

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 7<sup>th</sup> July, 2021

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

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

### PRAYER

### PETITIONS

#### PLIGHT OF FORMER EMPLOYEES OF KUSCO FOLLOWING TERMINATION OF THEIR EMPLOYMENT

**Sen. Faki:** Mr. Speaker, Sir, this Petition is brought under Article 28, 29, 30, 37, 41 and 119 of the Constitution of Kenya and Section 5(4)(b), 16(a) of the Employment Act, regarding the fate of the former employees of KUSCO limited.

The undersigned petitioners are citizens of Kenya who largely resides in Mombasa County, in the Coastal Region and are former employees of Kenya United Steel Company (KUSCO).

They wish to draw the attention of the Senate to the fate of the said citizens upon termination of their employment.

Mr. Speaker, Sir, the facts of the case are that the undersigned 163 people were employed by the company called KUSCO which is based in Jomvu Sub-county, Mombasa County.

The petitioners were illegally dismissed from employment, but were not compensated by the employer. Instead, the company was sold and the employees left to languish in poverty.

The petitioners, through Joesph Ashioya and 171 others, filed the matter before the High Court in Mombasa under Petition No.703 of 2011.

The matter was subsequently transferred to the Mombasa Employment and Labour Court and was dismissed by the High Court.

Mr. Speaker, Sir, at the time they went to the court, the petitioners were claiming a total sum of Kshs35,813,990. The amount was as follows-

Salaries amounting to Kshs5,974,791 and all other benefits amounting to Kshs29,839,199. There was also the sum of Kshs12,342,644 owned to their Sacco. These are savings which the employees had made with their Sacco.

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Mr. Speaker, Sir, the company was placed under receivership and Pricewaterhouse Coopers Limited were appointed as the receiver manager.

The labour officer also filed a report dated 16<sup>th</sup> April, 2014 indicating that the claimants were employees of KUSCO. The labour officer recommended the receiver manager to pay the claimants all their dues for the period from September, 2003 to December, 2003.

Mr. Speaker, Sir, the petitioners alleged that the receivers declined to make the payment. As a result, they violated Article 10 and 232 of the Constitution of Kenya on national values, principles of governance and public service, including negating the requirement of high standards of professional ethics in their work.

Mr. Speaker, Sir, the petitioners have suffered inhumane and degrading treatment as a result of the failure to be paid for the work that they had done with KUSCO.

Allow me to read the prayers because the Petition is long.

They humbly request the Senate to-

(1) investigate into issues of termination and compensation of the former employees of KUSCO in this Petition with the view to establish whether the matter was done within the law and was just and fair.

(ii) Invite KUSCO, the then director of KUSCO, Pricewaterhouse Coopers Limited, the Department of Labour and all other respondents and their directors to answer questions regarding this matter of compensation.

(iii) Recommends that KUSCO and their directors remit to the petitioners the sum of Kshs12,342,644 owed to them by their Sacco which was not remitted.

(iv) Recommends the sum of Kshs35,813,990 being the outstanding wages and benefits be paid to the petitioners.

The Petition was signed by Omar Ali Mwajabu and nine others on the 15<sup>th</sup> June, 2021.

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

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to support the Statement by Sen. Faki. We must be concerned about the employees in the country. This is because they are a source of labour. Therefore, it is unfair to terminate them without notice.

There is need to investigate circumstances under which these employees were terminated. We should find out whether they were given a notice for termination and whether they were compensated. They should also be compensated for the damages they go through.

This is a justifiable Petition that should be taken to the right Committee which will make a decision and act on it. This will make Kenyans to know that we are there for them and that we stand with them.

I stand to support this Petition.

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. First, I congratulate, Sen. Faki, for bringing this Petition on behalf of the workers who have been terminated from their job un-procedurally.

Mr. Speaker, Sir, as my colleague has said, there is a big problem as far as our people are concerned in the areas of employment. Individuals, companies and county governments do not follow procedures. If people are laid off un-procedurally, the relevant institutions should look into it and make sure that Kenyans get their rights.

A person's employment cannot be terminated without notice after working for an organization for years.

I have a similar situation from my county before the Committee on Labour and Social Welfare where Ewaso Nyiro North Development Authority (ENNDA) laid off more than 56 people. They reinstated 41 and refused to reinstate eight of them. This is a Government institution yet it laid off workers un-procedurally.

Some institutions employ members of staff as casuals. The law says that casuals should be employed for a three-month contract. However, people are employed in Government institutions as casuals for 10 to 15 years and then one day they are laid off which is illegal.

There is a strike by casual workers in my county because they have not been paid for nine months. The governor appeared before the County Public Accounts and Investments Committee (CPAIC) and we told him to hire those employees on contract. They had put the employees under a contractor who is being paid Kshs18 million. Out of that, he is paying them Kshs7,000 which is immoral. Something needs to be done in as far as casuals employees are concerned.

Many counties have thousands of casuals whose welfare is not taken of. The counties do not adhere to the ceiling set by the national Government on remuneration of 35 per cent. Something needs to be done. The relevant Committee should investigate this matter and ensure that the casuals are either procedurally terminated from employment or if there is violation of the legislations that are available.

This House needs to crack the whip on the counties that hire casual staff day in day out. Every governor who takes office, comes in with his group of employees. The employment of casual staff is nonstop. The casual staff are consuming a lot of budget yet most of them are not doing relevant things.

The County Assembly of Tana River appeared before the CPAIC of the Senate where I sit last week. We learnt that they have passed their ceiling. Many of the employees that they have are casual workers who are even unable to deliver on the mandate of the assembly.

Mr. Speaker, Sir, something needs to be done because we must stop the shenanigans where counties hire casual staff nonstop without adhering to legislations that are available.

Sen. Faki, *pongezi*, I support you.

**The Speaker** (Hon. Lusaka): proceed, Sen. Wetangula.

**Sen. Wetangula:** Mr. Speaker, Sir, I join the Senator for Mombasa, Sen. Faki, invoicing the concern of poor workers who for no fault of their own find themselves abandoned, unappreciated, unpaid and suffering. We have a Ministry of Labour and Social Protection in this country whose responsibility includes the protection of the interest of workers regardless of wherever or whenever they are.

Looking at its performance, you read about them on only two things, the National Social Security Fund (NSSF) because there is a lot of money there and one in a while

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making incomprehensible noise about Kenyans working in the Middle East. It has completely abdicated their responsibility of the protection of the workers.

We also have a problem with Central Organization of Trade Unions, COTU (K); an organization that is supposed to protect the interest of workers. However, their leader has abandoned his role and now plays sectarian and unhelpful politics everywhere; jumping onto any political issue, except on issues affecting workers.

The Kenya United Steel Company Ltd (KUSCO) was placed under receivership. The Committee that is going to consider this petition, must get the receiver and get full information on what the receiver did with the workers. When a receiver takes over a company, the interests of the workers do not extinguish including, but not limited to, statutory payments of the NSSF, National Hospital Insurance Fund (NHIF) and so on.

As we consider this petition, we also decry other places where workers have been abandoned. The Pan-Paper workers of Webuye; a company that was doing so well all of a sudden went into turbulence and eventually was sold at a pittance. The families of the workers are now languishing in abject poverty in the western town of Webuye.

We should also remember the workers of Mumias Sugar who have not been paid for many months. The receiver who went there is busy negotiating to cut deals on who buys Mumias Sugar Company Limited. He does not care about the workers.

The Committee on Labour and Social Welfare of the Senate which is chaired by the Senator for Nairobi County, Sen. Sakaja, when looking at this petition should bring a comprehensive policy statement that can guide the country on how to deal with the workers of this country knowing that officials of their umbrella organization are only interested in collecting dues for their flamboyant living and not the protecting or fighting for workers anywhere.

Mr. Speaker, Sir, I thank you.

**The Speaker** (Hon. Lusaka): proceed, Sen. Wario.

**Sen. Wario:** Mr. Speaker, Sir, I thank you for giving me this chance. I rise to support the statement by my good friend, Sen. Faki. Sacking of workers by county governments has become habit. For instance, Tana River County sacked many workers. That move has impoverished the lives of families of the workers. Many of the workers are dismissed for no good reason yet they have dependents. The county governments cannot keep sacking workers whenever a new regime takes office. Something should be done.

Mr. Speaker, Sir, I thank you.

**The Speaker** (Hon. Lusaka): proceed, Sen. (Prof.) Ekal

**Sen. (Prof.) Ekal:** Mr. Speaker, Sir, I thank you for giving me a chance to contribute to this petition. From listening to fellow colleagues, I realize that this is a cross cutting issue that affects most counties.

Many casual staff of Turkana County were also dismissed and have not been paid for a long time. I speak on behalf of the casual workers. Workers, are human beings like us who must be respected and paid for the energy that they put into any field.

It is slavery to employ someone and fail to pay them. Slavery is over and done with. In this day and age, everyone must be paid for the energy that they put in work. If you get people to work, you must pay them.

The casual workers are mothers and fathers who want to send their children to school as well as feed their children besides doing other things. How are the works

supposed to manage if they are not paid? When the casual workers are sent away, they must be paid for the time that they put in that particular work. It is very inhuman to treat people like animals. People must be respected and paid for the work that they put in.

Mr. Speaker, Sir, I beg to support. I thank you.

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

**Sen. Kavindu Muthama:** Mr. Speaker, Sir, I thank you for giving me this opportunity to support the statement of Sen. Faki.

I concur with fellow Senators that even in our counties, we are seeing a lot of irregularities in the sacking of employees and with some working under every bad conditions while others work without pay. For instance, in Machakos County, there are cleaners who are working at the Machakos County Level 5 Hospital who have not been paid for more than six months.

The community health volunteers' workers have also not been paid for more than a year. There are many such employees who are sacked without notice. Some are not even paid their dues whenever they are sacked. The workers are parents who have children to take to school, feed as well rent to pay. When workers are sacked without notice, what do we expect them to do? The Ministry of Labour and Social Protection should take care of these employees.

Mr. Speaker, Sir, I beg to support this petition.

**The Speaker** (Hon. Lusaka): Finally, Sen. Madzayo.

**Sen. Madzayo:** Bw. Spika, kwanza namshukuru ndugu yangu, Seneta wa Kaunti ya Mombasa, Sen. Faki, kwa kuleta ombi hili la wafanyikazi wa KUSCO. Wafanyikazi 171 sio wachache. Tusianguzie wafanyikazi hawa pekee yao. Wafanyikazi hao wanafamilia; mabibi, ndugu, watoto na watoto wa ndugu wanaowategemea. Familia za kiafrika, watu hutegemeana na kushirikiana sana. Mara kwa mara wafanyikazi wengi huwa wanaishi hata na watoto wa ndugu pasi na familia yake.

Familia za kiafrika ni kubwa. Wafanyikazi 171 ni nambari kubwa. Mfanyikazi mmoja anaweza kuwa anategemewa na watu zaidi ya mia moja. Ni kosa kubwa kwa wafanyikazi wa KUSCO kukosa kulipwa ridhaa zao. Wizara ya Leba inayoshughulikia wafanyikazi ilichagua afisa mmoja aliyeshughulikia jambo hili la wafanyikazi kuvutwa kazi kiholela. Afisa huyo aliandaa ripoti iliyosema kwamba wafanyikazi hao walivutwa kazi kiholela. Afisa huyo alipendekeza wafanyikazi hao kulipwa na kampuni hiyo lakini kampuni hiyo ilifanya uwerevu na kuuza kampuni hiyo. Kampuni hiyo ilififia na hatimaye kufungwa.

Mambo kama haya yanatendeka kila mahali katika nchi yetu. Katika Kaunti ya Kilifi, makampuni mengi yanatumia wafanyikazi na baadaye wanafunga na kuwaacha katika hali mbaya maishani. Wengi wa wafanyikazi walioachishwa kazi wana watoto shuleni.

Madhara kama haya ya kuwachishwa kazi yanaleta hasara kubwa katika familia kama ndoa kuvunjika, nyumba kuvunjika, watoto kuacha shule na mengine mengi. Jambo la kusikitisha zaidi ni kwamba watoto wa kike huwa katika hali mbaya zaidi kwa sababu hawana la kufanya hivyo wanalazimika kufanya kazi ambazo hawangefanya kama wangesoma.

