

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 14th July, 2021

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

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

PRAYER

PAPERS LAID

REPORT OF THE NPSC FOR THE YEAR ENDED
2019/2020

Sen. Dullo: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, Wednesday 14th July, 2021-
Annual Financial Report of the National Police Service Commission for the year 2019/2020.

(Sen. Dullo laid the document on the Table)

REPORT ON COMMUNITY HEALTH SERVICE BILL, 2020
(SENATE BILLS NO.34 OF 2020)

Sen. Seneta: Mr. Speaker, Sir, on behalf of the Chairperson, I beg to lay the following Paper on the Table of the Senate, today Wednesday, 14th July, 2021-
Report of the Standing Committee on Health concerning the Community Health Service Bill, 2020 (Senate Bills No. 34 of 2020).

(Sen. Seneta laid the document on the Table)

Next Order.

STATEMENTS

PERNICIOUS INFLUENCE OF SOCIAL MEDIA
ON KENYAN YOUTH

Sen. Iman: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.47(1) to make a Statement on an issue of general topical concern, namely; the pernicious influence of social media on Kenyan youth.

Mr. Speaker, Sir, social media has become a key aspect in Kenyan public discourse, facilitating online discussions while at the same time being a key subject of scholarly, socio-cultural, economic and political debates.

The ICT sector in Kenya has grown rapidly since the internet was first launched in the early 1990s.

Currently, Kenya is described as the Silicon Savannah owing to its dynamic ICT sector that has seen the development of globally acclaimed applications such as M-Pesa and Ushahidi.

Nigeria, Egypt, and Kenya lead the ranking of Internet access among the African countries.

Data released by the Communications Authority of Kenya (CAK) indicate that by December 2018, the total internet subscription in Kenya stood at 45.7 million. The vast majority accessed the internet *via* mobile phones.

Mr. Speaker, Sir, over the years, social media sites and applications have created opportunities for people to stay connected to family and friends and have enhanced the possibilities of making new friends from every corner of the world.

Social networking sites have emerged as important communication channels used by individual consumers to create content, distribute materials, share ideas, express opinions, and use information and knowledge.

With millions of daily active users, social media has become essential tools for organizations as they enhance collaboration, knowledge sharing, and increase productivity among workers.

The proliferation of internet-enabled mobile devices has led to the rapid development of social networking sites, resulting in---

(Sen. Cheruiyot consulted loudly)

Mr. Speaker, Sir, I need your indulgence.

The Speaker (Hon. Lusaka): Okay. The situation has been sorted.

Sen. Iman: Thank you, Mr. Speaker, Sir. The proliferation of internet-enabled mobile devices has led to the rapid development of social networking sites, resulting in a continued reconfiguration of ways in which individuals or groups access and use social media platforms.

Nevertheless, little is known on how different social media platforms have impacted diverse groups of people in Kenya.

Mr. Speaker, Sir, according to a 2020 Kenyan social media landscape report, the most prevalent social media platforms were WhatsApp 89 per cent, Facebook 81.7 per cent and YouTube 51.6 per cent, with new entrants such as TikTok 8.8 per cent, Telegram 15.5 per cent and Facebook Messenger 37.4 per cent rapidly being used among young Kenyan adults.

A 2019 baseline survey conducted by Social Media Lab Africa United States International University (USIU)-Africa asked 14 to 24-year-olds in Kenya how social media platforms impacted their health and wellbeing.

The survey results found that Snapchat, Facebook, Twitter and Instagram all led to increased feelings of depression, anxiety, poor body image and loneliness.

Due to limited capacity for self-regulation and susceptibility to peer pressure, children and adolescents are at some risk as they navigate and experiment with social media.

Research indicates that there are frequent online expressions of offline behaviours such as bullying, clique-forming that have introduced problems such as cyberbullying. Other problems that merit awareness include internet addiction and concurrent sleep deprivation.

Social media influencers have also played a crucial role in enhancing negativity across social media platforms. They promote dangerous trends, some of which have led to death.

Mr. Speaker, Sir, the prevalence of online harassment among Kenyans is high with 33 per cent of social media users in Kenya having personally had a negative online experience such as abusive behaviour, offensive name calling, impersonation or purposeful embarrassment in some way.

Severe forms of cyber harassment can have serious consequences on the lives of the victims. Some 21.1 per cent of Kenyans have experienced the more severe forms of online harassment. Social media harassment is increasingly common and with technology eliminating the traditional borders, perpetrators of social media facilitated crimes could be miles away from the victim.

Social media facilitated crimes usually have dreadful real-world impacts on victims. More than two-thirds which is 61.3 per cent of the social media users in urban areas have experienced some type of severe online harassment compared to 38.7 per cent of residents of rural areas.

More than half which is 55.5 per cent of the residents of the low-income areas in Nairobi have experienced more severe kinds of online harassment, which is more than twice that of those living in the middle income and high income areas.

Mr. Speaker, Sir, a Pew Research Center survey conducted in Spring 2017 titled “*Global Attitudes Survey*” indicated that the global median use of social media is 53 per cent in adults.

Although Kenya ranked below the median at 30 per cent, it is expected that the usage will climb up through the decade because majority of the users at the time of the survey were young adults aged between 18-36 years. As the decade progresses, these young adults will pave way for teenagers to be counted as adults in their use of social media. Therefore, the usage of social media will continue to grow in the new decade.

Mr. Speaker, Sir, when used thoughtfully and deliberately, social media can be a useful addition to one’s social life.

Many parents worry about how exposure to technology might affect children development. Young adolescents and children are picking up new social and cognitive skills at a stunning pace, which can be impeded by long hours on and we do not want hours spent glued to an iPad to impede that.

Adolescence is an equally important period of rapid development and too few of us are paying attention to how our teenagers use technology. A 3 year old child intense and intimate playing with their dad's iPhone affects him or her. In fact, experts worry that the social media and text messages that have become so integral to teenage life are promoting anxiety and lowering self-esteem.

Mr. Speaker, Sir, I, therefore, urge and appeal to Kenyan parents to create awareness among their children, especially among their teenagers to be mindful of social media habits. These include the time spent on social media, how one utilizes the different social media platforms and gauging interactions while utilizing social media platforms. Encourage them to engage with friends and family members physically as social media is not a substitute for real life. I appeal to the youth to use social media to connect with people who inspire them, share similar interests, and provide a sense of belonging.

I thank you, Mr. Speaker.

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, I thank you for giving me an opportunity to comment and congratulate Sen. Falhada for this statement. When it comes to social media, it has its pros and cons. Many times there is a lot of grapevine information from social media. It gives you lots of information; some of it is true while some of it is false. So, there is need for a way censoring all information that appear on social media because sometimes it has influence on the youth.

It is very addictive. The youth spend a lot of their active time and energy just "googling" on social media to get information. Some of the information they get helps them while some of it wreck their mind.

Mr. Speaker, Sir, although it is not really easy to control the amount of information that comes on social media, there is need for the society to see how children can be helped, especially teenagers so that they are not isolated. Some of them look for jobs while some do not. Those who are keen are able to look for jobs on social media market themselves and advertise what they are doing; the merchandise they have. This can help in creating employment.

There is need for us to ensure that our children are aware of social and how to use it. Right now, most of the things are done on the internet. Education is now online. However, we need to ensure that our children are not messed up.

The social media creates a lot of false friendship. For example, Face Book, you just click a button to send a friend request. However, some of our youths are not aware that these friends are not factual because in case of anything they cannot help in any way. So, there is need to look for a mechanism of ensuring that youths are aware.

Awareness is the most important thing because even education is conducted on the internet. There is need for us to see how to help our teenagers so that they do not find themselves in problems, for instance, being attacked by perpetrators of heinous activities.

I support this statement by Sen. Falhada, but there is need for another statement that will obligate the ICT department to ensure that there is control on social media, especially creating awareness among the youth on how to use social media.

Sen. Wetangula: Mr. Speaker, Sir, I thank you. I listened to the Statement by the distinguished nominated Senator. It reminds us of the need to protect our society, especially innocent growing children.

You may remember that in the last Senate, with the Senators for Elgeyo-Marakwet and Isiolo, we passed the Cyber Crime Bill in this House, which was very comprehensive in the protection of the society against cyber criminals. The people that Sen. Falhada is describing are pure and simple criminals who use and take advantage of social media to corrupt morals, pervert society, spread hatred and do all manner of things.

We have seen even far and beyond, for instance, in the US, how President Trump tweeted himself out of office by constantly insulting anybody in sight using raucous language. In this country, if you look at the timelines on your phone, you find that you have 3,000 messages streaming in one day and they are just about 20 or 30 angry people abusing each other from morning to evening.

Mr. Speaker, Sir, we need the Ministry of Information, Communication and Technology in conjunction with all interested parties, including Parliament, not to stifle free debate, but to control pornography and abuses that --- (*technical hitch*).

Mr. Speaker, Sir, we have growing and when sometimes you open YouTube, you see nudity and all manner of dirty things. Unless there is a way and system of protecting our children, our moral pervasion will go to a level higher and more dangerous for our society. We cannot turn a tool of communication into an instrument of spreading terror, hatred and malice.

I agree with Sen. Falhada that this statement is important and must be given the weight it deserves. I urge the Committee responsible for ICT - I think the Chairperson is the Senator for Baringo, Gideon Moi - to take an initiative and relook at our Cyber Crime Bill that we passed here and ended up being grossly mutilated in the National Assembly, and see whether the protective clauses on society can be brought back.

We have seen cyber bullies, bullying judges and literally everybody in the course of their duty. We have people out there who spend their time and energy on nothing, but bullying. This must be stopped because society must be protected from such self-aggrandizing characters who think that the best opinion is what they hold and everybody else's opinion is nothing.

As we also use social media platforms for education, we need a mechanism of protecting children because we have seen cases – a certain teacher told me that she opened up a screen in her class of Standard Three or Four children and the first thing that came on the screen was nudity. This kind of thing is not good for any society. So, let us as a House and country, stand up and protect, especially our growing children; even adults who are responsible must be brought to order, the same way Americans brought Trump to order.

Sen Cheruiyot: Mr. Speaker, Sir, I thank you for giving me this chance. I join my colleagues in agreeing and congratulating our colleague, Sen. Falhada, who is slowly by slowly, carving out a niche for herself as a digital Senator. Last time she came with a statement on the effects of Tik Tok in our society. Today, she has moved a little bit further and brought to the attention of the House, the effects of the various social media platforms in our society and what we need to do as a society.

While congratulating her, I wish to urge her to further take on the comments that have been made by colleague Senators in contributing and fine tune all these proposals into amendments of the Cyber Security Bill that we passed in this House and the National Assembly did what they did to it. I had to be carefully on the language that I use

sometimes. Given the work that I do elsewhere in this Parliament, sometimes I find myself in difficult situations of balancing between being a Senator and their representative elsewhere. However, we must still say the truth about what they do to some of our Bill. In fact, Sen. Wetangula, you may want to know that when we passed that Bill, because I was a member of the Committee on Information, Communication and Technology last term, they dumped it to gather dust. It was never processed until when we came back in 2017. They republished it afresh and purported to be a Bill generated by the National Assembly.

Back to the topic that we are discussing, if you are a keen follower of news, you will realise that yesterday, the Government of France, fined Google, the leading global tech firm, €500 million for copyright infringement. That is how serious governments are taking and putting to task some of these global conglomerates and tech firms that look into the rest of the world without any consideration of the effects. To many of them, it is just a business. So long as people are advertising, they are fine with it; without taking proper detail and considering what the effects of their work are.

Many Kenyans do not know what even when you make a simple tweet and my friend Sen. Murkomen is good at that. He does not know that as he tweets for fun and pleasure, he is generating business to other people elsewhere and he never gets paid for it. It is time that as a Government, because we included –

(An hon. Senator spoke off record)

Mr. Speaker, Sir, I did not want to add that because he is my friend, I know that he is currently very broke yet he is making millions for other people elsewhere.

(Laughter)

An. Hon. Senator: Hustling.

Sen Cheruiyot: That is why we are talking about bottom-up economy because we need to teach hustlers like him how to make money.

The point is that we set up the cyber security unit in that Bill. However, given the challenges of this Republic, knowing that our economy is not doing so well, we need to think of how we can generate revenue through imposition of taxes on many of these platforms that get contents from Kenyans free of charge. For instance, we can generate revenue from the videos that young people are doing on Tik Tok, twitter and posts that they make on Facebook which end up creating revenue for these companies which do not pay a single tax in this Republic, despite doing business.

Sen. Falhada would help us better because our Government has a way of tracking and ensuring that we get a report – and I am sure it will shock the country of how much in revenue, Facebook, Twitter, Tik Tok and Google have generated within the borders of Kenya. You will be shocked that they do not pay a single shilling in tax. Those are the areas that we need to impose tax on as opposed to bread and *unga*. The people in the national Treasury need to think better.

There are avenues through which we can generate revenue for this country and use that revenue to cure some of the social ills that have been enlisted by our colleague, Sen. Falhada, this afternoon. You ring-fence part of that money and ensure that it goes to

the cyber security unit which will crack down on all these vices that have been listed by our colleague Senator.

Mr. Speaker, Sir, while supporting her statement, I urge her to do further research and come up with good proposals of amendments to the Cyber Security Bill that was passed in this House so that we are able to stem and put a stop to all these vices that she has listed. This is something that will bother anyone, parent or leader who is concerned about the welfare of our society. It is a menace that if we do not take care as a society, then it can cause chaos and so much trouble in our society.

Congratulations, Sen. Falhada, but please do further research and follow the advice that you have been given by your colleagues.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker, Sir. As I support the Statement, let me correct something that Sen. Wetangula and Sen. Cheruiyot have said. When we crafted the Computer Misuse and Cybercrimes (Amendment) Bill in the Committee on Information and Technology, the National Assembly plagiarized and said it was not a matter concerning counties. So, it actually never came here.

Sen. Cheruiyot, Sen. Kagwe then, the late Sen. Boy Juma Boy and I were invited to Japan. What we saw there was exactly what Sen. Cheruiyot is referring to on how to monitor cyber phishing. We were taken to a room of young people who were monitoring people on internet.

That is the proposal we had put in that Bill, but it never saw the light of day because we do not monitor cyberspace. While we cannot regulate the internet, Japan has a method of regulating and finding out who is saying what from where and flag people like the former President of America who used the internet to either spread hatred or spew vitriol.

Going into the elections, this would be the tool. The 2007-2008 Post Election Violence (PEV) was fanned by radio stations. Election violence in Kenya is fanned through the internet by fake news, pseudo accounts. Politicians all over the place, including many of us, use the internet to fan ethnic hatred. I have seen part of it ongoing because of the by-election in Kiambaa. Nobody follows those people who kill people on internet and type things about people because we do not have a police monitoring unit that is supposed to identify you because your phone has a specific identity.

The reason the Directorate of Criminal Investigations (DCI) is able to trace people is because of technology that can trace you from wherever you are. I can assure you that lady knows what they are doing. Mostly likely she has run away. The solution to what Sen. Iman has said is to have a unit that will stop young children from watching pornography and people from using the internet to reach to them.

Sen. Cheruiyot asked for a Statement which I do not know whether it has been answered by our Committee on Finance and Budget. It is about people who use gadgets to steal from Kenyans. Mobile lending is still misuse of the internet. It is a serious issues touching on moral issues, conmen and pseudo accounts.

