on Thursday, 24th September, 2020.

(Motion deferred)

BILLS

Second Reading

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

(Bill deferred)

Second Reading

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

(Bill deferred)

Second Reading

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

(Bill deferred)

Second Reading

THE LIVESTOCK AND LIVESTOCK PRODUCTS MARKETING
BOARD BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2019)

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The House, therefore, stands adjourned until Tuesday, 3rd November, 2020, at 2.30 p.m.

The Senate rose at 6.30 p.m.