Mambo kama haya yanatendeka katika kampuni kama za Export Processing Zones (EPZs). Kamati ya leba na ustawi wa jamii inayoongozwa na ndugu yangu seneta wa Nairobi, Sen. Sakaja, inafaa kukemea kitendo hicho na kufanya uchunguzi kwa kina

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na hatimaye kuhakikisha wafanyikazi wote 171 wameshughulikiwa na wakuu wa kampuni ya KUSCO wameshikwa na kulazimishwa kuwalipa pesa za wafanyikazi hao. Pesa za wafanyikazi 171 sio kidogo. Hiyo ni zaidi Kshs12 milioni.

Hizo sio pesa kidogo hasa kwa wakati huo. Pesa hizo ziko na faida yake. Ikiwa zitalipwa, basi wale wakurugenzi na kila mtu lazima ashurutishwe alipe pesa hizi.

Asante, Bw. Spika.

**The Speaker** (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.232(1), the Petition is hereby committed to the Standing Committee on Labour and Social welfare for its consideration and in terms of Standing Order No.232(2), the Committee is required in not more than 60 calendar days from the day of reading the prayer, to respond to the petitioner by a way of a report addressed to the petitioner and laid on the Table of the Senate.

I thank you.

*(The petition was committed to the Standing Committee  
on Labour and Social welfare for consideration)*

Next order.

Sorry, let us have Sen. Githiomi.

REPORTS ON PETITIONS FROM THE COMMITTEE  
ON LANDS, ENVIRONMENT AND NATURAL RESOURCES

**Sen. Mwangi:** Mr. Speaker, Sir, I thank you for giving me this opportunity to present reports of the Committee on Lands, Environment and Natural Resources which have been conclusively deliberated and ready to be presented to this House.

The Committee received 17 petitions committed by this House, related to the mandate pursuant to Standing Order 232 of the Senate Standing Orders. The Committee considered and has concluded 13 petitions. The Committee is considering the remaining petitions and reports will be tabled in this House upon conclusion. Those are only four reports which have not been concluded. Otherwise, the other 13 have been concluded.

The Committee thanks the offices of the Speaker of the Senate and the Clerk of the Senate for the support extended to the Committee in the execution of its mandated. The Committee extends the appreciation to the petitioners, the Cabinet Secretaries and stakeholders for their submissions and contributions to this resolution of these petitions.

Mr. Speaker, Sir, it is now my pleasant duty and privilege, on behalf of the Committee, to present the following reports of the Standing Committee on Land, Environment and Natural Resources on Petitions Committed to the Committee –

REPORT ON PETITION: RESETTLEMENT OF IDPS  
LIVING IN NYANDARUA COUNTY

First is the Report of the Petition Concerning the resettlement of internally displaced persons (IDPs) in Nyandarua County. There are IDPs who have been settled at the Presidential Park at Ol Kalou and have been living there for a long time and they have been told to vacate. So, it is our duty now, having presented the report to ensure that the

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IDPs have been settled. They have been there for a long time and they do not know where to go and they have families. So, we expect that the Government of Kenya, will settle these IDPs.

REPORT ON PETITION: ILLEGAL ENCROACHMENT OF LAND IN LAMU  
COUNTY BY WITU LIVESTOCK COOPERATIVE SOCIETY

The other Report on Petition that I want to present to this House is on the alleged illegal encroachment of land covering the villages of Pangani, Nyatha, Kaisari, Mavuno, Promoko and Widho in Lamu County by Witu Livestock Cooperative Society. At the sitting of the Senate held on 4<sup>th</sup> March, 2021, Sen. Anuar Loitiptip, MP, reported to the Senate that a Petition was submitted from representative of White House Progressive Community, a Community based organisation and residents of Mavuno sub location in Lamu County on the alleged illegal encroachment of land covering the villages of Pangani, Nyatha, Kaisari, Mavuno, Promoko and Witu in Lamu County by Witu Livestock Cooperative Society.

The Committee observed that Land has been set aside for the settlement of the said squatters and recommended that the Ministry of Lands and Physical Planning, together with the National Land Commission ensure that proper and transparent plot demarcation, survey and squatter verification program for settlement of the occupants is done and completed by 31<sup>st</sup> December, 2021; and that a report be shared with the Committee on the status. We expect that the Ministry of Lands and Physical planning and the National Land Commission will assist these petition. The plots should be demarcated and allocated to the right people.

REPORT ON PETITION: GAZETTEMMENT OF ONDIRI  
WETLAND IN KIAMBU COUNTY

Mr. Speaker, Sir, the next report is on the petition by friends of Ondiri Wetland, Kenya, on the gazettelement of Ondiri Wetland in Kiambu County. At the sitting of the Senate held on 7<sup>th</sup> July, 2020, Sen. Isaac Mwaura, CBS, MP, reported to this Senate that a Petition had been submitted by friends of Ondiri Wetland, Kenya, regarding the gazettelement of Ondiri Wetland, Kiambu County. The Committee observed that the Ministry of Water, Sanitation and Irrigation was already in recognition of the same and was taking the necessary steps to initiate a formal protection status for Ondiri Wetlands.

Further, that the Ministry of Environment and Forestry had already undertaken commendable steps towards addressing the matter. The Committee, however, noted that there was a huge challenge of encroachment into the wetland swamp which required to be addressed immediately. The Ministry of Water and Sanitation is addressing this issue. We wish that the Ministry will hasten the implementation of this issue of gazettelement and ultimately gazette the wetland.

REPORT ON PETITION: DELAYED ADJUDICATION AND  
SETTLEMENT OF SQUATTERS ON MACHUNGWANI LAND  
IN TAITA TAVETA COUNTY

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Mr. Speaker, Sir, the other report is on the Petition on Delayed Adjudication and Settlement of squatters on Machungwani land situated in Mboghoni Ward in Taveta Constituency of Taita Taveta County. We have made a visit to this place in Taveta. This land used to belong to Hon. Criticos; the lease has expired and it is the wish of the people of Taveta that land be allocated to squatters who are already on the land. There have been problems because Hon. Criticos want the lease to be renewed and those who are living on the land would not wish the lease to be renewed because they want the land to be allocated to the locals.

The recommendations of the Committee are that the lease should not be renewed and the land should be allocated to the squatters who have already settled on the land. We are hoping that the National Land Commission and the Ministry of Lands and Physical Planning will implement the recommendations of the Committee.

REPORT ON PETITION: ILLEGAL ENCROACHMENT OF  
COMMUNITY LAND BY KDF SCHOOL OF ARTILLERY

The next report is on a Petition on alleged Illegal Encroachment of Community Land by the School of Artillery, Kenya Defence Forces. This Petition was brought to this House by Sen. Fatuma Dullo, CBS, MP. It reported to the Senate that a Petition has been submitted by Residents of Ngare Mare, Isiolo County, on the alleged illegal encroachment of Community land by the School of Artillery, Kenya Defence Forces in Isiolo.

The Committee conducted investigations and a site visit to Isiolo. The Committee noted that the land was acquired vide gazette Notice No. 3210 of 1977 which required all applications for compensation by claimants to be submitted to the respective District Commissioners in Isiolo. This is for purposes of compensation. Unfortunately, most of those living on the land did not send their applications to the District Commissioner.

The Committee has recommended that those who sent their applications before the expiry of the days given should be allocated the land – they should be compensated because it is only fair that if government is taking land that does not belong to it, then they should compensate those who are living on that land. We have many cases like this in Kenya, where land has been taken without compensation. It is just time for Government to know that those people are suffering and have suffered and they should be given due compensation.

REPORT ON PETITION: ACQUISITION OF KARARE  
LAND IN MARSABIT COUNTY BY KDF

Mr. Speaker, Sir, Report No.6 is Report on the Petition regarding the acquisition of Karare Land in Marsabit County by the Kenya Defence Forces. At the Sitting of the Senate held on 23<sup>rd</sup> June, 2020, the Hon. Speaker of the Senate, reported to the Senate that a petition has been submitted by Rendile and Samburu Community representatives regarding the acquisition of Karare Land in Marsabit County by the Kenya Defence Forces.

The Committee noted that the Petitioners and other parties are actively pursuing this matter in court, which was not disclosed by the Petitioners as required. The

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Committee notes that KDF has extensively engaged the County Government of Marsabit, the Ministry of Tourism and Wildlife through the Kenya Wildlife Service and members of the local community. These engagements led to the downsizing of the land allocated to KDF from 5,000 hectares to 2,500 hectares.

The Committee recommended that the Ministry of Defence and the County Government, identify an alternative land for KDF in other areas where the locals are not opposed to KDF presence with proper public participation, and that the Ministry of Tourism and Wildlife objects to the acquisition of the part of Marsabit National Reserve by KDF to safeguard wildlife protected area. This is because there is a big area that is not covered by the residents and KDF can be moved to those other areas and then leave the area they are covering for the KWS and the residents of Marsabit.

REPORT ON PETITION: OPERATIONS OF KAREBE  
GOLD MINING LIMITED

This is a report on the Petition by residents of Tinderet Sub County in Nandi County on the operations of Karebe Gold Mining Limited in Nandi County.

Mr. Speaker, Sir, at the sitting of the Senate held on 25<sup>th</sup> September, 2018, the Senator for Nandi County, Sen. Cherargei, presented to the Senate a petition by residents of Tinderet Sub County in Nandi County on the operations of Karebe Gold Mining Limited in Nandi County.

The Petition was thereafter committed to the Senate Committee on Labour and Social Welfare, but following considerations by the committee, it resolved to recommit the matter, through the Speaker of the Senate, to the Committee on Land, Environment and Natural Resources, having noted that most of the matters raised in the Petition touched its mandate.

The committee noted that Karebe Gold Mining Limited had operated on Mr. Cheseret arap Korir's land for 10 years until its licence expired in January 2019 and a court ruling in favour of Mr. Cheseret arap Korir ordered the company to vacate the land. Consequently, Karebe Gold Mining Limited stopped its operations and laid off the workers following the court ruling.

The Committee recommended that before renewal of the mining licence to Karebe Gold Mining Limited, the Ministry of Petroleum and Mining should ensure that the company has fully addressed the concerns of the previous employees. It is good for the employees to be taken care of because all the employees were laid off. We know how joblessness has affected this country. So, those employees should be catered for.

I will now move to the next.

REPORT ON PETITION: EXCHANGE AND FINAL TRANSFER  
OF TITLES TO TWO PARCELS OF LAND IN NAKURU COUNTY

Mr. Speaker, Sir, this is a petition concerning the alleged exchange and final transfer of titles for parcels of land known as Larry Nyakinyua Solai Farm, located in Solai, Nakuru County and Fiobei Farm Limited located in Gilgil, Nakuru County.

The two farms wanted to exchange the titles. Unfortunately, one of the land had already been occupied by squatters. Now it is difficult to evict those squatters. We are also urging the Government to ensure that they take care of that.

The Committee recommends that the Ole Osono Group living in Solai and Fiobei Farmers Limited, having been established not to be the legitimate owners of the land by the court, vacate the land to allow occupation by Nyakinyua Land Buying Company who are the legitimate owners of the land.

I want to move to the next one.

REPORT ON PETITION: UNLAWFUL ENCROACHMENT  
AND FORCIBLE OCCUPATION OF BARWAQO PLOTS,  
MANDERA COUNTY

The next Report is a petition regarding the alleged unlawful encroachment and forcible occupation of Barwaqo plot within Bulla Mpya Ward, Mandera East Constituency, Mandera County.

Mr. Speaker, Sir, at the sitting of the Senate held on 16<sup>th</sup> May, 2019, the hon. Speaker of the Senate reported to the Senate that a petition had been submitted through the Office of the Clerk on the alleged unlawful encroachment and forceful occupation of Barwaqo plots within Bulla Mpya Ward, Mandera East Constituency, Mandera County.

The Committee conducted investigations and arrived at recommendations that are outlined in the report. The Committee noted that there was no dispute that the petitioners were the rightful owners of the pieces of land and that the petitioners had no objection of the Government acquiring the land through compulsory acquisition as long as they were adequately compensated.

The Committee recommends that security forces continue with the use of the campsites to safeguard the lives and properties of the people of Mandera County while the Ministry of Interior and Co-ordination of National Government should immediately commence compensation of the allottees in line with the laid down legal process or vacate the land altogether.

Another recommendation is that the National Land Commission (NLC) monitors the compensation process and gives status report within four months after tabling of this report in the Senate.