Those who want to defame people's characters have now found a group of people called bloggers who are paid very little amounts of money to defame the characters of people and you have no recourse because you cannot even sue them.

Other than what Sen. Iman has said, it is important for us to find a framework where companies that allow people to defame people and use internet to spread pornography are fined. That is the way to do it. I hope we will make some progress.

Sen. Wambua is here. In fact, the Committee on Information and Technology should take this matter up. Sen Iman has brought this to our attention and we know what she is saying because we are affected by people like these. Sen. Wambua and Sen. Moi must take up this matter.

My concern is that other than pornography, somebody somewhere is going to use the internet to spread hatred during the 2022 General Elections. It can cause mayhem in this country if we do not monitor the use of the internet.

Sen. Murkomen: Mr. Speaker, Sir, I do not know why Sen. Wetangula is so excited about my contribution. First, let me start by congratulating Sen. Iman who has been consistent like Sen. Cheruiyot when it comes to raising issues of social media and technology and how they affect the youth and our children.

This is an important Statement because this is a Chamber of debate and a place of discussing matters of national importance. Many Kenyans are watching us and read and refer to things we say here. The most important thing is to create awareness amongst ourselves, parents and children not only the positive, but also negative things on social media.

Like Sen. Cheruiyot said, without beating my own drums, I am the leading legislator on social media with 1.7 million followers on Twitter and nearly 400,000 on Facebook. I did not attract any followers on Instagram and TikTok because they need someone like Sen. Sakaja who can rap.

The point I want to make is that social media is very positive when it comes to enhancing knowledge and keeping interactions. I am unable to meet some of my best friends we were with in school about 20 years ago but we are able to follow each other Facebook and communicate.

When I used to teach, you could look for a comparative study on what you were teaching or researching on. It becomes easy to communicate to a friend in another country and ask whether they have a journal article in the area you are researching on or whether they have a book published in the country in the recent past that can be useful for your research or study. That is one of the positives we get from social media.

We are able to manage our affairs, businesses, firms and everything including livestock. Nowadays even livestock is managed through technology and social media platforms like WhatsApp. They make things easy.

However, we must be alive to the fact that the negatives are also there. Just like face to face communication or relationship among ourselves has its negative part, social media has even accelerated the negatives that are there. I dare say that Kenya and other least developed countries have lesser regulation of social media than the developed countries.

In many countries, you cannot post photos of children on social media. However, we keep posting here. A friend of mine in the United Kingdom (UK) once told me that the reason you can never see pictures of children being posted on social media is because criminals target children. When you post the school that your child goes to, the estate you live in and what you do, children become subject of attack and target by criminals.

I would like to suggest this to Sen. Iman. Before the end of this term because we only have one year, she should perhaps think about the best practices used by other countries in the world to protect their children and citizens from harmful activities of social media like pornography, cyberbullying and exposure of children.

In the normal way of allowing children to use gadgets, I have a friend who discovered that their child was communicating with pedophiles from other countries who are interested in pornographic materials. They were telling the child to take pictures and videos in a certain manner and send them then they post on social media pages where they earn a lot of money because they are run illicit businesses.

Apart from just raising awareness among our people, it is important for us to look at ways and mechanisms of tightening controls. I read from the media that Hon. Duale is publishing a Bill on pornography. We need to widen that Bill to discuss the dangers of social media.

It is important for citizens to know that social media can also be used to make money like Sen. Cheruiyot said. It is only that my page is useful for conversations of public good. Therefore, I do not charge or advertise on behalf of certain companies. Many citizens do not know that social media influencers are paid to advertise and sometimes to bring down companies using false information.

Some companies including their chairs have been brought down by social media influencers who have absolutely no regard and they are not regulated. We need to have a law that makes it possible for those people to be held into account for every information they post, so that the negative side of social media is dealt with.

Lastly, Mr. Speaker, Sir, we need to find a mechanism of punishing companies because of addictions by children that come with use of social media. Somebody said here that we need to teach our children about addiction to social media.

Sometimes you do not know who is more addicted between children and parents because both parents and children are busy on social media. Everybody is addicted. Children learn from parents and there is no conversation in families. These are the kind of things we must take deliberate steps to ensure that we raise resources.

I take the challenge by Sen. Cheruiyot. As a hustler nation believer, I will ensure that young people who are hustling from down up are facilitated through mechanisms for them to make money. Even during difficult times like this, they can do research papers that are used abroad and work for people who are not in this country because therein lies greater opportunities in the same social media.

Mr. Speaker, Sir, as I support, I am willing to sit with Sen. Iman to share my ideas so that she develops a good Bill that can go a long way to improve the use of social media in this country.

I thank you.

The Speaker (Hon. Lusaka): I will allow Sen. Wambua to say something so that we move on because the “Statements Hour” is almost finished.

Sen. Wambua: I thank you, Mr. Speaker, Sir. I also take this opportunity to congratulate Sen. Iman for bringing this matter to our attention on the Floor of this Senate.

We cannot run away from the fact that we are living in a digital age and at a time that a lot of virtual interactions are taking place. There are both positive and negative things about the new normal.

To the credit of social media, we must appreciate that it has made life easier and caused efficiency in transaction of businesses, including our own business in this Senate. However, there are serious issues when it comes to social media that we must address. I will point maybe two or three of them.

As a Member of the Committee on Information and Technology, we will definitely have a sitting with Sen. Iman and see how to take this matter forward.

Mr. Speaker, Sir, our children across the country have by far more friends on social media than physical ones. Our children are spending a lot more time with virtual friends; people that they have never met or seen. What that does is to seriously erode social and societal moral fiber. We are bringing up children who are hardly capable of managing relationships because the people that they interact with more are faceless characters. We do not even know what our children are doing with the people that they interact with on social media.

There is need to pay serious attention by not just the Senate, but a lot more other arms of Government to come up with policies on how to deal with social media. When I worked in the newspaper industry, we got to a point that all media houses had to come up with social media strategies and policies to protect their businesses and staff.

The issue of fake news is not new to any one of us. There are characters in social media whose duty and pleasure every day is to insult other people, assassinate the characters of other people and to tweak information to suit very parochial interests.

This matter that has been brought up by Sen. Iman is one that will greatly interest the Committee on Information, Communication and Technology, where I sit, working together with all the other stakeholders to see how we can regulate the social media industry.

In conclusion, I do not know what happened to the digital surveillance system that was installed in Nairobi County where we were able to monitor operations within the city and take corrective action.

Mr. Speaker, Sir, with those remarks, I beg to support.

The Speaker (Hon. Lusaka): Hon. Senators, before I call the next statement, I have a communication to make.

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

WORKSHOP ON PROPOSAL FOR EXPEDITING CONSIDERATION OF SENATE BILLS PENDING BEFORE THE HOUSE

Hon. Senators, you may recall that yesterday, I issued a communication that there will be a half-day workshop for all Senators to deliberate on the legislative agenda for the remaining time of the 12th Parliament will be held tomorrow, 15th July, 2021. The

workshop will be held here in the Senate Chamber, Main Parliament Building, from 8.00 a.m. to 12.40 p.m.

Hon. Senators, in view of the importance of this meeting, I direct that all Committee sittings be rescheduled where practically possible to enable hon. Senators to attend this critical meeting.

I thank you.

Next statement is by Sen. Nyamunga.

(Resumption of Statements)

STATEMENTS

INSECURITY MENACE CAUSED BY *BODA BODA* INDUSTRY

Sen. Nyamunga: Mr. Speaker, Sir, I rise pursuant to Standing Order 47 (1) to make a statement on an issue of general topical concern namely, the insecurity menace caused by the *boda boda* industry and the resultant effect on the economy.

Motorcycle business known as *boda boda* has eased the transportation problem of connecting urban and rural areas in Kenya. The term *boda boda* originated from Uganda in the early 1990s and spread through Busia Town to Western Kenya and other adjacent towns. Subsequently, most towns in Kenya are crowded with *boda boda*. The *boda boda* industry has gained popularity in both rural and urban areas because of its ability to absorb many jobless youth thus easing pressure on the Government to find employment for its growing population.

The issue of *boda* service is even more prevalent in rural areas where public transport may not be so sophisticated and the roads are not well developed. Amidst loss of unemployment among graduates, the *boda boda* industry is slowly emerging as one of the biggest drivers of economy and the highest income earner in the informal sector. The industry has over 1.4 million riders who collect an average of Kshs180 million daily which amounts to Kshs5 billion every month.

A *boda boda* motorcycle costs between Kshs58,000 and Kshs150,00. Due to its affordability, many youth across the cities, towns and rural areas continue to acquire them. The economic survey of 2020 shows that *boda boda* and *tuk tuk* registration in the past year rose from 22,172 units defying tough economic times that has hit most industries in Kenya.

Despite the income potential, the *boda boda* industry has been hit by criminals who use the motorcycles to commit crimes. The continued operation of this fast growing industry without proper and more specific regulation is a ticking time bomb. Recent insecurity incidences of men on *boda boda* snatching phones and handbags from ladies and speeding off have been reported in several parts of the country raising the fundamental questions that security agencies should ponder on; namely, the preparedness of the county to deal with the rising number of incidences resulting from *boda boda* and

the rising number of incidences resulting from boda and the rising incidences of kidnapping, robberies, mugging and other insecurities caused by *boda boda* riders.

Videos of criminals committing crimes on *boda boda* have been trending in the last couple of days. Most recently a video of a traffic police officer on duty who was robbed of his mobile phone while controlling traffic on one of the major roads in the city in broad day light.

Most Kenyans are scared for their safety and that of their electronic devices when they spot a rider approaching. That is not good with the large number of both users and income earners depending on that mode of transport. It behooves the Government to closely monitor this fast growing industry as there is at least a total number of 4.8 million people who depend on the *boda* industry.

Mr. Speaker, Sir, there is need to amend the existing pieces of legislation to safeguard the economic gains that the *boda boda* industry has achieved as the country risks running down the gains that the *boda boda* sector needs to achieve its proper regulations which have not been put in place to address the glaring problem emanating from the sector.

Mr. Speaker, Sir, I thank you.

The Speaker (Hon. Lusaka): The next statement is by Sen. Kasanga.

What is your point of information Sen. Cherargei?

Sen. Cherargei: Mr. Speaker, Sir, I would like to comment on the statement by Sen. Nyamunga.

The Speaker (Hon. Lusaka): Unfortunately, you are late. I did not see your request on time.

Proceed, Sen. Kasanga.

THE KENYA MENTAL HEALTH ACTION PLAN (2021-2025)

Sen. Kasanga: Mr. Speaker, Sir, I rise pursuant to Standing Order 47(1) to make a statement on the Kenya Mental Health Action Plan (2021-2025).

Kenya was ranked sixth with the highest number of depression cases among African countries by a 2017 WHO report. The report further stated that in Kenya, one in four people is likely to suffer from a mental illness. The Kenya Mental Health Policy 2015-2030 indicates that mental disorders have risen exponentially in Kenya. A total of 20 to 25 per cent of outpatients seeking primary healthcare present symptoms of a mental illness.

Stigma and discrimination are a major barrier to the improvement of mental health and the wellbeing of the population. It contributes to human rights violation of people with mental and psychosocial disabilities. Inadequate investment in mental health acts as a barrier to their inclusion in the community.

Kenya is experiencing a rapid increase in suicide cases, mental health conditions, substance use and addictive disorders of epidemic proportion which is an indication of social challenges and unmet needs at societal level. It is estimated that 50 per cent of all mental disorders start at the age of 14 years and 75 per cent by the age of 24 years.

Mr. Speaker, Sir, the COVID-19 pandemic has caused enormous significant health, socio-economic and psychological impact on the population hence mental health

and psychosocial support strategies and measures are critical in the short and long term responses.

The Kenya Mental Health Policy 2015-2030 provides a framework on the intervention for securing mental health system reforms in Kenya. That is in line with the Constitution of Kenya 2010, Vision 2030 and the Kenya Health Policy 2014-2030, the Health Act 2017 and global commitments. Article 43(1)(a) of the Constitution of Kenya 2010 provides that every person has a right to the highest attainable standard of health which include the right to healthcare services which necessarily includes mental health.

The 65th World Health Assembly of the United Nations adopted a resolution on the global burden of mental disorders and the need for comprehensive co-ordinates response from the health and social sectors at country level. Subsequently, during the 66th World Health Assembly, the resolution was adopted. It called on member states to develop comprehensive mental health action plans in line with the global comprehensive mental health action plan 2013-2020.

Mr. Speaker, Sir, on Wednesday, 9th June 2021, the Ministry of Health launched the Kenya Mental Health Action Plan 2021-2025. The plan will provide for framework for both the national and county governments and stakeholders to implement the mental health policy through strategic objectives, which specify priority targets and indicators. It will also guide the implementation of recommendations by the taskforce on mental health with strategic actions and investments to bring transformative reforms in the following broad key areas: -

- i. Policy and legal reforms;
- ii. Reforms to improve access to quality mental health services;
- iii. Financial reforms and investments;
- iv. Cross sectoral mental health reforms; and
- v. Administrative actions.

The Mental Health Action Plan will target the following strategic objectives and priority actions: -

- i. Mental health leadership and governance;
- ii. Preventative and promote health care to mental health;
- iii. Access to quality mental health service; and
- iv. Strengthening of mental health systems.

In conclusion, I commend the Ministry of Health for this effort and for its contribution in actualizing the Kenya Mental Health Action Plan (2021-2025). This is a big milestone in the promotion of mental health in Kenya.

I thank you.

Sen. M. Kajwang': Mr. Speaker, Sir, I rise to add my voice on the statement by Sen. Kasanga on the Kenya Mental Health Action Plan (2021-2025), but with very local perspective to it. Two days ago, I visited the Homa Bay Teaching and Referral Hospital just to check the state of the hospital and its preparedness to deal with the fourth wave of COVID-19 that is expected in July.

There has been a lot of focus on the ICU beds, ventilators, oxygen and all the other things related to fighting the COVID-19. We have forgotten to consider the mental health of our health workers and the mental health of patients and families that are bereaved out of COVID-19 pandemic. The situation in our counties, particularly the ones

that have been locked down more so Homa Bay County is that there are cases of close 30 people in isolation and there is a death reported daily. The COVID-19 pandemic has generally affected the elderly in the society. For some interesting reason, mostly men. The nurses and doctors in the hospitals are everyday seeing their fathers, uncles, pastors and community leader succumbing to COVID-19 pandemic. These doctors are also humans. In as much as they are used to cadavers, blood and all those things, it is never the same when it is you father, mother, brother or church leader that is affected.

Mr. Speaker, Sir, I bring this up because there is need for this Senate to insist that each county must have a county psychologist and a mental health officer. I looked at the structures in my county and I can bet that you will not find a county psychologist or a mental health officer in most of our counties. If there is one, he or she is employed by the national Government.

I urge Sen. Kasanga that as she processes her Mental Health Bill afresh following the concurrence that was required by the High Court, in it, we can make sure there are certain provisions that make it mandatory for mental health to be given priority by our county governments, particularly now during the pandemic.

It is not just the doctors and nurses, but also families that take their patients to hospital and within three or four days, the Delta variant has gone with them. These people are forced to burry in non-traditional and non-African ways. As a result, they never get closure. These people need help. That can only be provided if we prioritized mental health by having county psychologists and mental health officers.

The Speaker (Hon. Lusaka): Sen. Muthama Kavindu, proceed.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir. I stand to support the statement on mental health by Sen. Kasanga.

The National Hospital Insurance Fund (NHIF) does not cover mental illness in most hospitals, yet it is just an illness like any other. These patients really suffer the trauma of being isolated and called mad. Something should be done so that NHIF covers mental illness expenses. If this is done, mental health patients can be protected so that they can come out in the open and reveal what they are suffering from.

I support.

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

Sen. Shiyonga: Thank you, Mr. Speaker, Sir, for giving me the opportunity to support the Statement my Sen. Kasanga. I commend the Government for the reforms in the mental illness sector in order to improve the lives of mental patients and their families.

Many families have been mentally affected by the COVID-19 pandemic. If we allocate more resources, budget and prioritise activities of mental illness, then we shall save those affected and their families. Currently, we are seeing a rise in insecurity. Many crimes are being committed. If you investigate further, you will find that many people are suffering in silence from psychosocial depression.

I support Sen. Kasanga and ask that we come up with more policies and amendments to press the Government to see the importance of prioritizing mental illness in this country. Therefore, let us have necessary budgets to support the health sector.

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

Sen. Mutula Kilonzo Jr.: Thank you, Mr. Speaker, Sir. I rise to support. Rumour has it that – may be Sen. Kasanga can confirm - all of us suffer mental illness and it is only the degree that varies. You do not have to run at night like they do in Homa County to be a mental health patient. All of us are mental health patients. So, it is a pandemic of its own nature.

Recently, I was reading an article of a good friend of mine of a young person who committed suicide for earning a salary of Kshs18,000. Every other time I receive reports from my team in Makueni County, I get to hear that one person has committed suicide or killed their parents and so on.

At the time Sen. Kasanga was proposing the amendments to the Mental Health Bill, there was a lot of opposition from many people out there, who thought we should not touch this matter. At some point, some people thought that Mathari National Teaching and Referral Hospital was a hospital for mentally ill patients in Nairobi City. It is now apparent that we need a mental health facility in all 47 county hospitals so that people can receive psychological assistance as Sen. M. Kajwang said.

Mr. Speaker, Sir, statistics show that many Members of Parliament (MPs) have suffered from COVID-19, which is also a cause for mental illness. This is a serious issue because the after effects of COVID-19 is some element of derangement. I think the Bill by Sen. Kasanga must be given priority. For now, we must insist and include it in the Bill that mental health facilities must be added in all county and referral hospitals.

In the case of Nairobi City County, we must expand Mathari National Teaching and Referral Hospital and remove the stigma associated with mental illness. As I have said before, doctors have said that all of us, including you here, are suffering from some form of mental illness. It is only a trigger that is left and we discover that you are suffering from some illness. It is part of us and we must live with it. The faster we tackle it the better.

I support.

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

Sen. Madzayo: Asante, Bw. Spika. Kwanza, ninamshukuru Sen. Kasanga kwa Taarifa yake. Katika nchi nzima ya Kenya, tunajua hakuna familia ambayo imekosa mtu mwenye akili punguani.

(Laughter)

Sote tuliyo hapa tuko na majukumu ya kuangalia familia zetu na wengine wako na akili punguani. Mimi nina mtu wa karibu mwenye akili punguani.

Mara nyingi, Serikali imekuwa ikitilia mkazo zaidi mambo ya hospitali. Hivi juzi, imetilia mkazo zaidi upande wa virusi vya korona. Imetilia mkazo pia upande wa *cancer*. Hiyo ni sawa kabisa. Lakini kwa upande mwingine, Serikali imelegeza mkono hususan kwa watu wenye akili punguani.

Hapa nchini, ni hospitali chache ambazo zinatoa matibabu kwa watu wenye akili punguani. Ninavyoelewa mimi, zipo hospitali mbili tu ambazo zinajulikana sana kwa kutoa matibabu kwa wagonjwa wa aina hii. Katika sehemu ya pwani, Hospitali ya Port Reitz ndio inajulikana sana. Ukija Mji wa Nairobi, ni Mathari National Teaching and Referral Hospital. Hospitali ya Serikali iliyoko Port Reitz haina vifaa vya kutosha.

Jambo la kusikitisha ni kwamba hivi leo ukiambiwa kwamba mtu wako amepatikana na akili punguani na ameambiwa aende Port Reitz utashangaa ukienda pale, ukiona vile wale watu wenye akili punguani wanavyoishi.

Wanawekwa katika hali dhaifu ya kwamba hata pengine kama ulikuwa umeenda pale na huna akili punguani kama vile alivyosema huyu ndugu yangu Sen. Mutula Kilonzo Jnr., sisi sote kama binadamu inafika wakati ambapo akili zetu zinapungua, basi ukifika pale utashikwa na akili punguani kwa sababu ukosefu wa vifaa na hali ya udhaifu.

Bw. Spika, ninaona ya kwamba ingekuwa vizuri ikiwa Serikali itahakikisha ya kwamba kila kaunti iwe na uwezo, kama kaunt yangu ya Kilifi ambayo ya kuweza kutenga mahali ambapo hawa wagonjwa wenye akili punguani wanaweza kuangaliwa kwa hali ya heshima na kuwekwa kwenye mahali safi.

Hiyo taarifa alivyosema ingekuwa vyema kama ingetiliwa mkazo na tuwezekuangualia kwamba hawa ndugu zetu ambao watakuwa wamepatikana kuwa na akili punguani waweze kuangaliwa kisawa sawa.

Asante, Bw. Spika.

Sen. Murkomen: Kwa hoja ya nidhamu, Bw. Spika. Nina hoja ya nidhamu kulingana na ile lugha ambayo Sen. Madzayo ametumia hapa kwamba tafsiri ya neno *mental health* kwa Kiswahili ni kusema kwamba ni kuwa na akili punguani. Je, ni sawa kutumia lugha kama hiyo?

Haoni kwamba hiyo ni baadhi ya lugha ambayo inachangia kufanya wananchi wasijitokeze kutafuta suluhu ya magonjwa ya kimawazo? Ingefaa tuseme ya kwamba ni mtu ambaye ana ugonjwa wa kimawazo. Lakini tukisema kwamba huyu ni mtu mwenye akili punguani inamaanisha kwamba ana upungufu wa akili. Tukifanya hivyo, watu wengi wataogopa kujitokeza kusema ya kwamba wao ni wenye akili punguani. Lakini ukisema kwamba mtu ana ugonjwa wa kimawazo, lugha kama hiyo ndiyo itaweza kufanya watu wengi wajitokeze kutafuta suluhu ya kimaisha.

The Speaker (Hon. Lusaka): Hii inanikumbusha kipindi kilichokuwa kinaitwa Ubingo wa Lugha.

Sen. Madzayo: Bw. Spika, kuna lugha ile ambayo unaweza kuitumia ikawa lugha ya fasaha. Ukisema ya kwamba yule ni mtu mwendawazimu, hiyo ni matusi kwa yule mtu ama jamii ile iliyo na yule mgonjwa mwenye akili punguani.

Akili punguani ni neno ambalo limetambuliwa katika kutumia lugha ya Kiswahili kwamba mtu akiwa akili yake haiko timamu, basi anaitwa mwenye akili punguani; haitwi mwendawazimu. Kumuita mtu mwendawazimu ni kumdharau.

Ni kama vile ndugu yetu yule ambaye hayupo hapa sasa Sen. Mwaura; kuna majina tofauti tunaweza kumuita. Lakini sasa tunamuita mtu mwenye ulemavu yule hawezi kujisaidia. Huwezi kumuita nguchiro, ambalo ni jina la kumdharau mtu.

Kwa hivyo, ukitumia lugha fasaha ya mtu ambaye akili yake haiku sawa sawa kabisa unaweza kumuita mtu mwenye akili punguani. Ningependa kumfahamisha ndugu yangu Murkomen kwamba yuko sawa vile alivyosema na mimi naona kwa upande wangu pia niko sawa vile nilivyosema. Lakini katika lugha ya ufasaha ni kwamba hawa watu wenye akili imepungua kidogo kabisa ni akili punguani.

Asante, Bw. Spika.

Sen. Murkomen: Bw. Spika, singependa kubishana na mwenzangu kwa sababu uhodari wake wa utumizi wa lugha ya Kiswahili uko juu kuliko wangu. Yangu ni ya

kujifunza. Mara nyingi tumesema ya kwamba kama vile Bunge ya Kitaifa imefanya tayari ya kwamba ile Standing Orders yetu itafsiriwe iwe katika lugha ya Kiswahili ili wengine wetu tupate nafasi ya kujifunza kupitia hizo Standing Orders.

Lakini ningependa ndugu yangu Sen. Madzayo akubaliane na mimi ya kwamba ninahisi ya kwamba akili punguani inaweza eleweka na watu huko nje kuwa kama matusi. Ni kama kumuita mtu mwendawazimu.

Hata kama mimi sio mkufunzi wa Kiswahili, lugha ambayo inafaa ni kusema ya kwamba mtu ana shida ya afya ya kiakili ama ugonjwa wa kiakili. Lakini tukisema akili punguani, vile ninavyoielewa lugha ya mtaa ile tunayotumia kule nje itawezekana kwamba hakuna mtu atajitokeza kufika kwa daktari kusema “Nitibu, niko na akili punguani.”

Asante, Bw. Spika.

The Speaker (Hon. Lusaka): Ningependa kukomesha mjadala huo kwa sababu inaonekana imeanza kuwa ubingo wa lugha na kuonyesha nani anafahamu lugha zaidi. Lakini tumeelewa nini kinazungumziwa.

Sen. Madzayo: Ningependa kumsifu sana ndugu yangu Murkomen kwa sababu leo amejaribu sana.

Sen. Kasanga: On a point of information, Mr. Speaker, Sir. It was actually brought to my attention by the chairperson of the Committee on Health and that is why I raised the Statement to commend the current 2020/2021 and 2021/2022 budget that we finally have budgets for mental health. This is part of the action plan that we were speaking on and which the Statement is highlighting.

I would really encourage Senators to go to the website and see what part the action plan is funding. It includes a new national teaching and referral hospital, similar to Mathari National Teaching and Referral Hospital; hopefully it will have a new name so that we can change the facility that is there. I think that is a very big step towards the reforms of mental health.

It is the work of this House, we have been champions of mental health and at least we can begin to see the strides towards having the reformations being done.

I was just bringing this to the attention of the Members that we finally have a budget. I am glad that your Communication is talking about tomorrow because one of the questions they were asking me is that there is a budget now for a board, but they cannot quite constitute the board because they do not have the legal framework for it. They were asking how soon can the Bill become a law so that the board can be formed and they can start doing some work.

Thank you, Mr. Speaker, Sir.

Sen. (Prof.) Ekal: Thank you, Mr. Speaker, Sir. I thought that I was not connected. I have been raising my hand for a while, but did not get called. However, I am glad that you saw me. I am going to comment on this Statement about mental health. As my colleagues have said, mental health has a poor connotation that if you are mentally sick, you are less than a human being. The question of treating those people with respect then arises. The person did not choose to be mentally ill. It just happened.

Secondly, it seems to me that we should also be talking about education. There must be enough doctors in the country to deal with situations like that. I had an experience of a doctor that is available once a week. That seems to suggest that there are

not enough doctors to deal with mental illness. That means that some training must be put into account. Some money should be spent on training of doctors so that our people can get the services that they need.

Mr. Speaker, Sir, many people are going to continue suffering because there are not enough doctors to take care of that. Education is an important component of mental illness and people should be treated with respect because they did not choose to be ill.

The Speaker (Hon. Lusaka): Sen. (Prof) Ongeru.

Sen. (Prof.) Ongeru: Thank you, Mr. Speaker, Sir, for giving me the opportunity to compliment Sen. Kasanga Mulwa for this very timely Statement on the status of mental health. Mental health, although dubbed an illness, is a normal process in the status---

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

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

Sen. Shiyonga: Mr. Speaker, Sir, Sen. (Prof.) Ongeru has just said "Sen. Kasanga Mulwa." Do we have anybody by the name Sen. Kasanga Mulwa? I thought we have Sen. Sylvia Kasanga. Mr. Kasanga Mulwa is somebody I used to hear of some years back.

The Speaker (Hon. Lusaka): That is okay. You have made your point.

Sen. (Prof.) Ongeru, I guess that was a slip of the tongue.

Sen. (Prof.) Ongeru: Mr. Speaker, Sir, I believe that Kasanga Mulwa is the father of Sen. Sylvia Kasanga. That should settle the matter. I do not think that it was meant in a bad way. If anything, it was according the highest respect from an elder like me, to a daughter.

On a serious note, many people have dubbed mental illness as a disease that you must be confined to solitary confinement. This has been a misnomer of the type of disease that we are dealing with. About 80 per cent of Kenyans are mentally ill because they have a problem that is bothering them. It may be financial, marital, lack of school fees for children when they go back to school, problems at work or problems in other places.

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

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

Madam Temporary Speaker, one of the things that has been a big problem for this nation is people being duped that they are psychologically affected and, therefore, need to be confined and restrained in some of the mental hospitals like Mathari National Teaching and Referral Hospital.

Let me assure this House that every one of us, including the Senators, have gone through a crisis and a mental depression in one form or the other. This is the everyday exercise that we find ourselves in. We should treat this as a normal occurrence that happens like a cold or any other infection that may be in the body.

We must be able to distinguish the difference between those who are pathologically sick and, therefore, need a higher level of treatment, and those who are suffering because of disturbances in their mental psyche. They are not able to put it in the context of the society in which they live in. They find themselves slightly disoriented.

That is why one of the major recommendations that must always happen is that this must be an integrated service within the normal health service provision in the country. You cannot start segregating what is mental and what is not mental because technically, all of us are mentally ill in one form or the other. Even when you have a disease, you go through depression, anxiety and some level of self-interrogation wondering what happened to you in life.

I believe that we will have an urgent policy where all cases that have some level of mental illness will be able to go to normal, county and national hospitals. Only those who have a pathological process that gives an acute psychological problem can be separated to be treated and the underlying cause taken care of without much ado.

I think that this is the most important part and I am happy that we must provide mental leadership. This policy must be adhered to so that we do not start discriminating people who are sick in one form or the other. For me, it is critical that we accept that we are sick, we need help, and we need to be taken care of in a general hospital, outpatient clinic, health center and dispensary. There should be no discrimination. Those who have the propensity of criminalizing the illnesses in their own rights will need some level of isolation.

I am happy that this is largely a preventable condition. It is preventable in the sense that if you remove the offending agent, by all standards, these people are normal. You just need to remove the offending agent. It may be that the circumstances we are in are what cause and trigger mental illness. Like now, the lack of school fees may trigger mental illnesses. The pandemic and the very nature of the things we are going through at the moment can cause mental illnesses.

Madam Temporary Speaker, no wonder we now see a lot of suicidal tendencies. A lot of people are taking their lives because of reaching the extreme end of life. They see that there is no life whatsoever that is worth living, so they unfortunately take their lives in a manner that is not acceptable in the normal society.

This policy at the national and county level is prevention, promoting the wellbeing of society and systems so that they can have a normal mental perspective and a panorama that reflects happiness rather than being demented and depressive and, therefore, causing harm to themselves, their neighbours or to the community in which they live.