This is a case where people who own the land do not have a problem. They realised that they need security and they cannot be safe without the armed forces. So, they want to be compensated for their land. It is fair for the Government to ensure that those people are compensated.

That is the responsibility of the NLC. They should ensure that those people are compensated so that the armed forces occupying the land at the moment continue being there to ensure that the people living in Mandera are secure.

Let me now move to the next report.

REPORT ON PETITION: HISTORICAL LAND INJUSTICES INVOLVING  
PLOT No.162/V/M.N.CR1070 IN MOMBASA COUNTY

Mr. Speaker, Sir, this Petition was submitted by the Wajomvu Community living in Mombasa County concerning the alleged historical land injustices involving Plot No.162/V/M.N.CR1070 in Mombasa County.

At the sitting of the Senate held on 4<sup>th</sup> August, 2020, the hon. Deputy Speaker of the Senate reported to the Senate that a petition had been submitted by the Wajomvu Community concerning alleged historical land injustices involving Plot No.162/V/M.N.CR1070 in Mombasa County.

The Committee noted that Plot No.162/V/M.N.CR1070 does not exist anymore as 456 subdivisions have been done and titles already given to private purchasers. Further, this matter was listed as a historical case that has been prioritized for investigation hearing and determination by the NLC.

The Committee recommended that the NLC expedites its investigation on the issue as a historical land injustice and gives direction within three months of tabling of this report in the Senate. The matter is being investigated by the NLC and I think they will give it a fair judgment.

We visited Mombasa with the area Senator to listen to the petitioners and they have a case. I urge the NLC to ensure that justice is done to this matter.

Let me move to the next report.

#### REPORT ON PETITION: LAND OWNERSHIP DISPUTE BETWEEN MWAKITAU RESIDENTS AND ISANGA IWISHI GROUP RANCH

This Report regard land ownership dispute between Mwakitau residents and Isanga Iwishi Group Ranch.

Mr. Speaker, Sir, at the sitting of the Senate held on 2<sup>nd</sup> July, 2019, the hon. Deputy Speaker of the Senate reported to the Senate a petition had been submitted by residents of Mwakitau Location, Mwatate Sub County, Taita-Taveta County, regarding Mwakitau land ownership dispute between Mwakitau residents and Isanga Iwishi Group Ranch.

The Committee concluded investigations. It had a site visit on 26<sup>th</sup> March, 2021. The Committee recommended that the Chief Land Registrar reviews the issuance of the title to Isanga Iwishi Group Ranch with a view to revoking it to ensure that effective public participation is undertaken, especially by residents occupying the land in question, before the title to the property is issued and report back to the Senate within six months after tabling of the report.

Mr. Speaker, Sir, noting that the petitioners also referred this matter to the NLC, the Committee recommends that the NLC enquires into the matter and reports back to the Senate within six months from the date of tabling of this report.

The committee further recommends that the Directorate of Criminal Investigations (DCI) investigates the list of members of Isanga Iwishi Group Ranch to verify whether the persons listed exist and whether they are part of the community that has been in occupation or communal ownership of any land claimed by the ranch.

It is important to mention here that this case is already in court. Members of Isanga Iwishi Group Ranch have gone to court and we do not know what is going to happen. We do not know the decision that will be made by the court. However, this petition came to us before they went to court. That is why we decided to go on with the

investigations and listen to the petitioners and make recommendations to this House on what should be done.

I will move to the next report.

REPORT ON PETITION: IMPENDING EVICTION OF MSAMBWENI  
RESIDENTS BY SPARKLE PROPERTIES LIMITED

Mr. Speaker, Sir, the next report is of Msambweni Village in Voi Sub-County of Taita Taveta County regarding the alleged impending eviction of Msambweni residents by a private company.

We went to Msambweni and we listened to the petitioners. This land belonged to Bata Shoe Company and Bata Shoe Company also sold it. The conditions under which Bata Shoe Company got this plot was that they were going to build a Bata factory at that site. Bata Shoe Company never built the shoe factory but they instead sold the land to other people. As I talk, this case is in court.

The Committee conducted investigations and did a site visit on 27<sup>th</sup> March, 2021. The Committee recommends that the DCI and the EACC investigate the circumstances leading to failure of adherence to the conditions of the grant of the Msambweni land to Bata Shoe Company Limited and issuing a consent to the transfer of the land to Sparkle Properties Limited.

The Committee further recommends that the Cabinet Secretary, Ministry of Lands and Physical Planning and the Cabinet Secretary, Ministry of Interior and Co-ordination of National Government ensure that the residents of Msambweni are not evicted from the Msambweni land until the investigations are completed. The National Land Commission should ensure that no funds for compensation for compulsory acquisition are released to Sparkle Properties Limited until conclusion of the investigations.

Mr. Speaker, Sir, this is a tricky case where Bata Shoe Company has been given conditions before the land was allocated to them and one of the recommendations was that they should built a Bata Shoe Company, but not sell the land. Now Bata Shoe Company found it prudent to sell the land to Sparkle Limited and they did not seek permission from those who owned the property.

So, we are expecting that the recommendations of this Committee will be followed and implemented by the Government departments which are supposed to do so.

I had already tabled the reports. All of them are with the Clerk of the Senate. I have only two other ones to present.

Mr. Speaker, Sir, the next one is a petition concerning the adverse effects of rock blasting at Thwake Dam. I do not wish to present this one because there is still one or two recommendations that we are making later and this report can be presented by next week.

As you have heard, the Committee of Lands, Environment and Natural Resources has a lot of work and responsibility. I would beg that this Committee be given a little more funds to be able to move to all corners of this country to investigate cases pertaining to land issues.

I beg to stop at that point.

**The Speaker** (Hon. Lusaka): Thank you for that report. If we want to make comments, let us be brief and to the point. We have a very heavy schedule, so I will ask that we go to the next order.

**Sen. M. Kajwang'**: On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. M. Kajwang'?

**Sen. M. Kajwang'**: Mr. Speaker, Sir, I think it would be fair on the Committee on Lands, Environment and Natural Resources, if you just gave a minute or two, for the House to commend the Committee for bringing to this House reports on 12 petitions. I do not think there is any other Committee that has done so.

When you look at Sen. Mwangi, you do not think he is capable of bringing 12 reports to the House. However, he has done better than any other committee chairperson in terms of dealing with petitions. I think it is fair that the House registers its appreciation to this Committee.

The only substantive thing I wanted to say is that in the Constitution we have established the NLC. There is an Act of Parliament providing the powers of the NLC which includes receiving petitions on issues of historical injustice, eviction, grants and leases.

We must ask ourselves as a House, why is it that the public is preferring to bring petitions to the Senate and not to take petitions to the NLC? The challenge I want to give to the chairperson of the Committee on Lands, Environment and Natural Resources who has already done an excellent job is that before we close this House later on next year we must ask ourselves whether the NLC we have and the manner in which it operates is the manner in which was envisaged in the Constitution and the National Land Policy because what Sen. Mwangi is doing ideally should be the duty of the NLC. Congratulations, Sen. Mwangi.

**The Speaker** (Hon. Lusaka): That is allowed, but please keep your comments brief.

**Sen. Dullo**: Thank you, Mr. Speaker, Sir, for this opportunity although I know that you normally do not allow for comments on petitions tabled by Committees.

I wish to take the same opportunity to congratulate the Committee on Lands, Environment and Natural Resources chaired by Sen. Mwangi. I went with them all the way to Isiolo for a whole day visit. There is a small correction which I would want him to correct. They have looked at Ngare Mara, but they forgot a place called Burat where the KDF is also evicting people.

Thirdly, this Committee has been doing a great job, but the challenge they have been facing is that the Cabinet Secretary "refused" and I am using that word deliberately. In several sittings that we had with this Committee, the CS refused to appear and respond to those issues. That equally goes to NLC where we requested for some information where they purported to have compensated some individuals; they refused to submit those lists which I think we need to follow up.

Finally, we have an issue of implementation of the report of our committees. This is a very good report. It is going to help Kenyans who are affected. However, this Committee through your office and the Clerk, it is important for this report to be implemented as quickly as possible so that the evictions are stopped and these people are compensated.

I thank you.

**Sen. Faki:** Asante, Bw. Spika. Mimi pia ninachukua fursa hii kujiunga na Maseneta wenzangu kumpongeza Sen. Mwangi kwa kazi nzuri ambayo amefanya. Aliwahi kuzuru sehemu ya Jomvu Kuu siku moja na tukaenda mpaka Ukunda siku hiyo hiyo. Tukimaliza ziara ya shamba la Ukunda ilikuwa ni karibu saa mbili usiku. Naipongeza kamati yake kwa kazi nzuri wanayofanya. Pia ningependa kujiunga na Seneta Dullo kusema kwamba kuwe na mwelekeo wa kuonyesha hii ripoti itatekelezwa vipi kwa sababu maswala mengi ya ardhi yameweza kufa kwa NLC. Kwa hivyo, hatungependa ripoti hii, ambayo Kamati imekaa, ikafanya kazi kubwa iende kuishi katika shelves za NLC kama vile ripoti zingine zilikufa huko.

Asante, Bw. Spika.

**Sen. Halake:** Thank you, Mr. Speaker, Sir. I was a Member of the Committee on Land, Environment and Natural Resources. I can vouch and confirm that Sen. Mwangi is one of the most hardworking chairmen I know. One time when he had to make sure that the communities get their service, he actually got hit by a *boda*. He did not use the vehicle because there was so much traffic, the communities were coming in the afternoon and he had to give answers to them. I am in awe of his hard work and the good work that he has done.

This Committee receives a lot of petitions because of the land issues in this country, but it has done a wonderful job. As you have seen, these are not reports that were done lightly, but they are very comprehensive and the Chairman was at the centre of all this. He was there physically, hands-on making sure that he went to every office, even sometimes on foot when he had to. I congratulate him.

We are very proud of the work that he is doing. This Senate should be very proud that communities are now finding solace, answers and service in the Senate of Kenya more than anywhere else. The number of petitions that are coming to this House are testament to the fact that the people of Kenya trust the Senate to serve them and know that it is a place where justice will be served to them.

Mr. Speaker, Sir, I congratulate the Committee and support the reports.

**The Speaker** (Hon. Lusaka): Sen. Olekina.

**Sen. Olekina:** Mr. Speaker, Sir, I thank you. Let me begin by joining my colleagues to congratulate my dear friend, Sen. Mwangi. I do so because I know that the Committee on Land, Environment and Natural Resources had the highest number of Petitions. I think they had 41 petitions. At some point, they did 17 and today they tabled about 12. We still have five more to go, which is a good thing.

As I congratulate them, I heard in your last submissions the Ole Osono group and the issue they have had with Nyakinyua. I request my good friend, Sen. Mwangi, to look into the historical issues relating to how the two lands were swapped. There is another group that had not been discussed. I know that once you release the report to the petitioners, it will come back here. This is because the public participation that was carried out required the Nyakinyua group to be compensated.

Mr. Speaker, Sir, I seek that my good friend follows up to ensure that apart from the Ole Osono group vacating the land--- You remember that it is an issue of 8000 acres. They are living in that 800 acres now and the Nyakinyua group does not live there.

Their land was taken away in Solai. Therefore, the issue of that land has to be resolved in a way the way that the three groups had agreed. It is an issue of compensation.

I, therefore, beseech my good friend to relook at that issue. Sen. M. Kajwang' talked about the issue of implementation. Yes, the citizens are coming to this House to seek support, but what happens when we give out recommendations that disenfranchise one group and benefit the other one, yet the historical injustices that caused that problem are not looked at?

I urge my friend to follow up. How do you vacate people who have lived and buried their ancestors there, and bring other people who live in Kiambu County to take over that land? We cannot do that. It continues to bring conflict. Recently someone was killed in that area. The three groups have agreed on land compensation.

Mr. Speaker, Sir, I thank you for giving me this opportunity and I hope that Sen. Mwangi and his Committee will pursue this issue, so that these people can be given justice.

**The Speaker** (Hon. Lusaka): That is all. Let us go to the next order.

### PAPERS LAID

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I beg to lay the following Papers on the Table of the Senate today, 7<sup>th</sup> July 2021.

#### REPORT OF EALA COMMITTEE ON COMMUNICATION ON CAPACITY BUILDING WORKSHOP FOR MEMBERS

Report of the East African Legislative Assembly Committee on Communication, Trade and Investment on the capacity building for Members, held between 22<sup>nd</sup> to 25<sup>th</sup> October, 2020 in Arusha, Tanzania.

#### REPORT OF EALA COMMITTEE ON GENERAL PURPOSE ON CAPACITY BUILDING WORKSHOP FOR MEMBERS

Report of the East African Legislative Assembly Committee on General Purpose on the capacity building workshop to enhance the capacity of Members in Legislative and Budget Oversight held between 26<sup>th</sup> to 29<sup>th</sup> October, 2020 in Arusha, Tanzania.

#### REPORT OF EALA COMMITTEE ON REGIONAL AFFAIRS AND CONFLICT RESOLUTION ON CAPACITY BUILDING FOR MEMBERS

Report of the East African Legislative Assembly Committee on Regional Affairs and Conflict Resolution on the capacity building of Members, held between 26<sup>th</sup> to 29<sup>th</sup> October, 2020 in Arusha, Tanzania.

#### REPORT OF EALA COMMITTEE ON LEGAL, RULES AND PRIVILEGES ON COMPLIANCE WITH THE EAC PROTOCOLS AND LAWS BY EAC INSTITUTIONS

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Report of the East African Legislative Assembly Committee on Legal, Rules and Privileges on the oversight activity on compliance with the East African Cooperation (EAC) Protocols and Laws by EAC institutions (Phase Two) held between 1<sup>st</sup> to 5<sup>th</sup> November, 2020 in Arusha, Tanzania

REPORT OF EALA COMMITTEE ON ACCOUNTS ON IMPLEMENTATION OF ASSEMBLY  
RECOMMENDATIONS ON EAC AUDITED ACCOUNTS

Report of the East African Legislative Assembly Committee on Accounts to assess the status of implementation of the Assembly recommendations on the EAC audited accounts for the East African Court of Justice and East African Community Competition Authority for the Financial Year ended 30<sup>th</sup> June, 2017 and 2018 held virtually between 17<sup>th</sup> to 21<sup>st</sup> January, 2021 in Arusha, Tanzania.

I thank you.

*(Sen. Dullo laid the documents on the Table)*

**COMMUNICATION FROM THE CHAIR**

CONSIDERATION OF REPORTS OF THE EALA AND PAP

**The Speaker** (Hon. Lusaka): Hon. Senators, I have a communication. Take you seats.

Hon. Senators, Standing Order 240 provides for the procedure on reports of the East African Legislative Assembly (EALA) and the Pan African Parliament (PAP). Standing Order 240 (2) provides that the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration shall consider Bills or Acts, reports or records of debates of the EALA or the PAP and submit its report to the Senate, with its own recommendations, if any, within 21 days, from the date of submission of such Bills, Acts, reports or records of debates.

Further, Standing Order 240 (3) provides that whenever the clerk receives copies of the records of relevant debates of the meetings of EALA, or copies of Bills introduced into EALA and Acts of the East African Community (EAC), the clerk shall forward such records of debates, Bills or Acts of the Community to the relevant Committee, being the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.

Hon. Senators, you may recall that yesterday, Tuesday, 6<sup>th</sup> July, 2021, the following Papers from EALA were tabled in the Senate -

- (1) The EAC Sexual Reproductive Health Bill;
- (2) Report of the EALA Committee on Agriculture, Tourism and Natural Resources on the oversight activity on the impact of the COVID-19 pandemic on food security in the EAC adopted at the 5<sup>th</sup> Meeting of the 4<sup>th</sup> Session of the 4<sup>th</sup> Assembly, held between 9<sup>th</sup> to 29<sup>th</sup> May, 2021 in Arusha, Tanzania; and

- (3) Report of the EALA Committee on Accounts on the status of implementation of the Assembly's recommendations on the EAC audited accounts for the East African Health Research Commission and the East African Kiswahili Commission for the Financial Year ended 30<sup>th</sup> June, 2017 and 2018, adopted at the 5<sup>th</sup> Meeting of the 4<sup>th</sup> Session of the 4<sup>th</sup> Assembly, held between 9<sup>th</sup> to 29<sup>th</sup> May, 2021 in Arusha, Tanzania.

Additionally, the following reports from EALA have now been tabled by the Senate Majority Leader-

- (1) Report of the EALA Committee on Communication, Trade and Investment on the capacity building for Members held between 22<sup>nd</sup> to 25<sup>th</sup> October, 2020 in Arusha, Tanzania;
- (2) Report of the EALA Committee on General Purpose on the capacity building workshop to enhance the capacity of Members in Legislative and Budget Oversight held between 26<sup>th</sup> to 29<sup>th</sup> October, 2020 in Arusha, Tanzania;
- (3) Report of the EALA Committee on Regional Affairs and Conflict Resolution on the capacity building of Members, held between 26<sup>th</sup> to 29<sup>th</sup> October, 2020 in Arusha, Tanzania;

4. Report of the East Africa Legislative Assembly (EALA) Committee on Legal, Rules and Privileges on the oversight activity on compliance with the East African Community (EAC) protocols and laws by EAC institutions Phase 2 held between 1<sup>st</sup> and 5<sup>th</sup> November, 2020 in Arusha, Tanzania.

5. Report of the EALA Committee on Accounts to assess the status of the implementation of the Assembly recommendations on the EAC audited accounts for the East African Court of Justice (EACJ) and East African Community Compensation Authority (EACCA) for the financial year ended 30<sup>th</sup> June 2017 and 2018 held virtually between 17<sup>th</sup> and 21<sup>st</sup> January, 2021 in Arusha Tanzania.

Hon. Senators, pursuant to the provisions of Standing Order No. 240 (2) I direct the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration to consider these reports and Bills and table reports thereon with recommendations if any within the stipulated timeline of 21 days for consideration by the Senate pursuant to Standing Order No. 240 (4).

Going forward, I direct the Clerk as he discharges his obligation under Standing Order No. 240 (3) by forwarding such reports or Bills from EALA, to also make arrangements for tabling of the same documents for the information of the Senate as the Committee proceeds to interrogate the documents.

I thank you.

Next Order.

Sen. Khaniri, proceed.

## STATEMENTS

### INCREASING RATE OF UNEMPLOYMENT CAUSED

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## BY COVID-19 PANDEMIC

**Sen. Khaniri:** Mr. Speaker, Sir, I thank you for the opportunity. I am making a Statement on the increased rate of unemployment caused by the Coronavirus disease (COVID-19) pandemic. I need to notify you that there is a little variation to the Statement that you approved because of the statistics. You remember this is a Statement that you approved a couple of months ago but statistics have changed. So, I have just incorporated the new statistics otherwise the Statement remains the same.

Pursuant to the provisions of our Standing Order No. 47 (1), I rise to make a Statement on an issue of general topical concern that is the increased rate of unemployment and economic hardship caused by the COVID-19 pandemic.

Mr. Speaker, Sir, the COVID-19 pandemic came with a lot of loss and drastic negative effects in people's daily lives. The biggest effect has been loss of income felt by the businesses, employers and employees. The pandemic has exacerbated the unemployment situation in the country leaving a significant number of people especially the youth jobless. The rate of unemployment and underemployment in Kenya has been high but the COVID-19 pandemic has worsened it significantly.

On the economic front, the worst hit sectors are the tourism, transport, horticulture and communication. In addition, small businesses and the self-employed in all sectors have not had it any easier either. Due to the lockdown measures imposed to curb the spread of the virus, business operations have had to reduce significantly thus greatly affecting small businesses' profits. Whereas before people could conduct their business for as they wanted, the curfew brought limitation to that. The pandemic has forced many businesses in the country to lay off staff, slash employees' salaries and for some to close down.

Mr. Speaker, Sir, according to a report released by the Kenya National Bureau of Statistics (KNBS) on the 1<sup>st</sup> September, 2020, this was six months into the pandemic, the unemployment rate had doubled to 10.4 per cent as compared to 5.2 per cent in March of 2020. This percentage could have gone higher because we are now one year and four months into the pandemic. As many as 1.7 million Kenyans as of September 2020 had lost their jobs due to the pandemic. We can only imagine how much worse the situation is now.

According to the same report, the number of employed individuals in Kenya had shrunk from 17.8 million to 15.9 million. More worrying is that the age bracket affected the most by unemployment are our youths ranging from 20 to 29 years.

Mr. Speaker, Sir, in his remarks in August 2020, His Excellency President Uhuru Kenyatta expressed optimism that Generation Unlimited (Gen U) will intervene in this situation by assisting the Government in unlocking the potential of Kenyan youths. The Gen U is a United Nations (UN) youth empowerment program that was launched in 2018 with a goal of ensuring that young people aged 10 to 24 years are either in school, training or employment by the year 2030.

However, not much of this is being seen ten months after the promise was made. Our youth are still suffering and those in self-employment are still facing harsh realities. Over the period of the pandemic the Government rolled out *Kazi Mtaani* but even that has not been sustainable as we all know. The news that the international financial

institutions have proposed a freeze of employment by the Government as a pre-condition for external borrowing will definitely compound this crisis.

Mr. Speaker, Sir, the containment measures by the Government are hurting the people too. For instance, as much as the curfew is a necessary health protocol, the Government needs to be alive to the plight of certain small scale businesses people such as fishermen and fishmongers who operate at night. The COVID-19 pandemic and the attendant unemployment crisis has led to other societal problems such as drug and alcohol abuse, mental health problems, crime, murder and suicides which we all see on our television sets.

I believe economic recovery should be a structured and planned process. As the national legislative body and leaders in the country, we should have this structured conversation on economic recovery post pandemic. The current budget for the Financial Year 2021/2022 title Building Back Better should be implemented to ensure economic recovery and growth. If we do not look out for the people of Kenya especially the youth, then I wonder who will.

Thank you.

**The Speaker** (Hon. Lusaka): We have so many Statements so I would really limit the interventions.

Sen. Wetangula, proceed.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. I will be very brief. Yesterday, Sen. Khaniri brought a Statement on the management of the pandemic in the county. Today it is the effects of the pandemic on the country. I have no doubt that it enjoins all Senators in this House that the COVID-19 pandemic has caused severe stress in our country, particularly in terms of restricting opportunities for earning a living, self-employment and in fact direct employment.

For example, take our fishermen in Lake Victoria and my colleagues from the lake region can bear me out. Fishermen go out fishing at 6.00 p.m. or 7.00 p.m. and come back with their catch at 6.00 a.m. or 7.00 a.m. There is a curfew in that region running from 7.00 p.m. meaning that those fishermen can no longer sojourn to the lake to go and bring fish to earn a living and keep the economy running.

*Boda boda* riders particularly now in the Western region that includes the eight or so counties of Homa Bay, Migori, Siaya, Kisumu, Bungoma, Kericho, Uasin Gishu, Vihiga, Kakamega and Trans Nzoia, who depend on riding their motorcycles to earn a living can now no longer do so. There is a curfew from 7.00 p.m. and they cannot be seen to be riding and ferrying passengers and goods and services from one place to another. Therefore, they cannot look after their families.

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

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

Madam Temporary Speaker, when a situation like that takes place, one would expect a martial plan that will take care of the stress on families. We were told last year that there was a special fund of I think Kshs6-7 billion for tourism industry. We have not heard any report on how this money was spent.

Hotel owners in tourist establishments are not the only service providers in the tourism industry. People who deal in production and sale of handcrafts, small eateries that sustain the tourism industry in small and big towns on the highways ought to benefit from this fund that has been set up.

If it is somebody who has a roadside eatery in Nyeri, Homa Bay, Bungoma or Isiolo, he needs to be also taken care of so that he can benefit from this fund that has been set up.

For all the money that has been sent to counties for COVID-19 interventions, all that governor will tell you when you meet them is that they have put it into hardware such as beds that have not even been put to good use. They have squandered the money on this or that seminars, awareness and all manner of things, yet people are suffering. When one asks them who they have been making aware of COVID-19 pandemic because everybody now knows about it, they do not even tell, yet the money is gone.

We need the responsible Committee, I understand from yesterday's proceedings that you directed that we need the *ad hoc* Committee back. The leadership of this House – Sen. Dullo is sitting here; I do not see anybody on the Minority side - must come together quickly and reconstitute the *ad hoc* Committee that can report to this House on a weekly basis on the management of COVID-19 funds. This is because the “COVID-19 Billionaires” are not limited to those who swindled the Kenya Medical Supplies Authority (KEMSA). There are others out there in the counties that are frisking away money meant to help---

On a light touch, I am told my distinguished colleague from Nyeri---

*(Sen.(Eng.) Maina spoke off record)*

**The Temporary Speaker** (Sen. Nyamunga): Order, hon. Members.

**Sen. Wetangula:** From your directions yesterday, we want the leadership to table a list of Members who will reconstitute the COVID-19 intervention *ad hoc* Committee by Tuesday, next week, so that it can monitor this and report to the House on a regular basis the way the Committee led by Sen. Sakaja used to do.