I am happy that this policy attains to both the preventive and promotive aspects of mental health. The most typical element that we must accept and appreciate is that putting the budget for mental health is important so that people can have access to quality mental health, so that they are not discriminated against in any manner. That also applies to our medical schools.

When I was teaching in the medical school, we looked at mental health as an integral part of the training of our medical students when they become doctors. It is important that we appreciate this. It is only then that they will be able to branch off to specialize in the special interest of taking the preventive and the promotive aspect of mental health, and also dealing with the pathological disorders that may arise out of mental illnesses. They are best suited to be able to differentiate a mental case and what is not. Some of them may just pass for normal illnesses, but creating depression in their level.

We need to strengthen mental health systems both at the national and county level. In the counties, those who were aspiring to be governors such as Sen. Cherargei and Sen.(Dr.) Ochillo-Ayacko, it is important we take note that mental ill-health is within the society in which we live.

You must make provisions in your budget to take care of basic mental illnesses that are treatable and preventable and cause no more headache to anybody. It is just like a cough or flu. We have seen the societal pressures that if we remove the poverty among our people such that access to services is easily achieved, you will see some of these depressive elements relived. The burden of disease and attending out-patient clinic will be immensely reduced.

I thank Sen. Kasanga for bringing this Statement to awaken us that there is now a policy 2021-2030 which is a robust policy. It provides that we must treat mental illness like any other illness in life. It also provides that there is both preventive and primitive aspect of mentally ill. They need not be isolated.

It also provides that we should set up services and activities within the national and county level context so that these people attend like any other patient attending an outpatient clinic and can be sorted out without much ado.

That policy calls us as administrators, both politicians and county administration, chiefs and others to be aware that we need to strengthen the mental health in our society and monitor any areas where these may be developed. We need to look for the primary cause of that mental illness rather than looking for excuses to banish those people to isolation in the so-called mental paradigms. This is unacceptable in the modern medical science that everybody is sick, needs help and can acquire that help when properly channeled.

The Temporary Speaker (Sen. Nyamunga): That brings us to Statements under Standing Order 48(1). We move on to the next Statement.

Let us have Sen. Were online. We defer the Statement.

STATE OF PREPAREDNESS OF THE MINISTRY
OF EDUCATION TO IMPLEMENT THE JUNIOR
SECONDARY LEVEL OF CBC

(Statement deferred)

We move to the next Statement by Sen. Cherargei.

Sen. Cherargei: Thank you, Madam Temporary Speaker. I have two Statements. I hope you will allow me to read them concurrently so that I do not need to come back.

The Temporary Speaker (Sen. Nyamunga): Go ahead, Senator.

MOUNTING, REGULATING AND
CONTROLLING POLICE ROAD BLOCKS

Sen. Cherargei: Madam Temporary Speaker, I rise, pursuant to Standing Order 48 (1), to seek a Statement from the Standing Committee on National Security, Defense

and Foreign Relations on the issue of mounting, regulating and controlling of police road blocks in Kenya.

In the Statement, the Committee should-

- (1) State the specific locations and number of gazetted road blocks in Kenya;
- (2) Investigate why the Kenya Police Service has mounted many roadblocks along the major highways, especially along the Eldoret–Nakuru-Nairobi Highway;
- (3) Provide the names of other state agencies mandated to mount roadblocks in the country and state their specific locations;
- (4) Outline the criteria used in mounting roadblocks along the highways in the country, giving reasons why the police erect roadblocks on rural access and un-tarmacked roads;
- (5) State whether the Ministry of Interior and Coordination of National Government is aware of roadblocks mounted along the Eldoret-Kitale Highway around Matunda and Moi's Bridge towns, where the police allegedly collect bribes and harass road users. One pays Kshs2000 when stopped but when one enters into the police cells of either Matunda or Moi's Bridge, they have to part with Kshs5000.
- (6) Outline measures, if any, that the Ministry will put in place to ensure that road users are protected from such harassment by rogue police officers at the road blocks that have been mounted across the country.

FAILURE BY TSC TO CONCLUDE INTERVIEWS FOR PROMOTIONS AND EMPLOYMENT

I rise, pursuant to Standing Order 48 (1), to request for a Statement from the Standing Committee on Education regarding the failure by the Teacher Service Commission (TSC) to conclude the interviews for promotions and employment.

In the Statement, the Committee should-

- (1) State the reasons why the Teachers Service Commission (TSC) has failed to conclude the interviews for promotions and employment in Nandi County, an exercise that was conducted between 8th to 19th February, 2021 at the TSC County offices countrywide.
- (2) Explain the reasons behind the failure by the TSC to employ Curriculum Support Officers in Nandi County yet interviews were conducted for the same positions.
- (3) Provide the criteria under which the Ministry of Education and TSC uses in employing Curriculum Support Officers in Kenya.
- (4) Investigate whether the Ministry of Education has completed the exercise of interviewing and promoting Curriculum Support Officers in the country, and state the number of Curriculum Support Officers employed per county.

I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator. We will not comment on those Statements. I refer them directly to the respective Committees.

Sen. Wetangula: Madam Temporary Speaker, I wanted to make a comment on the first Statement by the distinguished Senator of Nandi County regarding road blocks.

This is probably the country with the highest number of roadblocks anywhere. On one occasion, I counted 14 roadblocks from Eldoret to Bungoma which is 98 kilometers. Every time you enter Turbo, a tiny market, there is a roadblock as one enters and exits. All those roadblocks are toll stations.

We need, as a House, to send a clear message to CS Matiang'i and the Inspector General of Police (IG) that we need a better management of our roads. The problem is not the Ministry of Roads but the security sector.

Madam Temporary Speaker, I remember when I was the Minister for Foreign Affairs, the President of Rwanda came to Kenya and said he is contemplating using the Port of Dar es Salaam despite the distance because of the number of roadblocks from Mombasa to the exit in Malaba. At every roadblock, the exporters and importers of Rwanda are paying a lot of money, making business extremely unbearable and expensive.

We want to urge as the distinguished Senator has raised, that it is good to have roadblocks where necessary, either to battle crime or we want to arrest a wanted person that you know is coming through this route and so on.

However, it cannot be routine that everywhere you go they are checking your insurance, the next one is checking your brakes and the next is checking something else. In fact, you will be surprised that all these transfer traffic trucks are given a 'special envelope' to drop at every roadblock. We must stop this.

Madam Temporary Speaker, the Ethics and Anti-Corruption Commission (EACC) and the National Transport and Safety Authority (NTSA) must come in this. The Cabinet Secretary (CS) for the Ministry of Interior and Coordination of National Government in this country must bring to order these disruptions. I say this because we care for this country. If we are losing our trading partners because of our misbehavior on our roads, it affects our economy. When Uganda, Rwanda and Burundi start looking for a route to go to Tanga, it affects our business.

A friend of mine who has just come back from Congo and deals in oil tells me that the Congolese find it better to do an extra 800 kilometres from Beni, Bunia and Goma to Dar es Salaam than to come to Mombasa because of our roads. It is not because the roads are bad, but they are badly managed and mismanaged by our enthusiastic and corrupt-leaning security agencies. This is not good for the country.

Madam Temporary Speaker, I thank you for giving me an opportunity to augment what Sen. Cherargei has said. It is a matter of grave concern and we need to deal with it.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, you know Statements under Standing Order No. 48 (a) are supposed to be referred to Committees and our time for Statements is far spent. Let me just give Sen. Madzayo two minutes please.

Sen. Madzayo: Asante, Bi. Spika wa Muda. Kwanza nataka kumpatia kongole ndugu yangu Sen. Cherargei wa Kaunti ya Nandi kwa hilo Ombi lake kuhusiana na wale askari ambao wanaegeza usalama wakati wa jioni.

Utaona kwamba sasa hivi vitu vinawekwa pale kama chuma za kuzuia magari hata imekuwa tena sio kuzuia magari pekee yake, lakini pia wanazuia watu. Mara nyingi umeona kwamba vijana wetu ambao huwa wanaketi katika maeneo hususan wale wanatafuta riziki ambao wanaipata wakati wa jioni watu wametoka kazini wanaenda

nyumbani. Wakati wakishashukishwa mahali katika kituo cha basi, wanachukua boda boda na kwenda nyumbani.

Utakuja kuona kwamba boda boda ndio watu wanapewa shida zaidi sana na hivi vizuizi barabarani. Mtu amebeba abiria na anaambiwa kila safari atakayopita katika hicho kizuizi ni lazima awache Kshs50 akienda na akirudi.

Utapata kwamba kama safari yake ilikuwa leo atengeneze Kshs200 atakuwa na Kshs100. Pengine ana familia ya kuangalia na ile piki piki ameikodisha na inahitaji petroli. Mwenye hiyo piki piki pia anataka kitu hapo ndani. Sasa unapata ni hasara tupu vijana ambao wanafanya kazi ya boda boda.

Bi. Spika wa Muda, tunasema kwamba hivi viegezo ambavyo vinawekwa katika barabara kuzuia, nakubaliana na ndugu yangu Sen. Wetangula akisema kwamba hajaona nchi katika Afrika mzima---

(The microphone went off)

Ungenipatia dakika moja nimalize kwa hisani.

The Temporary Speaker (Sen. Nyamunga): You are forgetting I gave you two minutes and your two minutes is spent. If you want another one minute, have it!

Sen. Madzayo: Asante, Bi Spika wa Muda. Kwa ukarimu wako mimi nasalimu amri.

Wale watu ambao wanateseka zaidi ni waendeshaji wa boda boda. Ni heri kuwe na sheria ambayo itaweza kufuatwa ili wakati wakiwa wanavuka pale kwenye kizuizi, polisi wawache kuchukua hongo kutoka kwao.

The Temporary Speaker (Sen. Nyamunga): Thank you, Senator. The next Statement is deferred.

STATUS OF KYEOP

(Statement deferred)

We move to the next one. It is Statement number five by the Senator for Kericho County, Sen. Cheruiyot.

CLOSURE OF KERICHO LAW COURTS

Sen. Cheruiyot: Madam Temporary Speaker, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Justice, Legal Affairs and Human Rights on the closure of Kericho Law Courts. In the Statement, the Committee should-

- (i) Explain the circumstances which led to the closure of Kericho Law Courts on the 5th March, 2021 thus denying the residents of Kericho County and the public in general the much needed court services;
- (ii) Outline the interim measures if any the Judiciary is taking to ensure the criminal matters and other urgent matters are handled so as to minimize disruption in the service delivery and guarantee access to justice as provided for in Article 48 of the Constitution of Kenya;

- (iii) Provide an update on the construction of Kericho Law Courts and the plans, if any, that the Judiciary is putting in place to increase the number of law courts in Kericho County; and
- (iv) State when the Kericho Law Courts will be reopened.

Thank you.

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

Sen. Murkomen: Madam Temporary Speaker, the issue of Kericho Law Courts has been thorny in Kericho and for all practitioners in the South Rift. The Law Society of Kenya (LSK) Chapter in Kericho County have been petitioning the Judicial Service Commission (JSC) to take action. A lot of outcry has come from lawyers, litigants and citizens from that area. You can imagine the closure of the law courts from 5th March, 2021 up to now and the backlog that has ensued as a result of the same.

The information I have is that, apparently, the Kericho Law Courts building was condemned by Government officials responsible for overlooking buildings in the country. You can imagine people who have petty offenses related to small issues like misdemeanors and they are all being held in remand because they do not have Kshs500 or Kshs1,000.

They are people who, if they had gone to court, some would have been sentenced to community service. Some would have been asked to pay Kshs500 or Kshs1,000 or something of that sort and be freed. Now these people are being denied their rights under Chapter 4 on Bill of Rights of our Constitution.

Madam Temporary Speaker, I think this is very serious. I hope Sen. Omogeni who is a senior counsel will take this thing very seriously with the Committee on Justice, Legal Affairs and Human Rights and invite the JSC. I read a story in the newspaper that the Chief Justice, less than a month or two since she came to office was complaining that JSC officers are being invited to various committees of Parliament.

First, I do not want to give credibility to newspaper's stories. However, if that is true because it was a headline story, I hope that Madam Chief Justice will separate her responsibility as the President of the Supreme Court and as a judge and understand her role as an administrator and the Chair of the JSC.

It does not mean she has to be there herself to answer the questions. The Registrar or the Vice-Chair of JSC can come.

These are serious issues and JSC should be interacting with Parliament as much as possible because it is where we discuss matters of recourse allocation and improvement of the Judiciary infrastructure. There is a part of the Judiciary that is not concerned with separation of powers which, basically deals with administrative and infrastructure issues.

The other part where you cannot dictate the decision of a judge is when she is sitting as a judge of the Supreme Court. That is a different decision. I am glad CJ believes in the bottom-up approach of resolving cases in court. That is the right direction. From the President of the United States of America (USA), CJ of Kenya and the 'hustler nation' in this country, the bottom-up approach is the only way of solving this problem.

Madam Temporary Speaker, in a bottom-up approach style of management, I want her to deal with this issue of Kericho County expeditiously. Even before the

Committee is convened, CJ should take time to resolve this issue so that lawyers, judges, magistrates---

The Temporary Speaker (Sen. Nyamunga): Sorry, Senator. Sen. Ochillo-Ayacko, do you have an intervention.

Sen. Ochillo-Ayacko: Thank you, Madam Temporary Speaker. I am just touched by the non-access to justice by our people in Kericho County. I would like to inform Sen. Murkomen, if he agrees to be informed.

Sen. Murkomen: Madam Temporary Speaker, I can be informed by my student.

Sen. Ochillo-Ayacko: Thank you, Madam Temporary Speaker. It is true he is a very good teacher on international transactions and he taught me very good law.

As far as the Judiciary believes in their independence, they must create a platform for judicial accountability. It does not mean they are not autonomous when making judicial decisions, it means they must be accountable to the general public of Kenya, by telling the people of Kericho County how and when they will get justice. We are not asking them as an institution that they must decide cases in a particular way. However, they must tell us, as taxpayers and as representatives of taxpayers, how judicial services will be accessed.

I would like to inform Sen. Murkomen that he must amplify that point. It is sound and good. All of us need to access justice because without it, we can be bestial and bad to one another.

Sen. Murkomen: Madam Temporary Speaker, Sen. Ochillo-Ayacko was such a bright student in my class, to the extent that he would sometimes assist the lecturer in sharing very important information in class. As you can see, he does it so gently without announcing to the whole world that he went to Alliance Boys' High School.

I totally agree that this is an issue that should be done. As parliamentarians, we should have more interaction with JSC.

The Temporary Speaker (Sen. Nyamunga): Senator, ---

Sen. Murkomen: Madam Temporary Speaker, I am concluding.

The Temporary Speaker (Sen. Nyamunga): No, there is an intervention by Sen. Farhiya.

Sen. Farhiya: Thank you, Madam Temporary Speaker. I am just wondering why you are a *persona non grata* if you did not go to Alliance in this House. I also want to announce that I went to Alliance Girls' High School.

(Laughter)

The Temporary Speaker (Sen. Nyamunga): Senator, continue. We will give an opportunity to all Alliance alumni here.

Sen. Murkomen: Yes, Madam Temporary Speaker. It is one way of praising Sen. Ochillo-Ayacko.