**Sen. Sakaja:** Thank you, Madam Temporary Speaker. If one looks at the effects on the economy and employment, right now we have a problem. I am grateful to Sen. Khaniri for raising this Statement. There are many sectors that are hard hit.

Just yesterday, my Committee was meeting members of the creative economy that include musician, artist and film makers. Due to the nature of the curfew and COVID-19 restrictions, one can imagine for two years our artists and musicians such as those who perform in clubs have not been earning anything. The Ksh100million that was given by the President in as much we are grateful and they are happy was a drop in the ocean for this very important sector.

There are certain measures that the Government had put in place, including tax relief and you have heard people calling for reduction of some of these taxes. The examples given by Sen. Wetangula about eateries and people in small restaurants, one can imagine now that they have to spend Kshs2,600 for a 13-kilogramme of cooking gas cylinder that has gone up by Kshs350.

The proposal by the Finance Act last year was postponed by one year by the National Assembly. Unfortunately, we do not deal with taxes in the Senate. We must

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urge and appeal to the National Assembly to bring back those reliefs on Value Added Tax (VAT) by two or probably five per cent and on Pay-as-You-Earn (PAYE) by five per cent. Those other levies on excise duty including now on airtime need to be considered.

This is when we are feeling the effect of COVID-19 pandemic considering that inflation is at a 13 month high at 6.32 per cent. Many Kenyans are suffering due the cost of living. Maybe those sitting here may not realize the effect of those small amounts such as the change in the price of fuel and gas affect people. Those people who are earning less the Kshs500 daily have to decide on what to use that money for.

I hope – as Sen. Wetangula has proposed – we can have an *ad hoc* Committee on COVID-19 pandemic reconstituted with fresh faces because we had a bird's eye view. There was no other institution in this country that had a bird's eye view on all the aspects such as the nine areas – economic, social and justice issues and everything that goes hand in hand with the COVID-19 pandemic.

Let it not just be that we are talking, but propose specific interventions that are measureable so that we can see what has come out of it after those interventions.

Thank you, Sen. Khaniri, for this Statement, but let us now turn it into some action. The easiest thing for us to say and give a resolution as a Senate is to ask for the lowering of those taxes and costs on basic commodities such as gas that people use on a daily basis.

Let us have a resolution that can be forwarded to the National Assembly as a Message so that they can review the Finance Act of 2021.

**The Temporary Speaker** (Sen. Nyamunga): Proceed, Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker for giving me the opportunity to support this Statement by Sen. Khaniri. He has come up with a Statement that is timely.

It is quite clear that COVID-19 has brought a lot of inequalities in this country. It has had a very negative economic impact. There is need for us to look for innovative ways of ensuring we bounce back to economic boost.

The COVID-19 pandemic has negatively impacted all economic sectors. We can see unemployment even in the education sector. For example, some private schools closed and teachers became redundant. In some areas such as tourism, some eateries - as Sen. Sakaja says - were closed meaning that all the workers also were sent home.

It is not only these areas. Even in air transport, Kenya Airways laid off some staff not because they wanted to, but because of the impact of COVID-19 pandemic. There is need for us to see how we can bounce back to economic recovery and perform well globally.

The COVID-19 pandemic has also affected the youth heavily as regards unemployment. They have the energy and zeal to work. They can end up getting into undesirable behaviour that will impact our country negatively.

Madam Temporary Speaker, there is need to have mechanisms to ensure we come to an economic recovery. We should not have unnecessarily high taxes on transport. Fuel tax needs to be reconsidered. When tax on fuel is high, it affects many economic areas. For example, vehicles will not be on the road as usual because transport charges will be high and everyone will be affected.

On the other hand, the youth are not working. Some youths in the *matatu* industry are now redundant because their *matatus* are no longer in business. The number of passengers they are allowed to carry is minimal. As a country, we must do something.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, I plead with you to keep the comments brief because we have a lot business to transact and there is a lot of interest on some of these Statements.

Sen. Olekina, proceed.

**Sen. Olekina:** Thank you, Madam Temporary Speaker. I will be brief and to the point. Whenever we complain about the cost of living, Kenyans out there throw their daggers at us. Even though they are few---

*(Sen. Olekina was not wearing a face mask)*

**The Temporary Speaker** (Sen. Nyamunga): Sorry, Senator! Hon. Senators, I do not think it is appropriate for us to discuss COVID-19 pandemic and yet we do not obey the rules. This starts with Sen. Olekina. We expect all Senators on the Floor to wear masks. I will only allow those ones who are properly wearing their masks.

*(Sen. Olekina wore a face mask)*

**Sen. Olekina:** Thank you, Madam Temporary Speaker. I will be brief and I will finish. I encourage everyone, including myself, to wear their masks. I will try, but it becomes difficult to speak.

*(Laughter)*

May I point out that I am happy that I have received both doses of the vaccine. In the United States of America (USA) now, you can move around without a mask if you have been fully vaccinated. This is Science and it is being improved.

Back to my point; we lament and raise concerns about the cost of living. Two, ten or two people out there throw their daggers right back at us. They say that if we, Members of Parliament (MPs) who are tasked to pass laws, raise and lower taxes complain, then who are they left with to look up to bring changes?

The biggest problem and lacuna we have in our legislative role, particularly the Senate, is that we play no role in the Finance Act. When the National Assembly is passing the Finance Act, the Committee on Budget seats there and decides to introduce another 5 per cent Excise Duty on all the services.

Today, the cost of browsing the internet has gone up because a new Excise Duty has been introduced. If you do not know, your telco service provider will call or send you a short text message telling you there is a 20 per cent Excise tax on your data. Therefore, businesses will continue hurting.

Madam Temporary Speaker, I thank Sen. Khaniri for reminding us that we are now sitting on a time bomb. Many waiters and bar attenders are now unemployed. The cost of security in this country will go higher. When you drive on our highways, you find carjackers waiting because they need food. They cannot survive.

This should be a message to the National Assembly to take some time and read the laws they pass. When the Executive proposes certain legislation, please ask yourselves the following questions: Why you are doing that and how will it impact people on the ground?

In Narok County, for example, this is the time when we enjoy the great migration. However, now tourists will not visit our national parks and we will not be able to generate revenue. Kenya has reported the highest number of COVID-19 infections in the East African region. Therefore, many people will continue to be affected.

I support the idea of bringing back the *ad hoc* Committee on COVID-19 pandemic. I sit in the Committee on Health and we have told the Ministry of Health to make sure many Kenyans are vaccinated.

The only time that we will reach the hard immunity level is when the Ministry of Health and the Executive become a little liberal and allow the private sector to play its role to ensure they can import all the vaccines they can. I reiterate that the best vaccine is the one in your body. Any vaccine you get will help us reach that hard immunity.

Madam Temporary Speaker, when we control importation of this vaccine, I predict that very soon we will have another KEMSA COVID-19 vaccine scandal. We had a KEMSA COVID-19 funds scandal. Since KEMSA is importing the vaccines, expect another huge scandal.

As I talk here, let us remember the only thing we can do is to continue raising these matters. Let us also lobby our colleagues at the National Assembly who have the sole responsibility to pass taxes in this country to think about the effects of the new Finance Act.

We know the Government is broke and needs money. However, we are now facing a situation where our people are jobless, insecurity and the number of people who are being kidnapped is high. We are then faced with the issue of ensuring our people get jobs.

I hope when we talk about this and raise these concerns, someone out there is listening. Unless you lower those taxes and give opportunities to all people across the country, the people from the unfavoured part will come after you.

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

**Sen. Kinyua:** Asante, Bi. Spika wa Muda kwa kunipa fursa hii. Ninampongeza Sen. Khaniri kwa kuleta Taarifa hii. Kamati ambayo itapewa Taarifa hii iishughulikie kwa umuhimu ufaao. Taarifa yenyewe ina mambo muhimu ambayo yanasumbua vijana wetu. Ukosefu wa kazi baada ya kuja kwa hili janga la korona umekuwa kizungumkuti.

Waendeshaji boda boda na wafanyibiashara wa jioni wameathirika sana kwa sababu ya *curfew*. Mwishowe, wanakosa ajira. Wanaowategemea ni wazee. Wazee nao ndio wanaathiriwa zaidi na ugonjwa huu wa korona. Hawa wazee wanaugua magonjwa tofauti na sasa inakuwa vigumu kununuliwa dawa. Sasa wazee wanaathirika zaidi na wanakufa kutokana na ugonjwa huu.

Kamati itakayopewa fursa ya kuangalia Taarifa hii wanapasa kuishughulikia zaidi. Nimesikia kunapasa kuwa na Kamati ya muda na mimi ninaunga mkono. Watakuwa na majukumu ambayo yatalenga tu maswala ya kushughulikia ugonjwa wa korona.

Inapasa kujulikana wazi kwamba umuhimu wa Serikali ni kushughulikia wananchi wake. Wakati huu wa hili janga, Serikali inapaswa kupunguza ushuru. Kwa

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mfano, ushuru wa gesi na kadi za mawasiliano zimeenda juu. Hizi ndizo bidhaa ambazo wananchi wa kawaida wanategemea. Hata hivyo, inaonekana Serikali haina haja na wananchi wake. Wanaendelea kutoza ushuru kila mahali nao wananchi wanazidi kusononeka.

Ushuru unapochukuliwa, kama vile Sen. Wetangula alivyosema, baada ya sisi kufanya mgao wa pesa kwa kaunti zetu, magavana wanashughulika kusema ya kwamba wanafanya majukumu ya kuwezesha wananchi kujua kuhusu Korona, ilhali kila mtu ambaye yuko katika sehemu ya Kenya anajua kuhusu Korona.

Hakuna haja ya kusema kwamba unahamasisha wananchi kuhusu Korona. Unapaswa kutengeneza hospitali zetu ili wagonjwa wakienda kule, wapate dawa, vitanda na vifaa ambavyo vinahitajika.

Nakubaliana na ndugu yangu Sen. Khaniri vile alivyoleta hiyo taarifa kwamba tunafaa tujifunge kibwebwe tupambane na hii hali na itawezekana tukitengeneza hili jopo ndogo la kuweza kuangalia hayo kwa mapana na marefu.

Asante.

**Sen. (Eng.) Maina:** Thank you, Madam Temporary Speaker. I rise to add to the voices of the majority here regarding COVID-19 and its effects to this country and the way we have behaved towards it.

There is no doubt that COVID-19 is real and it has really affected our people. I have not seen what we expected to be implemented being done in actual fact.

Today taxation has gone to the highest level. I remember my Committee raising the issue about gas. When you see the prices that people are being charged now for Meko gas you will really sympathize because the people who are very low class rely on that gas to cook food.

Madam Temporary Speaker, the cost of fuel keeps rising. In this particular time when people's salaries have been reduced to half and the cost of service has gone up, these are the kind of measures that I would expect to be put in place.

Bigger democracies like America have put in place measures to try and support their people and their economy during this particular time. That is the kind of thing we should emulate.

Secondly, I must stand here and condemn the so-called KEMSA billionaires. We were given PPEs by this man from China. From the explanation that we were given, nobody could tell where they were or what happened. This is a very sad thing. You would have expected that we would have put our minds together in trying to procure as many vaccines as possible. However, to date we have only vaccinated about 1 million people. That leaves out a lot of medical staff, frontline workers and many other citizens.

I want to call upon our country that let us put everything else aside, let us leave doing any gigantic projects and procure vaccines so that we can vaccinate a large population of our people.

Finally, I really sympathize with the low cadre. County governments are doing nothing. If anything, they are increasing tax after tax. Today we were told that a businessman with a pickup vehicle will try to buy potatoes from Nyandarua to take them to Kisumu. He will be charged a fee in every county that he will pass through. These are the kind of things I would have thought that we as a Government should be able to do something about. County governments must come in and prioritize the issue of fighting COVID-19.

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I want to support that the *ad-hoc* committee on COVID-19 should be activated and come up with a clear report and measures on what should be done.