The point I am making is that we should have greater interaction with the Judiciary when it comes to greater access to justice. If the building that was being used by the courts in Kericho County is the issue, resources should be availed to the Judiciary to quickly hire another space for the time being, as they deal with this issue, especially for the poor hustlers struggling to access justice in Kericho County.

I support this Statement.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I will just give one opportunity to the Minority side. Sen. Mutula Kilonzo Jnr., you may proceed. Take the Floor and that will be the end of comments on the Statement.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, that issue raised by Sen. Cheruiyot actually bothers me a little. It cannot be right that since March this year, a court can be condemned and closed and no alternative is provided.

I did an election petition in Makueni County and I can confirm that, that building was makeshift. The people of Kericho County should not be denied justice simply because a building has been condemned.

While at it, I confirm to Sen. Murkomen that out of the five summons mentioned in the letter written to the two Speakers by CJ, three are from the Senate. I respectfully disagree with that letter.

Under the Constitution – not even Article 125 – we have a right to call any person, Commission or independent office to the Senate and ask for a report on anything.

This morning, the *Ombudsperson*, Ms. Florence Kajuju, revealed to the Committee on Justice, Legal Affairs and Human Rights that five institutions have refused to respond to queries raised through the public. That is, the National Land Commission (NLC) on payment of compensation from land; and, the Pensions Department.

Madam Temporary Speaker, somebody has waited for pension for 20 years. When that person goes to Ms. Kajuju, the *Ombudsperson*, the Pensions Department does not even respond. That is the same tone of letter I have seen from the CJ. It does not appreciate the Constitution. I must read it for the record and for the avoidance of doubt.

It says:

“Reporting by Commissions and Independent Offices”

The JSC falls under this category.

“At any time, the President, the National Assembly or the Senate may require the Commission or holder of an independent office to submit a report on a particular issue.”

Madam Temporary Speaker, we will ask the Speaker to respond on our behalf that the letter written to us by the CJ is belittling this institution because we can request for anything. We can call them any time on anything. The Judiciary serves the public and we represent the public. We represent the public even more directly than they do because they are appointed and we are elected.

To close a court like Kericho, which is a very busy town covering a very large area, is a matter that should go to the Committee very quickly. In fact, this is one of those instances that the Committee should decide quickly and send that letter to JSC. You can imagine the number of people on petty offences whose cases have not been heard.

I say this because they are languishing in custody. When Sen. Dullo was leading a Committee with Sen. M. Kajwang on the state of our prisons, I remember a young man whom I met in Shikusa Borstal Institution. He told us that by the time his case was determined for him to be incarcerated in the borstal institution, he was sodomised so many times. That is the problem of keeping people in custody.

Recently, I watched a video forwarded by Sen. Faki, of a gentleman in Kamiti Maximum Prison. He is in custody for buying a mobile phone for his daughter. The

phone had been stolen from a crime scene involving the former Police Commissioner Mathew Iteere. This matter is very urgent and I hope that we can get some responses quickly and the Judiciary can even get a tent.

Madam Temporary Speaker those who were watching the trial of Governor Obado, it is not being done in a building; it is being done in a tent because the Judiciary in Nairobi has found an alternative way to dispense justice quickly during COVID-19 pandemic. If a building is condemned, buy a tent and make sure that the people of Kericho receive justice.

Thank you.

Sen. (Dr.) Langat: Thank you, Madam Temporary Speaker, for giving me a chance to add my voice on this very important Statement from Sen. Cheruiyot who is my neighbor from Kericho.

The closure of the Kericho Law Courts has affected the southern part of Rift Valley. This court has been serving Bomet and some parts of Kisii. Closure of this particular institution is closing justice to the people of the South Rift.

As a result of the closure, people who committed petty offences are rotting in police custody. Some of them are not guilty but they have stayed in police custody for months. Some have stayed there up to even nine months, suffering because they do not have money to hire advocates to bail them out.

This has created many problems. Just imagine such a situation during this time of the COVID-19 pandemic; they are really depressed and suffering. This closure has really affected our people in the South Rift. Justice delayed is justice denied. This law court should be opened with immediate effect so that it may serve people in that particular region.

I support this Statement and I want to say that the Committee that will take over this matter should handle it with a lot of speed to make sure that justice is given to the people of Kericho and the South Rift.

Sen. Madzayo: Asante Bi Spika wa Muda. Mimi nikiwa kama mmoja wa wale watu ambao walikuwa Jaji na tukaweza kustaafu, ni jambo la kusikitisha sana. Tunajua koti sio jengo ama nyumba. Koti ni hakimu. Hata akiwa mahali popote, yeye bado ni hakimu. Ukimpatia Jaji hema na kiti chake cha kuketi na meza, hiyo imetoshia; hiyo ni koti.

Kwa watu wa Kericho ni jambo la aibu na kusikitisha kuona ya kwamba ikiwa Serikali ilkubali ama kuachilia koti kufungwa na watu wa Kericho kukaa bila mahakama, ni jambo la kusikitisha.

Kuna mambo mengi sana ambayo yalikuwa yanatokea wakati nilikuwa Jaji. Nilikuwa ninapata malalamishi kwamba, vijana wadogo wamewekwa katika gereza moja pamoja na mabarobaro halafu usiku kunatokea yale mambo ambayo ndugu yetu Sen. Mutula Kilonzo Jnr. alizungumzia. Ni jambo la aibu.

Tunasema kama Bunge la Seneti kuwa ni muhimu kuona ya kwamba Koti ya Kericho imerejeshwa mara moja. Hili sio jambo la kukaa kufanya mkutano. Kwa sasa haki za watu wa Kericho zimezama ndani ya maji.

Kericho sio mji mdogo kama vile Kakuma. Kericho ni mji ambao uko na wafanyibiashara. Kericho ni mji ambao mambo yanaendelea, biashara na elimu. Hata uhalifu pia uko huko. Hao wahalifu hata wakipelekwa katika hizo jela, hizo jela zitazaa?

Hao wahalifu wakishikwa wanapelekwa jela na kurundikwa. Hawaendi kotini. Hii jambo ambalo lazima tulitafakari. Ni muhimu hatua ichukuliwe mara moja kuona ya kwamba Koti ya Kericho imefunguliwa.

Asante.

Sen. Wetangula: Thank you, Madam Temporary Speaker. As long time practitioners of law we feel very sad when we read and hear from the Senator from Kericho that a court has been closed and nothing is being done about it.

Article 48 of the Constitution is very clear that the State must ensure that every Kenyan has access to justice. Many other Articles of the Constitution talk of speedy dispensation of justice and affordable access to justice. People should not be made to suffer because of poor administrative decisions by any arm of Government.

As my colleagues before me have said, a court is not a building. A court is any arena where justice can be dispensed to any person in need of justice. We are being told about tents in the Obado case. You can actually sit as a court under a tree as long as there is a judicial officer, in criminal cases there is a prosecutor and they can dispense justice for Kenyans. To close a court and let people languish in custody on end because the Judiciary is not functioning is wrong and something condemnable.

You have been reading and as lawyers, you know that over 80 percent of Kenyans in remand custody or post-trial custody are people with petty offences like snatching a phone, pick-pocketing and petty burglary. Now they are even arresting boys on *boda boda*. If you do not have a license you go to court and you are given a bond.

I remember we went to Kitui during the Senate *Mashinani* with Sen. Mutula Kilonzo Jnr., Sen. Sakaja and others. In one hour we fundraised and got more than 23 petty inmates released. You find somebody has been in custody for the last one year because he could not raise bail of Kshs2,000. The courts just keep on mentioning cases.

We must reach a situation where certain petty offences should attract free bonds as long as people can turn up. I do not believe that anybody found riding a *boda boda* motorcycle without a license will run away from justice.

Let us deal with criminals who are hardened and dangerous to society in a different way from the way we deal with unfortunate petty offenders, economic offenders. Somebody passing by a maize field and plucking a cob of maize to save himself from hunger end up in custody for two years. This is not right.

I want to urge the new Chief Justice who has come in with a lot of goodwill that the letter we saw about accountability of the Judiciary on the spreading of public resources must have come out of improper advice.

Madam Temporary Speaker, no Parliament in this country or any comparable jurisdiction that will summon a judge to ask them how they arrived at a judgment in a case. That we cannot do, but we vote for money to go to the Judiciary to build structures and run their day-to-day expenditure. They have to account for that money. Parliament will appropriate funds to Government departments and will also hold them to account.

You will remember in 2013 when the Auditor-General questioned that the Judiciary had spent Kshs68 million on the inauguration of the President. The Judiciary has never been given any authority to spend money on a presidential inauguration. You can tell that that money was actually misappropriated, if not stolen.

Those questions must be there. If we give the Judiciary money to buy vehicles and instead of buying new vehicles, they go to Dubai and buy second hand vehicles, questions will be asked. If you give them money to build a courtroom in Mandera worth Kshs60 million and you go there and find a court room worth Kshs10 million, questions will be asked. Those are public resources.

I want to urge the Chief Justice that in case there is disconnect in communication between the courts and Parliament, let both institutions have liaison officers that can help in the smooth communication and running of affairs. I repeat that nobody in this country--

As long as you are in the public administering public resources, you will be asked questions, and you must answer them.

Madam Temporary Speaker, you come from very close to Kericho. I am sure that some of your people are languishing in custody in Kericho because their cases cannot be heard. Someone from Nyakach goes to Kericho, tries to ease himself by the roadside, then someone turns up at his side and says, “*Maliza Twende!*” They end up in custody and stay there for a long time. We want courts to function everywhere so that Kenyans have easy access to justice.

The Temporary Speaker (Sen. Nyamunga): Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker for giving me this opportunity to support the Statement by Sen. Cheruiyot concerning the closure of courts. Courts must always be open. I say this because in a society, you will always find that people have issues. If people are not managed well, they may even take the law into their hands.

In a situation where there is crime in a village and the matter is not reported to the authority that enforce law, people can take the law into their hands. It has been evident that sometimes a thief is found a burnt to death. Sometimes they are even stoned. However, when courts are in place and are open, the law can actually deal with such crimes.

When the courts are closed, the rate of crime goes high, and when the rate of crime goes high, there are many things that will be affected, such as the issue of development. For example, in a situation where someone’s stall is broken into and all his merchandise is taken, that already takes that person back very many years. This is because he already had startup capital that he invested in his merchandise and has started earning a living. When crime happens and all his goods are taken away, it means that the person cannot provide for his family.

Madam Temporary Speaker, there are also cases where people are robbed in their own houses. People also have their houses and premises broken into. If the law is not there to enforce order and ensure that people are safe and secure, we will have a lot of insecurity.

In a state where there is a lot of insecurity, the environment is not conducive for development and trade. Even basic human rights will be violated. There is need for the urgent reopening of the law courts in Kericho so that the people of Kericho are not affected unnecessarily.

As I speak on the issue of reopening the law courts, we have to find out, are there other law courts in other parts of the country that are also closed? There is need for law courts to be opened in all the 47 counties.

There are also cases of land issues that have taken too long. You will find that neighbours have been having land issues, and you know how emotive land issues can be. Sometimes you will find neighbours killing each other because the cases have dragged and the land issue has not been resolved. However, if these issues are brought on board and are solved in court, that is a legal way of guaranteeing someone to have his land peacefully.

There are some people who arrogate land that does not belong to them. Some people even arrogate land that belongs to the poor and vulnerable around them and make it their own. When the law courts are open and issues are taken up legally, the people can have their deserving land title deeds and cases resolved amicably.

Madam Temporary Speaker, the issue of human rights is an issue that we must all be concerned about as Senators in the 47 counties. The law comes in clearly to ensure that basic human rights are not violated. There are many rights like the right to stay anywhere in this country, the right to own property, the right to do whatever you do as long as you are in the confines of the law. You are supposed to be protected.

The Constitution comes out clearly to state that everyone needs protection. Sometimes we find that people end up not being protected because of criminals. I will cite the issue of the *boda boda* industry. I remember that you came out very clearly about the *boda boda* industry. In the *boda boda* industry, you will find that *boda bodas* are sometimes mugged. Sometimes they are even denied the right to ride because they carry people who are muggers or are ready to attack them.

These people should be protected. Can we protect them? The law should protect them. They should be identified and given protection because they boost the economy of our country. They make sure that they get a living for their children. They are some of the most thriving business people.

I support this Statement and strongly support that all law courts should be opened so that justice is not delayed. If justice is delayed, it is very unfair for a country that is supposed to be peaceful.

Since the colonial times, we have been striving for peace, and so we need to do it legally and lawfully so that all citizens feel that they are protected, secure and are able to do their business progressively.

I support this Statement. Thank you.

The Temporary Speaker (Sen. Nyamunga): Finally, I will give a chance to Sen. Faki. He is in the virtual Chamber.

Sen. Faki: Asante, Bi. Spika wa Muda, kwa kunipa nafasi ya kuunga mkono Kauli iliyoletwa Bungeni na Sen. Cheruiyot. Mahakama ni huduma ya dharura kama vile huduma za afya na nyinginezo. Kwa hivyo, kufunga mahakama, hususan wakati huu wa COVID-19 ni kinyume cha Katiba na maadili.

Mahakama zinaweza kukaa mahali popote. Kitu kinachohitajika ni mipango ya kuhakikisha kwamba kuna usalama na vifaa vya kutosha kuendesha mahakama hiyo kufanya kazi. Kule Mombasa, mahakama zimekaa chini ya miti na hema bila matatizo yoyote. Watu walihukumiwa na wakapata haki zao.

Wakati kulikuwa kunasikizwa kesi za jinai kule Rwanda kutokana na mauaji ya kimbari ya mwaka wa 1994, mahakama nyingi za kashasha zilifanywa chini ya miti ambapo wananchi walipata huduma bila matatizo yoyote.

Kwa hivyo, Kufungwa kwa mahakama ya Kericho kunasababisha dhiki nyingi kwa wananchi wanaohitaji huduma katika kesi za jinai na kibinafsi ambazo zinafanywa katika mahakama hiyo.

Pia ninachukua fursa hii kukemea kauli ya Jaji Mkuu anaposema kwamba Bunge halina nafasi ya kuchunguza Tume ya Mahakama. Tume zote zinapokea ruzuku kutoka kwa Serikali. Tume ya Mahakama ni moja ya tume za kikatiba na zinazotakikana kupeleka tarakimu zake kwa Bunge.

Kauli hiyo ya Jaji Mkuu haifai kunyamaziwa. Ni lazima Bunge itoe taarifa ya kumjibu ili kuhakikisha kwamba hazui mafisa wa mahakama kuja Bungeni kujibu masuala wanayotakiwa.

Asante kwa kunipea fursa hii.

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

Next order.

BILLS

First Reading

THE LIFESTYLE AUDIT BILL (SENATE BILLS NO. 36 OF 2021)

*(Order for First Reading read – Read the First
Time and ordered to be referred to the relevant
Departmental Committee)*

First Reading

THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL (SENATE BILLS NO. 37 OF 2021)

*(Order for First Reading read – Read the First
Time and ordered to be referred to the relevant
Departmental Committee)*

First Reading

THE COUNTY GOVERNMENTS (AMENDMENTS) BILL (SENATE BILLS NO. 38 OF 2021)

*(Order for First Reading read – Read the First
Time and ordered to be referred to the relevant
Departmental Committee)*

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, for the convenience of the House, we move on to Order No.20.

Second Reading

THE COUNTY VOCATIONAL EDUCATION AND TRAINING
BILL (SENATE BILLS NO. 6 OF 2021)

Sen. (Dr.) Milgo: Thank you, Madam Deputy Speaker. I beg to move that the County Vocational Education and Training Bill (Senate Bills No. 6 of 2021) be now read a Second Time.

Before I go through this Bill, I thank the great Members of my Committee on Education that came up with this Bill.

It was just recently that I celebrated the first anniversary of being Chairperson to this Committee. The Committee under one year was able to pass Early Childhood Development Education (ECDE) Bill and was able to meet 40 counties virtually to look at the landscape of ECDE, which culminated in a workshop we held recently in Naivasha.

Secondly, this County Vocational Education and Training Bill (Senate Bills No. 6 of 2021) is going through the landscape of vocational training. Already we have already met 14 county governments virtually and we are on a way to meeting all counties before the close of business of this Parliament. We shall pass the Bill that speaks to the functions that are domiciled at the county governments.

My Committee came up with this Bill based on the fact that Sustainable Development Goal (SDG) No. 4 is speaking to issues of all-inclusive education and leaving no one behind. We realized that despite the fact that there has been free education starting from 2003, we still have children left out after completing Standard 8. Not all who complete Standard 8 join secondary school despite the fact that it is free.

Those that completed high school, for example, this year were 747,161. Out of those, 604,021 will not qualify to join university education or higher diploma in Technical, Industrial Vocational and Entrepreneurship Training (TVETs).

For this case, we realized there was need to develop the vocations training centres to take up this load and develop skills that are important for start-up businesses and self-employment. They will also develop varied careers in construction, healthcare assistance, merchandization, technical such computer, agriculture, machinery, carpentry, automation and such like.

We are now in a changing world where the economy is changing more than ever before thus requiring technical skills. As a country, we need to rethink the mission to present students with high skills that will be transferable and apply to the new economy.

It is time to invest heavily in technical and creative skills that spur our jobs in the blue economy, which is the new frontier in employment for our youth. This is away from the white-collar jobs that have been there for a long time.

It will go a long way in curing unemployment of the graduates from technical institutions because the graduates will not look for employment, but will be found by employment. They will be constantly employed because construction will always be

there. We have very many jobs that require such skills and, therefore, employment is guaranteed.

This is the reason that the Jubilee Party Government in 2013 came up with a strategy for setting up TVET institutions in every constituency. At the same time, it requested the county governments to fund vocation training centres domiciled in those counties.

Furthermore, as I said, this is a new economy and we need to churn job-ready graduates who will have skills in tandem with what is happening worldwide. We need skills to attend to the Big Four Agenda of manufacturing, universal health care, affordable housing, food security as well as vision 2030 and the 17 sustainable development goals of achieving high growth.

Madam Deputy Speaker, apart from these, there is the political, social and economic blueprints that are skill-intensive.

Apart from these we also have agenda 2063 that is expected to come up with flagship projects that will spur an all-inclusive economic growth in our country and Africa at large.

They are in the areas of industrialization, logistics, transport, machinery, food and beverages, science and technology. They are in the various areas, which demand high skills. This will go a long way to provide high quality standard of life where citizens are having a wonderful wellbeing. They cannot do this without gainful employment.

Madam Temporary Speaker, furthermore, with the recent Coronavirus disease (COVID-19), we realized that even the best of managers and institutions were beaten hands down because of the fact that they ended up having closures because of lack of the best ways to work around this. That is why we had lockdowns, things coming to a standstill, businesses and us as a House. We had to struggle for the first time to hold virtual meetings.

I think right now we are getting used to iPads and computers, which is a skill obtained through these provisional training centers. For a long time even those other professors or doctors like me are lacking such very basic skills that are important when it comes to day-to-day management.

Madam Temporary Speaker, looking forward, we are told as we are looking at COVID-19 that every 100 years, there is bound to be a calamity. Therefore, we must be developing skills that are futuristic to handle such disasters if they are going to come again. Furthermore, we have to encourage our politicians to develop or work around the skills that are going to spur economy, social and environmental demands so that we become self-reliant.

There is also the issue of climate change that is calling for green economies. Green economies again are high skills demand. The reason why we must as a country and particularly, counties, encourage education is, we partly rely on ability to train, reskill and even empower people to take up the new jobs.

Madam Temporary Speaker, the green economies are bound to create up to 24 million jobs that are skill intense. This is the reason why my Committee came up with this Bill to speak to issues of vocational education and training in our counties. These are what we used to call village polytechnics that were training crafts. They are domiciled in the counties and it is a very important function of the counties.

Therefore, the principle object of this Bill is to put in place a legal framework to cover and establish the management of vocational education and training within the counties. One of the functional areas of the county governments as provided for under Part II of Schedule Four of the Constitution relates to village polytechnics and home craft centers.

Madam Temporary Speaker, therefore, Part I of this Bill specifically is about the definition of terms such as “authority”, “technical and vocational education”, “Cabinet Secretary” “council”, and “board of management”. That is the definition all through up to Clause 3, which is now speaking to the guiding principles in starting vocational training centers. That is formulation, implementation, monitoring and evaluation of those vocational education centers. It goes a long way in Clause 3 (b) to speak to issues of equality, equity and non-discrimination when it comes to development of these centers.

Clause 3 (c), (d) and (f) are speaking to issues of promotions of innovativeness, transparency, intervention strategies, accountability and strategies that must be put in place to ensure that these centers are run without any fuss. Clause 3 (g) speaks to collaboration with the national Government. These vocational training centers are run in collaboration with the national Government that provides the curriculum and policy.

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

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

Madam Temporary Speaker, Clause 4 of this Bill speaks to obligation of the national Government; what role the national Government has on the vocational training centers domiciled at the counties or the devolved units. The national Government plays a critical role in development of education research policy on these vocational training centers.

Clause 4 (b) is about setting examination standards and certificates. They develop curriculum and co-curricular activities to be conducted in these centers. They have created the institutions. They train and register the vocational centers and build capacity. Clause 4 (g) is to establish partners and linkages to ensure the support for these centers. Clause 4 (h) is setting of standards for registration and licensing of vocational centers. Setting of standards is under Clause 4 (f). Clause 4 (j) is provision of budget and resource mobilization to subsidize vocational education centers.

Madam Temporary Speaker, as I am reading Clause 4 (j), it is unfortunate because earlier on before the Budget for Financial Year 2020/2021, these devolved units used to receive Kshs2 billion that was ring fenced for vocational training centers. However, right now, this budget is going out as equitable share.

My Committee is looking at the landscapes of vocational training centers. We did realize that there are governors that have not even scratched the ground. They have not even provided any materials.

They have not even employed trainers in those centers. Even if they have employed, there is no scheme of service to pay them. They are, therefore, demotivated and cannot even work. We do not expect any gainful learning in those institutions.

Therefore, I am quite worried because of that Kshs2 billion. We kept on struggling as a Committee to bring it back.

Madam Temporary Speaker, however, at the close of the budget, this one was still disbursed as equitable share. Some of the county governments have told us that they will manage to ring fence through the enrollment but I do not know whether they will manage to do that. As a Committee, during the remaining time, we are going to follow up on that. The national Government placed a critical role in vocational training centers.

The Temporary Speaker (Sen. Pareno): Sen. (Dr.) Milgo, there is an intervention by Sen. Farhiya.

Sen. Farhiya: Madam Temporary Speaker, I wanted to know if she wants to be informed. There is something I want to give her in terms of the budget. The budget of this year compared to last year, there is Kshs53 billion extra that His Excellency the President provided.

Remember after we had the stalemate in the Senate regarding the formula, the Kshs53 billion extra was provided. Each county has much more money. Unless a governor does not want to do the vocational training work, they have much more money at their disposal that they can use. Let them not give you that excuse of ring fencing and, therefore, they do not have to do it. They have much more money at their disposal more than last year.

The Temporary Speaker (Sen. Pareno): Sen. (Dr.) Milgo, proceed.

Sen. (Dr.) Milgo: Thank you, Senate Deputy Majority Leader for that information. You know what we mean by management and you know how governors will always mismanage and divert funds, when there is nothing specific. Come the future, if possible, it is important to ring-fence that funding. It is important that funds follow functions. In this case, to be identified for the various vote heads.

Another important function led by the national Government under Clause 4(k), is monitoring and evaluation to ensure implementation is going on well. Clause 4(l) is on development and implementation of a national qualifications framework. The National Government is also obligated to check the progress and recognize qualifications and credit transfers and waivers.

Madam Temporary Speaker, Clause 5 speaks to the obligations of county governments in developing Vocational Education and Training Centres (VETC). This is where the Kshs2 billion comes in. They play a critical role in procuring and putting in place the necessary infrastructure to ensure availability of learning and teaching resources in order to deliver these important training skills. They must be able to assist in formulation and implementation of specific programmes and policies, of course, borrowed from the National Government.

County governments are also responsible for staffing the same institutions. As we interrogated governors, we realized some of them had employed untrained personnel. You remember in the beginning, I said these are very high skills. That is why we were beaten hands-down when it came to virtual meetings in the first instance. Some had employed untrained ones so that they can pay peanuts. Despite the fact that the Ministry set out a scheme of service, we found that some governors still move around without a scheme.

The county governments are also responsible for developing implementation policies, strategies and standards for this Act. They are also supposed to provide funding necessary for development education standards and identify trainees with special needs.

To this effect, they are supposed to develop Educational Assessment and Resource Centers (EARC). Currently, there are no EARC centres. In the course of our interrogation, we asked them how they identified those with hearing impairment, the blind and those with mental cases. They would simply say that they had built ramps. Somebody imagines that all Persons with Disabilities (PWDs) simply need a ramp. A ramp is not the end of the story. There are other PWDs who need assistive aids and devices. Therefore, they must put up EARC centres for identification and placement.

Clause 5(g) speaks to public awareness and advocacy. As a Committee, we realised there is stigmatization. Normally, students do not want to join these institutions because they imagine such institutions are for failures and those who are desperate. County governments are encouraged to create awareness on the importance of the skills that are developed in VETCs.

Madam Temporary Speaker, under Clause 5(h), county governments are supposed to collaborate with international, national and local institutions to provide vocational education and training. They should also promote circulation and access to up-to-date and timely information on vocational education and training.

Clause 6 speaks to the role of management of VETCs. That is set under Clause 6(a) up to (g). They must put in place necessary structures; employ qualified instructors; administer the curriculum that is already in place; ensure provision of quality service; and, ensure the premises are built based on occupational health and safety regulations in the building standards prescribed under this Act. They must provide necessary training and learning material and equipment and meet such other requirements prescribed under this Act.

Clause 7 speaks to a trainee with special needs. As a Committee, we advocate for integrated centres, which are cheaper to run compared to each county developing a special needs centres for the blind, hearing impaired and mental case. If they are integrated to the main school, these children with special needs will be integrated very easily even to the society. However, if we take them to a separate institution, they will feel unwanted and that they are not part of the society.

Clause 7(2)(a) continues to speak about the necessary infrastructure to provide an all-inclusive education, where we have all children including those with special needs. Clause 7(2)(b) speaks to necessary facilities. I said equipment will be useful to those with hearing impairment, the blind and other types of disabilities.

Clause 7(2)(d) specifies capacity building for the trainers. Under (e), the necessary special facilities are set out. Clause 7(2)(f) sets out the measures to acquire assistive aids and devices. We found out that some governors were buying assistive aids and devices at very exorbitant prices. They ignore procurement procedures when buying them. We have stipulated that these assistive aids and devices must be those that are affordable but useful to those who need them.

Clause 7(3) speaks to how the County Executive Committee Member (CECM) shall ensure that PWDs are trained, accommodated and receive an effective curriculum.

Madam Temporary Speaker, Part II of the Bill is establishment, registration and accreditation of Vocational Education and Training Centres. Clause 8 sets out the categories of VETC that are out there. It categorises them into private and public.

Clause 9 speaks to the fact that the county government, in consultation with the relevant stakeholders, must establish and maintain a record of all training centres including integrated centres. At the demand of one register, one will be able to tell how many integrated centres and VETC are in a given county.

Clause 10 speaks to sponsorship. Sponsors come in form religious person. There must be a regulation to govern them. In the past, we have seen how religious people come and want to even affect the curriculum.

We have specified that the role of the sponsor is to ensure quality education and training and they must work together with the board of management in line with the curriculum set out by the Ministry of Education.

Clause 10(3) stipulates that a sponsor may make recommendations when the curriculum is being reviewed. It also speaks to how they can provide financial service to improve infrastructure. Clause 10(4) is a check to avoid compromising professional standards that may come from sponsors who are not sure of their functions.

Clause 10(5) speaks to issues to avoid, the faith-based institutions from actually influencing the curriculum.

Madam Temporary Speaker, Clause 11 is talking about registration of persons to provide training in those institutions. In a short while we shall be bringing another Bill on interpreters and trainers.

This Bill is also speaking to how we can license the people who are going to train so that we do not have every Tom, Dick and Harry going to teach in these training institutions. For a long time people have taken vocational training centres for granted. However, you will realize that they have futuristic skills required to spur our economy.

Clause 11(b) is speaking to how a license of a trainer can be cancelled. (c) is speaking to how the trainer can be suspended. (d) is speaking to how that trainer can be updated on issues that should be going on in terms of training. (e) is speaking to learners in all the training centres so that at the opening of that register we can know the number of learners.

(f) is talking about vocational integrated centres which are cherished more than those that are set aside. (g) will speak to issues of executive county member who may from time to time determine what happens in the various vocational training centres.

Clause 12 continues to talk about registration of vocational education training centres. In this case it speaks to what is required and this is in line with what is specified in TVET (Technical and Vocational Training Act) on the requirements before registration.

Clause 13 goes on to describe the registration and licensing of vocational centres. Clause 14 goes on to describe what the vocational centre's requirement that a vocational centre must meet before any registration. They must meet the occupational, health and safety requirements and others prescribed under this Act.

Clause 14(b) will also prescribe that the vocational centre must be able to show clearly the type of training that is being offered in that centre.

(b) is talking about the type of instructors that are there, the qualifications, the registration. Clause 15 talks about registration which is done under technical vocational education and training authority boards for accreditation from the National Government.

Clause 15(2) is setting out how one can apply the form that is used to apply for accreditation. Clause 15(3) is speaking about the type of curriculum that must be set out by the Cabinet Secretary. The curriculum as I said earlier is actually the role of the national Government so that we have standardization of vocational training right across the country.

Clause 16 speaks to cancellation of a license and registration. In the past we would have people waking up and going to cancel the certificate. However here there are procedures to be followed before a certificate to provide vocational education training is cancelled.

As I said earlier, for these vocational education training institutions, there are those that are run by private entities and those by public entities. We can find that at times there are those that have violated the Act and they must be cancelled. However, they must be given a chance to explain. In this case they must have shown signs of criminal activity, they could have shown that they have closed down without specifying the reason why.

Clause 16 (2) is also speaking to the role of the executive committee member on how to go about this. The committee member must ensure that the licenses that are issued, the institution must have met the requirements before such licenses are issued.