Let me add here, anybody who might have been associated with squandering the COVID-19 money should be dealt with in the most ruthless manner because what they did was tantamount to murder.

Thank you.

**Sen. Mwaruma:** On a point of order, Madam Temporary Speaker. Before the substantive Speaker left the Chair, he had given directions that we regulate the number of contributions in a Statement because of the heavy workload that is before us.

Would it be in order to request that because we have Statements that have been lying here for months, we regulate the number of contributions so that we can have an opportunity to have our Statements read?

Thank you.

**The Temporary Speaker** (Sen. Nyamunga): Yes, Senator. We are going to do that because we have several Statements. Yesterday we did nothing except the Statements and there is a lot of work for the House to do in terms of Motions and Bills. I am going to regulate it.

Sen. Madzayo, please make your brief comments and then we move forward.

**Sen. Madzayo:** Asante Bi Spika wa Muda kwa kunipatia nafasi hii. Ningependa kumsifu ndugu yangu Sen. Khaniri kwa kuleta Hoja hii kuhusiana na mambo ya Korona.

Tunaelewa ya kwamba ni karne kuanzia sasa ambapo ugonjwa huu haukuwa katika ulimwengu. Lakini karne hii imeleta maradhi aina ya Korona ambayo imeleta huzuni katika familia nyingi sana, sio katika Kenya pekee yake lakini katika ulimwengu mzima.

Hatari ambayo Serikali yetu haijazingatia ni kwamba haijatia mkazo vile inaweza kuzingatia jinsi watu wa Kenya wanaweza kuishi ili waweze kuepukana na hili janga la Korona.

Tumeona ya kwamba Wakenya wengi wameweza kupoteza kazi. Kazi zilikuwa zikifanywa kuanzia asubuhi mpaka jioni lakini siku hizi masaa yamepunguzwa. Hapo awali, kazi iliyokuwa inafanywa na watu 100 unapata sasa wafanyakazi wamepunguzwa wamekuwa watu 50. Tumeona shida nyingi zimetokea katika nyumba nyingi na hili sio jambo la kawaida katika maisha yetu kama Wakenya.

Tumeambiwa tuvae barakoa lakini barakoa pekee yake hazitafaa kama ufisadi wa kuzingatia jinsi hizi dawa ambazo zinaletwa kama msaada wa Kenya hautatolewa. Serikali yetu inatenga pesa za kuenda katika mashinani. Tumeona kuna watu wanaitwa COVID billionaires. Zamani walikuwa maskini lakini kwa sababu ya huu ugonjwa wa Korona, watu baadala ya kusaidia wananchi wanatumia hii misaada ama kuweka pesa ambazo zimepelekwa katika serikali zetu za kaunti, kwa mifuko zao. Hili sio jambo nzuri.

Serikali inafaa kutilia mkazo na kuweka mikakati maalum ili pesa zinazoplekwa mashinani zinatumika kusadia wananchi wanaopelekewa hizi pesa.

Bi. Spika wa Muda, la mwisho ni kwamba, hapo awali tulikua na kamati ya kuleta ripoti maalum. Tukiweka mkazo zaidi na njia maalum, nafikiria kuwa Wakenya watapendelea Seneti kuwapatia njia mwafaka ya kutumia hizi dawa na kupunguza ufisadi katika serikali za ugutuzi. Itawafaa Wakenya.

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Asante.

**The Temporary Speaker** (Sen. Nyamunga): I do not see Sen. Kasanga here for the next Statement. She is not in.

#### ACTIVITIES OF FP-ICGLR FOR 2020

*(Statement deferred)*

The next one is by Sen. (Dr.) Musuruve. I will only allow two comments per Statement for the sake of time.

#### MENSTRUAL HEALTH MANAGEMENT

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker for giving me an opportunity to make this Statement concerning menstrual health management. I rise, pursuant to Standing Order No.41 (1) to make a Statement on a matter of national concern, namely menstrual health management.

In 2012, several organizations involved in public health began to break the silence on menstrual health management and turned their attention to the issue globally, including grassroots organizations, social entrepreneurs and the United Nations (UN). In culmination of such efforts, May 28<sup>th</sup> is now observed as the World Menstrual Hygiene Day.

Menstrual Hygiene Management was initiated by the German based Non-Governmental Organization (NGO) Water, Sanitation and Hygiene (WASH) United in 2014. The main aim of marking this day is to change the social stigma and taboo associated with menstruation.

Madam Temporary Speaker, it is important to highlight the importance of good menstrual hygiene management at the national and global level. In developing countries, women's choices of menstrual hygiene materials are often limited by the costs, availability and social norms. Menstrual hygiene management can hence be extremely challenging for females in developing countries where clean water and toilet facilities are often inadequate.

Females with disabilities face even greater challenges during this moment given the fact that many times they are isolated, discriminated, and in the process, they lack information regarding menstrual hygiene and management.

Madam Temporary Speaker, in most traditional cultures, menstruation is not discussed openly by parents and caregivers. It is left to schools to disseminate the information. In the event that the school does not disseminate information on menstrual hygiene, the girl child ends up not knowing how to manage herself. This can have a direct impact on their health, education and dignity.

The menstrual hygiene day is meant to serve as a platform to bring together individual organizations, social businesses and the media to create a united and strong voice for women and girls. The objectives of the menstrual hygiene day include some of the following-

- (1) Address challenges and hardships many women and girls face during their menstruation
- (2) Highlight the positive and innovative solutions being taken to address these challenges
- (3) Engage in policy dialogue and actively advocate for the integration of menstrual hygiene management into local, national and global policies and programs

Madam Temporary Speaker, as the world marks the Menstrual Hygiene Management day, I urge both the national and county governments to be more proactive in coming up with sustainable ways of ensuring that girls and women, especially those that come from disadvantaged families are able to access water, soap and facilities that may help them maintain and manage their menstrual hygiene during their menstrual time.

County governments ought to incorporate menstrual health management programs in their annual budgets and programs in order to build the capacity of girls and women in menstrual hygiene management matters. They should have a program for supporting girls and women in the counties on this matter.

Thank you.

**The Temporary Speaker** (Sen) Nyamunga: Sen. Halake, please make your comments.

**Sen. Halake:** Thank you, Madam Temporary Speaker. I would like to thank Sen. (Dr.) Musuruve for this very timely intervention on behalf of people with disabilities and all women and girls with regards to menstrual hygiene management.

A year or so ago, we were talking about taxation of sanitary towels. I know that she talked about lack of information and lack of facilities, but even where the facilities and information exist, it is out of reach for most women, girls, and people with disabilities, especially in marginalized areas such as the North, where we come from.

I have here with me the Budget breakdown for the year 2021/2022, but what I see is that the issues around equity, poverty reduction and social protection on vulnerable groups are not that well looked after. By comparison, the resources that these groups have been allocated are a drop in the ocean.

Madam Temporary Speaker, I think that it is about time this House started scrutinizing where the money goes. Who does it benefit? Is it going to the social sector, or is it just going to constructions and things like that?

This is a human rights issue, and the rights of people with disabilities, women and girls, as regards to menstruation has never been catered for. They are not in our budgets, as we can see here today, not in our plans or our institutional frameworks.

It is about time this House flexed its muscles which leads to oversight of some of these things because it is not good that in the 21<sup>st</sup> Century, our girls and women are suffering from a biological function that they have no control over.

Madam Temporary Speaker, I hope that even though this Statement is under Standing Order No.47 (1), we will look for ways in which we can look at implementation and follow up so that Sen. (Dr.) Musuruve can continue to implement and support this initiative to its logical conclusion.

I support.

**The Temporary Speaker** (Sen. Nyamunga): We move to the next Statement by Sen. Faki.

POOR SERVICE PROVISION AND ALLEGED MISMANAGEMENT  
BY WATER, SANITATION AND SEWERAGE COMPANIES

**Sen. Faki:** Thank you, Madam Temporary Speaker. I rise, pursuant to Standing Order No.47 (1), to make a Statement on an issue of general topical concern and national importance, namely the poor state of service provision and alleged mismanagement of water, sanitation and sewerage companies in our counties.

Water services are a devolved function under the Constitution, and pursuant to the provision of the Water Act (2016). The national Government is tasked with the management of water sources where the county governments are charged with the responsibility of provision of water services to the general population in their respective counties. This service is offered through the various water and sewerage companies established in each of the counties.

Madam Temporary Speaker, these water and sanitation companies buy water in bulk from the water service companies in their respective regions and then sell to the residents in these counties. Some of the water companies existed before the advent of devolution and were doing extremely well.

However, with the advent of devolution, majority of the water companies are performing below average, and there is imminent danger as some of the water companies in the counties are threatened with insolvency since they are already reeling under huge amounts of debts, including outstanding electricity bills and general mismanagement.

Madam Temporary Speaker, for instance, in Mombasa County, the Mombasa Water and Sanitation and Sewerage Company (MOWASSCO) has been unable to pay some of its employees who have been retired for the last two years.

Further, in 2019 while meeting with the County Government of Kwale, the Senate Committee on County Public Accounts and Investments was informed that the Kwale Water and Sewerage Company (KWSC) had been unable to pay electricity and that the water services to the Coast Water Services Company and that water was about to be disconnected to the county due to unpaid Bills. The list is endless, and I am sure each Senator given an opportunity to speak has a testament of a similar situation in his or her county.

Madam Temporary Speaker, whereas the county governments have financial resources at their disposal, an analysis of the county budgets show that there has been minimal investments in the water sector by these county governments.

Most of the budget provisions are channelled to recurrent expenditure as very little goes to capital expenditure. To make matters worse, the water companies have not featured in the County Public Accounts Committees (CPAC) reports as they are said to be audited by the county assemblies.

I am yet to see such any audit reports of any water services companies in my tenure as a Senator at the Senate. This lack of serious audit mechanism has led to a lot of misappropriation of funds and mismanagement in the water companies resulting in poor service delivery and perennial water shortage and lack of water in our counties.

Madam Temporary Speaker, be that as it may, the water sector has continued to attract a lot of donor funding from the World Bank as well as the European Union (EU)

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among other donor. This has been a lifeline for many of the water companies but, again, a lot of these funds are not accounted for.

In the end, they are misapplied while people continue to suffer. These funds need a proper audit mechanism so that the loans and grants being received can be seen to add value to the counties and their people.

The water companies are also supposed to provide sewage services. Majority of the counties have little or non-existent sewage services. Mombasa County has no proper sewage system and I know this could be the case in many counties.

These services have potential of not only generating revenue to the counties but also offering cheap source of energy that can be used in our homes. However, the sector has been totally neglected.

Madam Temporary Speaker, since water provision is an important service for our counties and attainment for clean water for all is one of the fundamental items in the Sustainable Development Goals (SDGs).

I kindly plead with the Senate to urgently refer this matter to the relevant committee, which should invite the Ministry of Water, Sanitation and Irrigation together with the county governments to have a joint sitting so that the issues can be addressed with a view to recommending some lasting solutions to this perennial water and sanitation problems facing many counties.

This engagement will greatly assist in arresting the current situation and current deterioration evident in these companies, a trend which could spread doom for the water sector in this country.

Furthermore, the fact that we are approaching the end of the term of the current governors makes this matter even more delicate as there will be attempt to loot some of these companies before the end of the term.

Thank you for giving me this opportunity.

**The Temporary Speaker** (Sen. Nyamunga): Thank you, Senator. I will only allow two comments. Sen. Murkomen, Senator for Elgeyo Marakwet County then Sen. (Dr.) Musuruve.

**Sen. Murkomen:** Thank you, Madam Temporary Speaker. The point being raised by my learned senior Sen. Faki is a very weighty issue. In fact, it is just beyond the Committee looking at the Statement as it is. It is about this House providing legal solutions to the question of water management in the country.

Remember that the structure of water management as a resource, harvesting and distribution of water resources, the law itself was passed way before devolution. After devolved governments came into place, the structure that was in place was maintained, which established companies that were dealing with water distribution on behalf of county councils then. However, the function of the major water infrastructure remained a national Government function.

Madam Temporary Speaker, it is upon us as a Senate to sit down and relook at the old structure of water management and distribution. My take is that because it takes huge resources to build dams and ensure that you have enough water to be distributed and for water resource management, that remains a national Government function. We put in place proper structures for the same.

At the moment, you know we have regional water bodies such as Lake Victoria North and South, Rift Valley, Central, Athi Water Services Board (AWSB) which I think is governing the whole of coastal region.