Clause 17 speaks of the procedures of notice of non-compliance. Just before we cancel we give a notice. Under Clause 17(2) is how it should be done in writing and under information, the steps to be taken, time taken.

Clause 17(2)(a) speaks to how a period can be extended with the requirement of that person whose institution was going to be shut down. Clause 18 is speaking to closure of a vocational education and training centre. This cannot be done without consultation. Here, the county executive member must include the national Government. That goes all the way up to (4) which is still speaking to how closure will be brought.

Number 3 is speaking to the manner in which those other fields are handled before the final closure. Clause 19 is speaking to the penalty, how if a person contravenes the provisions of 10(3) of this Act, that person commits an offence liable to a fine not exceeding Kshs5 million and imprisonment of a term not exceeding three years or both.

Part 3 is speaking to management of vocational education and training. This one starts with Clause 20 where each county government is responsible for the overall management or cause management through a board of management.

Clause 20(2) is speaking to how a committee member shall be able to determine the type of management that must be in every institution. Clause 21 sets out the members that must be in the board of management.

Clause 21(2) is talking about how the board is not a corporate entity, the membership of that board, how the board is elected. Under (4) it is showing how the county executive shall appoint the board members through a county seat.

Clause 22 is speaking to functions of the board. The provisions of the division, manage the properties, manage vocational training, develop and implement vocational education and training strategy plan, mobilize resources, regulate enrollment, prepare

annual estimates, incur expenditure, receive on behalf of the vocational and education training centre, fees, grants, donations and any other monies. That is settled in Clause 22 all the way from (a) up to (j). All of that is the role of the board of management.

Clause 23 talks about the conduct and affairs of the board of management, how the board of management shall conduct their affairs and even when it comes to forming sub-committees for efficiency.

Sometimes a board can form a sub-committee for efficiency and this one sets out the fact that the small sub-committees must be sub-committees specific to a given area and at the same time comprising of people with specific skills to be able to run the committee.

Clause 25 is talking about remuneration. This should be done by the Public Service Board in line with the terms set out by the Salaries and Remuneration Commission so that we do not have some illegal remuneration of the board members.

Clause 26 talks about vacation of office; how a board member can vacate office maybe if the member dies, is convicted of an offence, absence from three consecutive meetings, contravenes chapter 6 on physical and mental capacity, incompetent, bankrupt. All those are conditions for vacating office as set out in Clause 26.

Clause 27 is speaking to annual report on governance which must be provided by the board of management to the executive committee member to show what is going on in that institution.

Clause 28 speaks to records that must be kept in all the vocational training centres. Clause 28 (a) (b) (c) (d) talks about register, record of all fees, register of assets and liabilities, other records that are important in an institution.

Clause 29 speaks to issues vocational education and training instructors; how they can be employed. Methodology for employment. In this case it is setting out the fact that from 29 (a) they must be certified and registered. According to Section 29 (1) (a), they must be certified and registered. They must meet the requirements set out in Chapter Six. They must not have been adjudged bankrupt, they have not been convicted of any offence or imprisonment for at least 12 months, and meet the requirements prescribed under this Act. In this case, each county government is responsible for funding and remuneration.

Madam Temporary Speaker, a few minutes ago, I said that the few counties we have spoken to on both Early Childhood Development (ECD) education and vocational training will realize that there is no proper scheme of service. Despite the fact that the county government is supposed to fund this and they have received an additional Kshs358 billion, there is still not clear cut methodology of enumerating the staff in those vocational training centres.

Part IV is on the standards and quality of education in these training centres. It speaks to the framework of curriculum. Clause 30 speaks on the framework of the curriculum as I said earlier should be developed by the national Government. Under Clause 30(2), the curriculum is developed in conjunction with the Kenya Institute of Curriculum Development (KICD).

Clause 30 (3) speaks on the reviewing of the curriculum. The curriculum can be reviewed in accordance with the national policy and guidelines. Clause 30(4) talks about how the curriculum can be reviewed in consultation with the stakeholders. This must be guided by a County Executive Committee Member (CECM).

Clause 30 (5) speaks on the review of the curriculum that must be given by a gazette notice. The review of the curriculum must take up a frame that is offered by the national Government. In addition to that, Clause 30 (5)(b) is on information regarding the time, place, and manner in which information is obtained to amend the curriculum.

Clause 31 speaks on issues that deal with education and training programmes. This Bill sets out and asks the counties to develop county vocational training centres that train on specific skills to fill the gap in those counties. If we were to compare vocational training centres in Mombasa, Kisumu, Bomet, or Nairobi City County, they should be different. Those in Mombasa should develop skills based on the ocean and fish economies as opposed to those developed in agriculture. In Nairobi, it can be based on industrialization.

We will set out to go look for vocational training centres that train on a particular skill. We will go to Kisumu for issues related to fish. When we go to Mombasa, it is a blue economy. When we come to the Rift Valley, it is agriculture. We can talk about food and beverages, industrialization, computers, mining, or whatever that is present in the various counties.

These vocational training centres are supposed to fill in the gaps that are required in the counties because, as we said, they will provide employment to our youth. They should adopt a trainee centred approach and follow the training standards prescribed by the national qualifications framework. It goes all the way up to Clause 31 (4) which talks about what is specific to those particular counties.

Clause 32 talks about examination and competency assessment. This is a function of the national Government in consultation with the county governments that are responsible for ensuring that examinations and assessments are up to standard. Clause 32 (1) (b) talks of the certification. Clause 32 (2) says that the council shall ensure that the skills provided are within the frame set out in the national policy.

Clause 33 speaks on how quality will be assured in all the county vocational training centres. Clause 33 (2) speaks on the structures that are put up for purposes of quality, standards and relevance. These structures that are developed must adopt the standards, quality and relevance set out by the national Government, which is quite approving.

In addition to this, the quality assurance and standards must ensure that there are processes that ensure continuous review, so that we do not assess a centre once a year and that is all. There must be a constant assessment to make sure that the type of education going on there is in tandem with what is required.

Part V talks about transitional provisions. Existing vocational and education training centres realize that this is coming up. In the past, we used to have village polytechnics. They will automatically become similar to the ones that we are speaking to in this Bill. At the same time, they must be registered as fresh, or in this case renew their licenses. They need to apply and register.

Clause 34 (5) talks about transition of the same centres from the earlier village polytechnics to the fairly upper standards and with better skills, facilities and infrastructure. That continues all the way to Clause 34(6) which talks about the transition of the existing village polytechnics to the vocational training centres that we are speaking to in this Bill.

Clause 35 speaks to the preservation of licenses, certificates and registration which must be kept in such a way that any person that walks into these centres will be able to inspect these instruments at a press of a button. They must be supplied for inspection. It provides that any officer going into those institutions must inspect those because every institution must be able to keep the licenses, certificates and registration documents.

Clause 36 talks about transfer of assets, liabilities and staff. The staff that were in the village polytechnics that are now turning into the upgraded vocational training centres will be taken up by the new centres. In this case, they will become their right, obligation and liability because very individual that takes up an institution takes it up with assets and liabilities. That continues all the way to Clause 36 (4).

Part VI simply talks about the general penalty to every member. Any other members can be penalized. It says a person convicted of an offence under this Act, for which no penalty is required, shall be liable to a fine not exceeding Kshs3 million or imprisonment for a term not exceeding two years or both. That is the penalty.

It goes ahead to talk about the regulations. The Cabinet Secretary (CS) charged with vocational training will develop regulations to guide the management and speak to issues on national policies. The national policies must be broken down into regulations and guidelines which are better understood by the people at the lower levels at the counties.

In this case, it limits or regulates the number of trainees; provide for the grants, duration, expiry of the governing regulations; prescription of the number of subjects, movement and renewal of certificates and transfer of grades. This is all prescribed under this clause.

It continues to speak to regulations that can be imposed in registers or vocational centres. It gives regulations and governing records that should be kept in a vocational centre. In Clause 38 (3), it still talks about the regulation. The purpose under Article 94 (6) of the Constitution delegates this section to enable the CS to the county executive. It speaks to issues of delegation. The CS delegates to the CECM to run on behalf of the national Government.

The authority of the CS and the CECM to make regulations under this Act shall be limited to bringing into effect provisions of this Act and fulfillment of the objectives specified under this section.

Clause 38 (c) says the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and Statutory Instruments Act.

I move and ask my great friend, the former Minister of Education to second.

Sen. (Prof.) Onger: Thank you, Madam Temporary Speaker. I have tremendous pleasure in seconding this Bill.

I was the first Minister for Technical Training and Applied Technology in 1988. One of the things that was meant for me to establish was the fact that there were so many *Jua kali* operators who did not have any level of certification.

They could not be recognized whether in the motor industry, agriculture or anything else. They were left completely at the mercy of the big industrialists who could manipulate them in one way or the other. This was because they did not have any

qualifications framework that one could think of for them to be able access either employment or for their products to access markets. If they did so, they were considered sub-standard and suffered immense loss and could not participate in the economy of this land.

My first task was to create a qualification framework for those school leavers at the Kenya Certificate of Primary Education (KCPE) level and secondary level.

I created a level playing field where we decided at that moment that we would do a curriculum development. We did it at the Kenya Institute of Education (KIE), which is now Kenya Institute of Curriculum Development (KICD) and created categories of developments that were required to be attained for somebody to get a certificate, which is recognizable in the job market and in the private sector should they venture to go into *jua kali* sector or micro- enterprises.

The first category was those who were post-primary where we did not have a 100 percent transition. At the time, there was almost 60 to 72 percent transition from primary to secondary level. It was, therefore, necessary to provide some skills level for those who could not proceed for vertical progression towards upper level of secondary education.

There was also the post-secondary because the transition rate from the secondary examination to university was about 10 percent. A huge chunk of Kenyans was left out. These were the people who were becoming jobless and creating anti-social elements within our society and families.

We also set the type of qualification framework they needed to acquire at that level to be able to succeed. This gave birth to Sessional Paper No. 1 of 1988 on Education that would enable a vocational and technical element to be applied in this country.

We also extended the training beyond the normal vertical movement and said that there could also be horizontal movement. Horizontal movement was that if somebody entered at the artisan level at the post-primary level and acquired an artisan grade, what are the chances that such a person can also improve their educational standards that they could move up to middle level colleges?

At that time, this country had set up about seven technical training institutes, one in each province. At that level, they were being offered diploma craft courses. We said that if one had acquired an artisan training qualification at the post-primary level, youth or village polytechnic level, it should then be possible to advance to the higher level, which was the technical training institutes that we had at that time. One would then acquire a diploma or higher diploma or crafts course.

We also said that if one needs to go to the university, we should also have created a technical university to absorb some of those candidates who may be able to advance vertically to achieve the standards required to enter the university level.

We did not preclude that those who had completed post-secondary education, were not able to go to the university, and had an aptitude to do the vocational and training courses, should then horizontally cross to the middle level institutes of technology to advance for craft courses.

We had the Kenya polytechnic then in Nairobi, Kisumu and Mombasa polytechnics. As a Minister then, we were able to change the Kenya Polytechnic in Nairobi to a technical university. That was how we got some of those technical

universities being developed. The students who were at that level could proceed on to the technical universities.

How would these people go to the world of work after being trained? As a Minister, I realized at that time, that it was important to even get the industry and see how these people could apprenticeship there, to acquire some experience so that they could go out and get self-employment, which would be very important for them.

Every *Jua kali* who went out and was self-employed created five to eight jobs. We can remember when we had a glut in our economy between 1990 to 1992 when the Bretton Woods institutions - the World Bank, IMF and other donor countries - refused to give money to Kenya. It was the *Jua Kali* that came to the rescue of this nation because they created between 40 to 45 percent of jobs that were required to be absorbed in the industries. It was at that time that we realized their value.

I even extended it further. I said there were those who may not have gone to normal formal school but they had the art of craftsmanship and could be able to attain certain skills that were in use at that time, for example, pottery. There are those who never went to school but if one told them to do pottery, they would do it with finesse much better than a person who had been technically trained.

We said we would then loop those people into the industry. I said we would take them to skill upgrading. There were those who were in the *Jua Kali* sector who were not very refined in terms of their skills. There was a Directorate of Industrial Training (DIT) at the Ministry of Labour which was transferred to my Ministry of Technical Training and Applied Technology. We used the DITs in Kisumu, Nakuru, Nairobi and Mombasa, to do upgrading skills in the evenings.

That was the origin of the curriculum development at the time, to entrench the vocational training in our curriculum and it was part of overall philosophy of education in this country.

What is the purpose of vocational training?

Madam Temporary Speaker, why do we have this law coming into place? First of all, this is a function which has been devolved to the county governments. The national Government only takes care of a few national polytechnics and the universities at the higher level. The main function in the Fourth Schedule of our Constitution is bequeathed to county governments. It is important that the county governments are able and ceased with the facts and figures and the law to manage these vocational training. That is one reason.

Secondly, we must develop a standard which is equal throughout the whole national grid. You do not have some level of standards which are lower than another standard from one county when you move to another county.

Madam Temporary Speaker, thirdly, if you are dealing with the blue economy like the people surrounding the waters, they will have to be trained in different ways in fisheries, marine technology, boat making, fishing rods and other elements that needed to be done. This is so that they can dovetail in the industry and give value of service through a skill which is important. This is to enhance the industry at that level.

Then that brought in the concept of microenterprises. Whether you are dealing with the blue economy, there will be microenterprises and you must create a cadre of middle level enterprises that are the biggest employer in any given national society.

When you are talking of the Americans, Africans and Asian tigers, there are the middle level skilled men with power. These are the people who will expand the economy and increase the job opportunities. Therefore, you must have a standard and framework of qualification.

Madam Temporary Speaker, hence when you look at this Bill, the purpose is to provide a framework for the establishment of systems for the administration of training in vocational and training within a county. This is so that you have a uniform training policy throughout the whole country.

When you are dealing with green economy of agriculture, there is a paucity of microenterprises, for instance, value addition. There are agro industries that we need to do. Our farmers today literally are being robbed of their sweat in the farms. Take, for instance, a very simple thing like the avocado. An ordinary farmer in Kisii and we are encouraging them to plant their avocados. They pick their avocados, stack them in sacks which are beyond measure. The weight is beyond 100 kilos and they are only paid peanuts of Kshs5 if they are lucky, but they will get the shrewd businessmen who will only pay them Kshs2 or Kshs3. All that is required is to create a microenterprise the cold storage.

Madam Temporary Speaker, the cold storage will have these functions. First, how you can organize the supply chain from a farmer to the cold storage in a market place. How to grid those products into various qualities as grade one and two. Avocados once exported as grade one that has a variety which has been brought in this country which will fetch USD2 to USD3 internationally. Compare the USD2 to USD3 dollars being fetched internationally when a farmer is only getting Kshs5 at most or Kshs2. That is a waste of time, labor and energy and the input that the farmer has put in the planting and taking care of these elements. It is wasted away.

When we have our own children, our boys and girls going through these vocational and technical training centers, they will acquire these skills that will enable them run the small little cold storages. They can pick the products from the farmers, do the grading and marketing. Since we are already in this House who are very forward looking, there is an Act of Parliament that we passed here, the warehousing facilities. Combine the warehousing facility and these cold storages. You are able to create a formidable market. You release your products in accordance with the market survey. Then you have the wider element. Those who are trained in procurement, survey, and export business will help the farmers to sell their items to the rest of the world.