It is still too huge considering the number of the counties. Coast region, for example, have been crying all the time for the establishment of Mzima Dam and Mzima Water Project that is meant to give water to the people of Mombasa County. The Senator of Nyeri County should develop a lot of interest in this issue because in his earlier life he was involved in this water distribution and harvesting across the country.

Madam Temporary Speaker, I think the issue that Sen. Faki is saying is that when it comes to the water companies---

**The Temporary Speaker** (Sen. Nyamunga): Sorry, Senator. Sen. Mwaruma, what is your point of information?

**Sen. Murkomen:** Madam Temporary Speaker, I am willing to be informed.

**Sen. Mwaruma:** Madam Temporary Speaker, I would like to inform the Senator for Elgeyo Marakwet County that we have been pushing for the implementation of Mzima II Spring not to provide water to Mombasa County but to Taita Taveta County.

This is because already Mzima I is providing water to Kwale and Mombasa counties and Taita Taveta County is not getting water. That is the information you need to get.

**The Temporary Speaker** (Sen. Nyamunga): Senator, that will enrich your contribution.

**Sen. Murkomen:** Thank you, Madam Temporary Speaker. I know where that information was going because I know the politics of water. The politics of water across the country is that where the water is from, is usually left out and the lower water consumers get the benefit of water distribution.

Taita Taveta County, just like Elgeyo Marakwet County which gives water to Uasin Gishu County and have genuine concerns that water distribution must be fair. That is where I was going. The water companies like the Eldoret Water and Sanitation Company (ELDOWAS) for Eldoret, for example, they are able to get water from Elgeyo Marakwet County.

However, the water is being distributed in Uasin Gishu County. There is no role that Elgeyo Marakwet as a county is playing in terms of accountability. Also, the resource that come back to be ploughed back to distributing water in the areas where that water originates from. That is the same story you hear about Nyeri and Murang'a counties. They are talking about we want to sell our water to Nairobi and you can hear now Taita Taveta County.

Madam Temporary Speaker, the whole structure of water management and distribution needs to be relooked at so that when we are doing division of revenue here, we know how much money can be given to counties and their role is distribution. Then the role of county governments becomes purely distribution.

The role of the national Government is to put in place the infrastructure for collecting the water, building the dams and the management of the water resources, which is the function of Water Resource Management Authority (WARMA).

We also need to discuss in the context of the Mwongozo Proposals that came from the task force that the President put in place to look at parastatals whether we need all these parastatals in the water sector operating. You have Water Towers, WARMA and

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regional water bodies. Is it possible that we merge some of the bodies to become one with various departments dealing with management and the other one distribution?

Madam Temporary Speaker, then we can take the cue from energy sector where you have Kenya Electricity Generating Company (KenGen) generating the electricity, then Kenya Power and Lighting Company (KPLC) and Kenya Electricity Transmission Company (KETRACO) distributing. I think that is the structure we need to borrow.

I really thank Sen. Faki for coming up with this issue because every time I think about the water complaints from my county and other parts of the country, it goes back to us providing a solution in the law.

The Committee, which is chaired by Sen. Mwangi dealing with water issues should not just go and look at the Statement in terms of accountability of the accounts and so forth, but also what amendments we can bring and legal reforms that we can do as a Senate in this very remaining short time.

Did you know we have less than a year to actively participate in this House? You know by April next year, nomination of political parties will have taken place.

Madam Temporary Speaker, some of you will have won party tickets to be governors. You will not have time to come back here. I know there are a number of governors here including the Governor of Nakuru County who is here. The Governor of Mombasa County is still thinking and he is here. The Governor of Makueni County, Nairobi County and many governors are sitting in this Chamber.

Before you go and deal with those problems on the other side, why do we not use this short period that is remaining between now and December, to ensure we relook at the legal framework, to make it possible for county governments to distribute water to their own people and to hold the national Government accountable in so far as establishing the infrastructure for water collection and distribution?

**Sen. Kavindu Muthama:** Thank you, Madam Temporary Speaker, for this opportunity to support this Statement. I wish to ask a question about Machakos County. When I was in Tanathi Water Services Board as a director, we were only getting requests to drill boreholes for Kajiado, Kitui and Makueni. Machakos was not among the drought mitigating areas.

I would want this to be looked into because in Machakos there are some extremely dry areas that need water more than some areas we were even taking water to.

I support.

**The Temporary Speaker** (Sen. Nyamunga): I refer this Statement to the Committee on Lands, Environment and Natural Resources because of the weighty issues that have been raised.

Is the Chairperson of the Committee around?

Sen. Mwangi, it is important to be attentive. We are not inviting you, but referring that Statement to your Committee. Is two weeks adequate for you to look at the matters that have been raised by Members?

**Sen. Mwangi:** Yes, Madam Temporary Speaker, we are going to look at the matters, but I thought the matter was supposed to go to the Committee on Tourism, Trade and Industrialization although it is domiciled in our Committee.

**The Temporary Speaker** (Sen. Nyamunga): I think it is clearly on your Committee, but if you need the input of the Committee on Tourism, Trade and Industrialization they can be incorporated.

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**Sen. Mwangi:** I agree, Madam Temporary Speaker. We will look at it.

**The Temporary Speaker (Sen. Nyamunga):** You have two weeks. Senators, we move to the next Statement on that cadre by Sen. Halake.

#### PERSISTENT STATE OF INSECURITY IN ISIOLO COUNTY

**Sen. Halake:** Thank you, Madam Temporary Speaker. I rise pursuant to Standing Order No.47 (1) to make a Statement on the persistent state of insecurity in Isiolo County. Isiolo county has borne the brunt of relentless bandit attacks with the latest incident taking place in Madowale Village Merti County on 20<sup>th</sup> June, 2021.

This Statement has been a little bit overtaken by events given that many more attacks have happened since I submitted this. You will bear with me if I inset a little bit from what is not on the Statement itself. This is because since 20<sup>th</sup> June, when I submitted the request, there have been several other attacks. In this particular case, three women and two men were killed and scores injured.

Further, the incident led to the destruction of a borehole that served as a source of water for the community and their livestock. A header was also killed near the Kore Borehole on 18<sup>th</sup> June. These killings and destruction of boreholes and livelihoods have been going on even after the submission of this Statement.

Allow me to convey my deepest condolences to the families who have lost their loved ones in these incidences. People have lost spouses and parents in these incidences. It is becoming a bone of contention in the county and surrounding counties.

Madam Temporary Speaker, these banditry attacks that have mainly been targeting strategic boreholes and community grazing fields have claimed too many lives with women and children being the greatest casualties of the senseless, but well-orchestrated attacks that are going on.

I am not saying this is unique to Isiolo. We have seen on television and read in newspapers and seen it in our counties. It is flaring up everywhere. We are wondering what our security apparatus are doing.

I condemn these heinous attacks in Isiolo and everywhere else in this country, snowballing into a devastating crisis. If the perpetrators are not stopped in their tracks, arrested and prosecuted---

It is regrettable that this incessant violence and aggressions often leave a trail of destruction and blood for our people across the country. Specifically, in Northern Kenya where Kenya Police Reservists (KPRs) have been disarmed. Big and small arms are in the wrong hands and still being used.

Insecurity in Isiolo is not new. As leaders, we have brought it to this House several times, but the plight of the locals is yet to be addressed conclusively. We are now at a crossroads wondering whether the lives of people in Isiolo and around the country where these incidences are happening are worth anything and who is to stop these senseless killings.

As recently as December, 2020 at least seven people were killed and two others seriously injured in a bandit attack in Kuri Village, Garbatulla sub-county. This is one of the various incidences that were reported to this House.

In April, 2021, a chairman of one of the communities living in Isiolo was killed by armed bandits at Galsa grazing areas in Kina Ward, Garbatulla sub-county and nothing was done.

It is only that innocent people are sometimes taken to court. I know for a fact, although I have not done the investigations that it is always after the killings have happened that our security forces come and scoop everybody in the village and put them in police custody. That must stop.

The intelligence agencies must know who is culpable of this and not just round up anybody they find. There is a *mzee* who is very sick right now who has been put in police custody without having been charged yet.

These are among the few reported attacks over the recent years. There is fear that they may continue if no action is taken to avert more bloodshed.

In addition to the loss of lives there is massive destruction of livelihoods. Consistent disruption of economic activities by these bandits is making residents susceptible to perpetual poverty. Poverty is highest in Northern Kenya. Every time there is insecurity, the people are impoverished beyond the bare minimum of even a dollar a day not to mention the mental anguish.

People in Isiolo and Northern Kenya in general and all parts of this country where pastoralists live and are subject to these attacks, are mad people because they have mental anguish. This cannot continue.

While we appreciate some of the actions that have been taken by government, it is high time the security agencies stepped up to prevent these attacks instead of sitting the laurels only to later dash to collect dead bodies and to get villagers into police stations.

We call upon the duty bearers to execute their mandate by protecting our people in fulfillment of the constitutional duties failing which they should be held responsible for abdicating the roles bequeathed upon them by the people.

This House has the power to do so. If through our Constitution we, as a House, have the same powers as the Judiciary to oversight and ensure we hold our institutions accountable, this is the time to do so because this bloodshed can no longer continue.

Madam Temporary Speaker, in view of the seriousness of this matter, I beg to request that this also be given to the Committee on National Security, Defence and Foreign Relations. I apologise in putting it under Standing Order No.47 (1) because I needed an account of each incident that happened.

I thank you.

**The Temporary Speaker** (Sen. Nyamunga): I will allow only two comments.

Sen. (Dr.) Musuruve, proceed. Please, be very brief. Sen. Farhiya will follow. Those are the only two comments that I will accept.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for this opportunity to support the Statement by Sen. Halake. It is not the first time that she is bringing up the issue of insecurity in Isiolo County in this House. She has constantly done that and it is commendable.

I also stand with the school of thought that the Government should do something to ensure the security of Kenyans. Security for the people is a constitutional right even for those who are unable to provide it for themselves and their families. The Government needs to provide security for these people.

As much as we are talking about the Government providing security, it is important for people in counties to know that they need to work with the police force. I have seen community policing working in my Constituency of Lugari.

I commend the security forces in Lugari Constituency because I see them working with the community to identify attackers because some of these attackers are known. If they are reported, then the police force should take action and effect their constitutional mandate to protect *wananchi*.

Thank you.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker, for this opportunity. I also thank Sen. Halake for being consistent in bringing the plight of her people to the fore and always talking about this issue.

It saddens me to see that people who are already marginalised, marginalize themselves all the time by killing each other. In the formula that was brought to this House by the Commission on Revenue Allocation (CRA), 72 per cent of the criteria was based on population.

It does not matter from which angle you look at it. Even health and agriculture were based on population. There was a strict population criterion. So, all the parameters of CRA formula were based on population. It saddens me that our pastoralists kill and displace each other for no gain, instead of looking at the benefits that population can bring about.

May I also caution politicians who are setting people against each other for their own gain. In my Constituency, there are rumors that people are planning clashes towards the end of the elections so that somebody can consolidate and get more votes in his own backyard. What kind of human being is that who is planning bloodshed at the expense of people?

The other issue is that, no development can take place where there is insecurity. Therefore, Sen. Halake's people and my people who are pastoralists should not complain about marginalization and poverty. As long as they are fighting each other, there will be poverty and marginalization. There will be no investment or employment. All manner of bad things will happen to that society.

Madam Temporary Speaker, as an investor who wants to bring a big project that would employ many people, you would never go to Isiolo County. It is because people are fighting. I will only invest somewhere when I am assured that my assets are secure.

We can always sing about unemployment and many other things but as long as there is insecurity, that will be just a pipe dream. In this Century, with development of so many things, our pastoral community should stop fighting. Even winning an election is not worth people's lives. As leaders, politicians and change makers, we need to be alive to that fact.

**The Temporary Speaker** (Sen. Nyamunga): Finally, Sen. Omogeni.

**Sen. Omogeni:** Thank you, Madam Temporary Speaker, for this opportunity. First, I congratulate Sen. Halake, who has been very consistent on raising issues of concern to the people who reside in Isiolo County. I also condole with the families of the many people who have been victims of these senseless killings.

It is high time the Inspector-General (IG) of Police is taken to task over these killings. If you follow the recruitment of police officers for the last three or so years, we have recruited over 15,000 police officers. The question that begs is why we have not

seen improvement on the security situation in these vulnerable counties of Isiolo, Wajir and Mandera. There must be a problem with the office of the IG of Police.