Madam Temporary Speaker, look for instance the bananas from Meru and Kisii. It is a waste of time. Sen. (Prof.) Kindiki, people are struggling with stack of lorries coming all the way from Embu and Kisii to this place and selling them at a throwaway price. Farmers are getting nothing. We should be in a position to add value. The only way you can add value is to create this thing.

I wish I had more time because this is a subject which is pet to me. I would have really talked for a long time. However, this is an area that we can add value. We can improve the economy at the cash level, farmers' level and the potential for employment at the farm gate, cold storage, marketing, and export levels. You create jobs along those chains. Opportunities are innumerable and many. I am happy that this Bill deals with setting up and the level which we must start is at the crafts level so we can move forward.

Madam Temporary Speaker, I support the Bill that will enhance skills improvement. When you talk of industrialization, there is no way you can do it without recourse to skilled manpower who are properly trained in institutions that are recognized by county governments. I must sound a warning that county governments must not pay a lip service to the investments in the infrastructure and the standards in this vocational training centers. They should not be seen just as other centers. They should be seen as serious educational centers that will give skills and efforts to our people to plant other things.

Finally, one of the things that I must caution is that once this is done, the enormous amount when you talk about village incubation centers, the national Government policy has rolled out. The only way this can have a meaningful purpose for our people is for those village incubation centers to start at the village level when you have properly trained skilled manpower. The electricians, we have rolled out rural electrification. You do not have the maintenance to carry out.

Madam Temporary Speaker, we need simple craftsmen who are trained in electrical wiring and putting these small little services to the people. There are enormous benefits that are accrued from this. All these children who may not find their way to the university, those who have an aptitude. That is why even when I was in that Ministry, I created talent academies to help children who have special interest towards a particular level that they should be absorbed in these microenterprises through skilled training and provision so that they can move forward.

There is much that we can speak about this topic. It is so heavy and important for this nation. If we want this nation to create jobs, the way to go is to have a robust technical training institutions that churn out very well skilled manpower to help us create those jobs and wealth for this nation. With those few remarks, I second this Bill. I beg to second.

(Question proposed)

The Temporary Speaker (Sen. Pareno): I would wish to seek your indulgence that you make very brief comments to allow everybody to contribute, then we can move to the next stage. We give to Sen. Seneta.

Sen. Seneta: Madam Temporary Speaker, this is a very timely Bill which seeks to align TVET institutions, establishment and management to the Constitution of Kenya 2010. In the Constitution, TVET has been devolved to county governments as a function.

I am happy that we are discussing this Bill on a day that the world is celebrating the World Youth Skills Day. With very high unemployment rate, we need to rethink our institutions which offer skills in connection to the job market. We need to offer skills that are important to the job market.

Now that you have given me a very short time, let me speak to very few areas. I will touch on budget allocation to TVET institutions by county governments. I will also look at public awareness; county government involvement in establishment and management of TVET institutions, courses offered and market links; national Government policies, technology and monitoring and evaluation of TVET institutions.

It is important for county governments to allocate a bigger percentage of their education allocation to TVET institutions. These are former village polytechnics. They

need to give a budget that can help to build more facilities for TVET institutions. They also need to give bursaries to encourage those youths interested in joining these institutions. They also need to allocate a budget to the trainers in these institutions. Not only a budget for salaries, but also to develop terms of service and even have a pension and allowances, just like other tutors in institutions of higher learning.

Madam Temporary Speaker, county governments in collaboration with the management of these TVET institutions, should develop a mechanism where they can market these institutions. County governments should offer a platform for TVET institutions to market themselves and make them friendly for students to desire to join.

In partnership with the national Government and international communities, they should put up more facilities for these VET institutions in order to offer courses that are market-driven. I imagine TVET institutions offering skills in hospitality, agriculture and textile need modern facilities so as to attract market from residents of those counties. They should give them a budget for more facilities to be able to attract the market.

County governments should also look at developing technology in those vocational training institutions because the world has gone digital. They should have electricity and internet connectivity and help them have Information and Communication Technology in the courses they offer.

It is also important to develop a monitoring and evaluation measure on how these TVET institutions are performing. County governments should collaborate with the Ministry to ensure Boards of Management (BOMs) assist county governments to ensure the institutions perform well, offer quality services to trainees and up to standard with other learning institutions.

Finally, Madam Temporary Speaker, county governments should create public awareness on the importance of these TVET institutions. That way, county governments will be able to attract a big enrolment to these institutions. They should help them to create awareness of the courses they offer and try to absorb their trainees for services they need.

This is an important and timely Bill. I only urge the House to pass it and pray that it passes in the National Assembly because this sector is critical to our economy.

I support.

The Temporary Speaker (Sen. Pareno): Sen. (Dr.) Musuruve, proceed. Please, be brief so that we have other Senators also contribute.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker, for this opportunity to comment on and support this Bill.

It must be very clear that this Bill touches on Sustainable Development Goal (SDG) No.4. All nations of the world promised education for all by 2030. Education for all means both boys and girls, even those with disabilities getting an equal education. There are 10 targets on SDG No.4. One of them is No.4(3) which speaks on vocational training and access to higher education.

This Bill is timely because it is going to ensure that we adhere to the international clarion call of ensuring that no one is left behind.

As the co-chair of International Network for Parliamentary Education, we must be alive to the fact that on 28th to 29th President Kenyatta who is really on the frontline of

education will be at the Global Summit which is a collaboration of the UK Government and Kenya to ensure that countries rally behind the issue of leaving no one behind.

Specifically, this Bill is very objective in the fact that it is addressing SDG 4 3 that targets higher learning and vocational education. When it comes to SDG 4, we are talking of equal access to affordable, technical education.

When we talk of SDG 4, we are talking of free primary education so that both boys, girls and children with disabilities are able to access free primary education. We are also talking of them transitioning to secondary schools, colleges and universities. We are also talking of them transitioning to the world of work.

As we speak of transitioning, it is very clear that as Kenya, we have a clear objective of ensuring that we have 100 percent transition from primary school. There are some children from primary schools who are not able to transition to secondary school because of socio-economic background that they come from. Some children come from backgrounds where their parents are not able to pay fees. It is not their fault. We never choose our background or where to belong.

There are some children who are also not economically endowed but they are talented. Not all children are endowed with academics. Some of them will transition to secondary schools and universities. Some of them will not transition there but will opt to be nurtured so that their skills are developed.

Most categories of children who do primary education and are not able to transition to secondary schools, when you look at them, you will find that someone has a skill.

This Bill will ensure that not everyone targets to go for white collar jobs because there are some children who are skills-based naturally. You do not even have to train them. You just have to nurture what they are doing.

I will give an example of masonry. You will find that when you go to the ground, the people who are very good at masonry work, it is not that engineer who has come from the university. It is that person who has learnt and is able to build a house and complete it very well. You will find that an engineer who has come from the university will not be hands-on on the job. He will just direct, do this, do that. However, the person on the ground is one who has not even gone to school but has the talent.

So this Bill is speaking to how can we nurture the talent of such people. This Bill is encouraging also blue collar jobs. You will also find that there are some people who are just naturally good at books. They have not gone to any school but when you take them through academics, they may not have value input but in the talent, they have, if it is nurtured and even have the certificates, they can very well join a vocational training. When they join vocational training, they are already hands-on, what they need is the start-up capital. So, when they get the start-up capital, they can very well advance. This Bill is also ensuring that no one is left behind simply because he is not economically endowed.

When Kenya talks of 100 percent transition, it means that some people will go academic; some learners will go the vocational way. It is possible for us to nurture all learners in this country so that wherever someone is gifted, he has value addition to this country.

This Bill also talks about learners with disabilities, which is one of the targets of Sustainable Development Goals (SDG). The SDGs talk about an inclusive process. An

inclusive process is one that ensures that even learners with disabilities who are talented have their talents nurtured.

Mr. Temporary Speaker, Sir, learners with disabilities who can propel the economy of this country should be given a chance because they are not always given a chance. Sometimes learners are pushed to do academics when in the actual sense, they can very well do economics and become employers. I have seen people who are plumbers. You will find that one plumber has very many people who are working under him. In that case, they create employment.

Someone may have a salon, and because they have a salon, they are able to employ many other people and in the process, they create employment, because it is a fact that it is very difficult to find employment in this country. Therefore, we have to look for mechanisms of ensuring that people get employment.

This Bill also talks about managers of vocational training. It states very clearly that the manager must also have the requisite academic qualifications. I have seen where business people arrogate education to themselves and decide that they are managers of institutions yet they do not have the educational or vocational background. This Bill comes in to ensure that such anomalies do not happen so that whoever wants to start a vocational training school should be someone with papers.

I have seen some people who are so daring that they even start schools and educational facilities on top of bars. It is very embarrassing, because there is an environment that is conducive for a school to start. According to this Bill, there is a threshold for someone to begin vocational training. When this Bill becomes law, it will ensure that we stick to the threshold.

We must take education as a matter of priority. We must be serious about education. Education creates an all-round person. When everyone is educated, there is a whole transition from primary school. When we have vocational training and academic training, we are going to become a better country. It will even be possible to export our labour.

Some people are experienced contractors, they can be exported. I know there are some countries that lack the expertise and knowledge in vocational skills. If someone has a certificate in vocational training, that person can very well get a job outside of this country. That will not be brain drain. Kenyan education is respected internationally and it must branch out.

Mr. Temporary Speaker, Sir, this Bill also speaks on the issue of ensuring that all county governments factor in issues of disabilities. It also talks about county governments having assessment centers. When we want to reach persons with disabilities, we must start with vocational centers. This is because the vocational centers are the ones to make the county governments identify disabilities of persons and place them in the right place.

There is also need to ensure that we have a win-win situation. This Bill speaks of having a win-win situation for children with disabilities because they will be factored in. County governments have been given a role. The national Government will come up with policies with regard to technical training. The national Government is better placed to come up with policies on vocational training.

However, when it comes to implementation, it has to be the business of the county government. This Bill brings in the aspect that the county governments must know the centers that are registered in their counties and how many they are. The county government also needs to know the people who are training and whether they have qualifications. They need to have a monitoring method of ensuring that the vocational centers are doing what they are supposed to do.

When it comes to matters education, they are not matters that you can leave for everyone. Remember that all of us have come through the hands of teachers to be where we are.

All of us have come through the hands of teachers to where we are. This is a Bill that we should support so that it sees light at the end of the tunnel.

On county development funds, since this Bill is in the docket of the county governments, it will ensure they have a program for vocational training. It will also ensure that county governments are also setting aside money to ensure this program runs. There is going to be capacity building and awareness from the county level. Counties will also ensure that all the Community Based Organization (CBOs) registered there are also obliging to inclusivity.

That means that all counties must set aside a reasonable amount of money in their budgets for the progression of vocational training. As they set money aside, county governments will also need to specifically set money to ensure learners with disabilities are being included in the training centres thus maintaining inclusivity.

We met county executives from 14 counties and took them through this Bill. We were able to identify the lacuna that is there in some counties because in some counties they had no preparation for learners with disabilities and the girl child even at the training level. When they came before us, we put them to task and obligated them to commit to doing something about the lacuna we had identified.

Regarding exiting to the world of work, there was a proposition we were making that county governments should make vocational training attractive because there are some children who opt not to go for it. Some of the issues that came up were that there are some learners who do not want to attend vocational training even though the centres are there. This attitude must be changed by the county governments.

How are they going to change it? It is by convincing the learners that they are going to have jobs once they are through with training. We proposed that county governments should also prepare a strategy of ensuring that there is industrial attachment given to trainees. That must be a prerequisite before they complete vocational training.

County governments need to provide resources for attachment. While the vocational centre is still running, there are some materials and equipment that county governments should procure. Our humble suggestion is that county executives give priority to learners from vocational centres. That will give them hope, for example, that when they are doing plumbing work that they can be incorporated in the county government and be given jobs.

Madam Temporary Speaker, after teachers have trained, they have a Teachers Service Commission (TSC) registration number which is used during employment. Employment may take five, ten or fifteen years but there is hope when it comes and they may be lucky enough to get a job.

There is need for learners who go through vocational training to have also a registered number that tells they went through the training. Since this is a baby that comes from national and cascades to the county government, they should ensure there is employment for those who complete the training. For example, if there is plumbing, hairdressing or catering work in the National Government or county government, those with a registration number should be taken.

That would encourage them. Teachers go for training because they know at the end of the day, they are going to get a job. For vocational training, one is not sure they will get a job. It, therefore, needs to be made attractive.

This is so that some of them can be self-employed. For example, if someone has experience in welding and has gone through the training, then he can be given some startup capital to start the plumbing work. If he starts that industry, he will evolve on his own. He or she will also employ others. There is need for us to ensure that this Bill becomes law because it will be a win-win situation for all of us and learners who are talented and are not able to pursue academics. It will be a win-win situation for people who are gifted but cannot progress for their talent to be nurtured.

Madam Temporary Speaker, I support this Bill. Thank you.

The Temporary Speaker (Sen. Pareno): Sen. Cherargei, proceed.

Sen. Cherargei: Thank you, Madam Temporary Speaker. From the start, I want to laud the Chairperson, Sen. (Dr.) Milgo, for this wonderful Bill. This is very important. Going into the future as a country and as countries, we need to refocus our energy into building a serious workforce. We have concentrated on blue and more white collar jobs as opposed to having people who can work on non-practical jobs.

Nowadays there is more emphasis on theoretical learning and practice as being espoused by the universities. However, also we need to refocus because it is predicted in this and last decade and going to the next decade that most of the construction will happen. When you look around and go to small and big cities like Nairobi, Eldoret, Kapsabet, North Eastern, and Mombasa, there is one or two buildings coming up.

What does that mean? It means that we must build a serious manpower. You need a masonry, plumber and somebody experienced in wiring and electrical and many other things that you need to fix there. You need somebody who will ensure that they mix the cement and it is in quite proportion.

Madam Temporary Speaker, it is only such enabling legislative agenda and I want to laud her from the word go. This is what we mean by bottom up approach. This is what we mean when we want to build people from down. We need mechanics. We discussed today about *boda bodas* in our country. We need mechanics who can fix our *boda bodas* and vehicles both Sport Utility Vehicles (SUVs) and any other form of vehicles.

If we create a legislative and policy intervention that will allow us to spur the economy from the low, middle to upper level, I think this is very commendable. I laud the Chairperson, my sister, Sen. (Dr.) Milgo for this wonderful legislation because it goes in line with the future of this county. If God and Kenyans gives us permission to implement bottom up approach, I can assure you we shall ensure this legislation comes into the help of many.

Madam Temporary Speaker, there are two things that I want to mention. A few weeks ago, I did seek a Statement from the Committee on Education. I am happy the

Committee has given necessary attention under the leadership of Sen. (Dr.) Milgo on the TVET trainees. We have been having a discussion on how we can agree in having a well formulated manual and structures that can be put in place to ensure that when trainees are hired, they have the same---

Thank you. I hope I will still have time.

The Temporary Speaker (Sen. Pareno): Yes, Sen. Cherargei. You will have a balance of 17 minutes when this matter comes up in the Order Paper tomorrow.

ADJOURNMENT

The Temporary Speaker (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned to tomorrow, Thursday 15th July, 2021 at 2.30 p.m.

The Senate rose at 6.30 p.m.