Secondly, what is our priority as a country? If you drive from here to Nyamira County, we used to get three policemen manning a roadblock. That was before we saw these massive recruitments. Now, you find a crown of 10 to 15 police officers manning a road block and the motivation and incentive is to collect bribes from motorists. This is happening while people residing in Isiolo, Wajir and Mandera are being killed. This should not be allowed to continue.

Madam Temporary Speaker, I wish the Chairperson of the Committee on National Security, Defense and Foreign Relations was here. We need to summon the IG of Police to appear before this House and tell us what measures he has put in place to stop these senseless killings. We cannot year in, year out continue to be told that people are dying in North Eastern Kenya from bandit attacks. Over 50 years of Independence and people can never settle down and go about their economic activities. It is not right.

We must urge the Chairperson of the Committee on National Security, Defense and Foreign Relations to summon the IG of Police to this House. Let him come and explain to this House what steps have been taken to increase the presence of police officers, including opening more police posts and more police reservists in that region so that the people there can also feel they are Kenyans.

I support.

**The Temporary Speaker** (Sen. Nyamunga): Thank you. Hon. Senators, due to the weighty matters that have been raised in that Statement, I would like to refer it to the Committee on National Security, Defense and Foreign Relations.

I do not know if the Chairperson, Vice-Chairperson, or any Member of that Committee is here. That will be relayed to them and we need the outcome within two weeks. That is pursuant to Standing Order No.47 (3).

Hon. Senators, let us now move to statements coming under Standing Order No.48 (1). I do not see Sen. Wetangula here.

*(Sen. Farhiya spoke off record)*

Make the comment less than one minute.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker. Sometimes there are other contributions which are normally not discussed when a Committee is discussing an issue. When critical issues arise from Plenary, can we have them included in the request to the Ministries?

That is my request and I beg you to support us in confirming that.

**The Temporary Speaker** (Sen. Nyamunga): That is fine. We support that.

So be it. So directed. We are now on Statements pursuant to Standing Order No. 48(1), Sen. Anwar is not here. Sen. Kang'ata is not here. We move to Sen. Pareno.

MARITIME BORDER DISPUTE IN THE INDIAN  
OCEAN BETWEEN KENYA AND SOMALIA

CANCELLATION FOR TENDER FOR SUPPLY, DELIVERY AND INSTALLATION  
AND COMMISSIONING OF ERP AND CLAIMS MANAGEMENT SYSTEMS

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## USE OF KPA AS COLLATERAL TO M/S CHINA EXIM BANK IN FINANCING SGR

*(Statements Deferred)*

We move to Sen. Pareno.

## KENGEN WIND POWER PROJECT IN NGONG HILLS

**Sen. Pareno:** Madam Temporary Speaker, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Energy regarding the KENGEN Wind Power Project in Ngong Hills. In the Statement the Committee should:

- (i) State the corporate social responsibility programmes by residents of the Manyatta Kibiko B Ngong Hills in Ngong whose land is hosting the wind turbines are benefitting from under KENGEN Wind Power Project.
- (ii) Explain whether KENGEN has any educational scholarship programmes targeting the local community around Ngong Hills and if so how many locals have benefitted.
- (iii) Provide data on how many residents of Ngong Hills KENGEN has employed in the Ngong Hills wind power project as casuals and long term employees as well as the quality of the jobs.

**The Temporary Speaker** (Sen. Nyamunga): Next Statement by Sen. Omogeni.

COLLAPSE OF PART OF A BUILDING HOUSING  
THE COUNTY ASSEMBLY OF NYAMIRA

**Sen. Omogeni:** Madam Temporary Speaker, I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Roads and Transportation on the collapse of part of a building that was meant to house the county assembly of Nyamira County.

In the Statement the Committee should:

- (i) Explain the circumstances under which part of a building that is meant to house Nyamira County Assembly offices that was under construction collapsed on 27<sup>th</sup> May, 2021.
- (ii) State the steps taken by the Government agencies to ensure that thorough investigations are conducted into the incident and any persons found to be negligent be brought to book.
- (iii) State the measures taken by the Government to ensure that the contractors adhere to set down requirements and standards when undertaking construction to avoid repetition of collapse of buildings under construction.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): The Statement by Sen. Pareno is referred to the Committee on Energy and Sen. Omogeni's Statement is referred to the Committee on Roads and Transportation.

Next Statement. Sen. (Dr.) Ali is not here.

SUSPENSION OF FLIGHTS BETWEEN KENYA AND SOMALIA

*(Statement deferred)*

. The next Statement is by Sen. Mwaruma.

ALLEGED NON-CONFERMENT OF CITIZENSHIP STATUS  
BY GOVERNMENT TO FOREIGNERS MARRIED TO KENYANS

**Sen. Mwaruma:** Madam Temporary Speaker, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations concerning the non-conferment of citizenship to foreigners married to Kenyans.

In the Statement the Committee should:

- (i) Explain why foreigners married to Kenyans have not been conferred with Kenyan citizenship as per Article 13(2) and 15(1) of the Constitution.
- (ii) State when women in Taita Taveta County mostly from Tanzania as well as other foreign countries who are married to Kenyans will be conferred with Kenyan citizenship upon verification of their marital status documents.
- (iii) Give a list of the number of women who have applied for conferment of citizenship, how many have been conferred with the said citizenship, how many are pending and when they will be given that citizenship status.

I thank you, Madam Temporary Speaker.

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

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

**The Temporary Speaker** (Sen. Pareno): I will allow Sen. (Dr.) Musuruve. Just be brief with your comments.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker. I want to support the Statement by Sen. Mwaruma that there is need for foreigners who have been married by Kenyans to become Kenyans as well because then their children will be legitimate citizens of Kenya.

I know in the USA it happens that if someone from the USA marries a foreigner then the person become automatically a Kenyan. So this is something that should be pursued so that conferment of citizenship is given as a legitimate need for the family so that families are not really affected psychologically because everyone needs identity.

It is a constitutional requirement that every child born should have an identity and all that. So even every married couple should have an identity.

I support this Statement.

**The Temporary Speaker** (Sen. Pareno): Let us go to the Statement by Sen. Faki. He is not here. Next is the Statement by Sen. Lang'at. He is also not here. Next is Sen. Wetangula. He is not here.

ALLEGED MYSTERIOUS DISAPPEARANCES AND KILLINGS  
IN KENYA

*(Statement deferred)*

**The Temporary Speaker** (Sen. Pareno): Next is Sen. Halake.

DEPLORABLE STATUE OF UHURU-MAWINGO  
ROAD IN NYANDARUA COUNTY

**Sen. Halake:** Madam Temporary Speaker, I am a Kenyan and I am doing this with in direct consultation with my chairperson Sen. Mwangi.

I rise pursuant to Standing Order No. 48(1) to seek a Statement from the Standing Committee on Roads and Transportation on the deplorable condition of Uhuru-Mawingo Road in Nyandarua County.

In the Statement the Committee should:

- (i) Explain reasons for the deplorable condition of the Uhuru-Mawingo Road that is negatively affecting the residents and hindering their participation in agri-business which is their main source of income and which is also the main supply area of produce around the area.
- (ii) The Committee should state whether there are any plans by the relevant roads authority to repair and/or upgrade the road to ensure that an efficient transportation system for the residents and their produce bearing in mind that this is a bread basket for the region and has a lot of potential for agri-business.
- (iii) The committee should also provide a time frame during which repairs and/or upgrades of this road might occur given the suffering that has already gone on and the waste and opportunity cost that is being incurred on a daily basis by the farmers in Nyandarua.

I thank you, Madam Temporary Speaker.

**Sen. (Eng.) Hargura:** Thank you, Madam Temporary Speaker. I would like to thank Sen. Halake for this Statement on the issue of roads because we are an agricultural country, and these are some of the most productive parts of the country. Sometimes it is difficult to understand how the improvement and upgrading of roads is done in this country.

It is better if we can have a detailed answer in terms of what plans we have to make sure that we provide access to all the productive parts of this country. Without a

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good road, you cannot be in a position to take the produce to the market. A road is a very important piece of infrastructure when it comes to development, and we need to have a very clear policy on this.

In their answer, we can also ask the relevant Committee to give us a clear policy on how the road networks of this country are developed. The productive parts and other parts should be linked, so that we can get produce from the farms to the market. We must have a very clear policy.

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for giving me this opportunity. I support Sen. Halake's Statement on the issue of roads because roads open up access routes for locals to get to the markets outside of the villages. The issue of deplorable roads is alive in very many counties.

In Lugari, where I come from, I see so many roads that are deplorable. Some of them are supposed to be constructed by the national Government, some are constituency roads, but you will see them in a really bad state and yet we always give money to the counties. The reason why the Senate allows money to go to the counties is so that services can reach the wananchi.

Madam Temporary Speaker, I support this Statement and urge the county governments to ensure that they do something. I also urge the Members of Parliament (MPs) to use the National Government Constituencies Development Fund (NGCDF) to ensure that the roads are passable. In Lumakanda, Lugari, where I come from, there is the same case of impassable roads. Yet, these roads help the *wananchi* and our riders. Motorists use these roads. *Matatus* carry goods on our roads and ensure that there is employment for the youth.

As we talk about the issue of roads, I know that there is a Statement that you raised about wind energy. When roads are constructed, they are supposed to help the locals as much as wind energy that is being erected in the area that you mentioned. It is supposed to help the locals.

Sen. Moi came up with the Local Content Bill that proposed that any project that is done should benefit the locals. Even the roads that are built, whether they are repaired or not, the youth in that area must benefit from those roads.

Thank you, Madam Temporary Speaker.

I support.

**The Temporary Speaker** (Sen. Pareno): I am going to ask you to be brief because we still have a lot of Statements.

Sen. Mwangi, you can comment on that then proceed to read your Statement.

**Sen. Mwangi:** Thank you very much, Madam Temporary Speaker. I first thank Sen. Halake for bringing this matter to the House. Nyandarua County is one of the counties that does not have good roads. We have been talking about this for a long time, over 30 years now. Even when we have devolution, we still have a problem. I am not particularly blaming the devolved units, but the National Government should think about Nyandarua. We need roads.

Nyandarua is an agricultural county. We need roads so that we can access to take our agricultural products to the market. We cannot do so if we do not have good roads. We have been neglected, and I say this because it is true. For a long time, we have been

neglected. It is as if we are not a county in Kenya. We need good roads. I hope that the Government has heard my sentiments.

Having said that, I would now like to go to my Statement.

DEMOLITION OF PROPERTIES IN  
OL-KALOU, NYANDARUA COUNTY, BY KRC

**Sen. Mwangi:** I rise, pursuant to Standing order 48 (1) to seek a Statement from the Standing Committee on Roads and Transportation regarding the demolition by the Kenya Railways Corporation (KRC) of properties in Ol-Kalou, Nyandarua County. In the Statement, the Committee should-

- (1) Explain the reasons for the demolition by KRC of properties built on the corporation's land without issuing notices to the affected parties and yet the properties have valid leases from the corporation
- (2) Outline the measures, if any, that the corporation has put in place to ensure that lease holders with valid leases which have not expired are fully compensated for the losses incurred following the demolition
- (3) State the measures the Ministry will put in place to ensure that the rights of valid lease holders along the railway corridors are protected

As we are all aware, the KRC had adopted a regeneration strategy of its old and delinked railway lines. We can all agree that this is highly commendable and should be encouraged. However, Kenyans who have leased KRC land and put up investments on the same should be compensated.

On 16<sup>th</sup> February 2021, the residents of Ol-Kalou woke up to the sound of bulldozers and excavators as they tore down their properties in the guise that they were built illegally on KRC land. These demolitions were carried out despite the fact that the affected parties have genuine and valid leases from the KRC, and that no notice had been issued to them prior to the demolitions.

Madam Temporary Speaker, one is left to wonder, did KRC forget that it had leased this land to the aggrieved parties? What warranted the corporation's action? The actions of the corporation were in total disregard and in contravention of the provisions of Article 40 of the Constitution on protection of---

**The Temporary Speaker** (Sen. Pareno): Order, Sen. Mwangi. I note that you had already read out your Statement and are now debating it contrary to the provisions of our Standing Orders. I want you to wind up, because you are now debating.

**Sen. Mwangi:** I am winding up. I am only saying that the KRC needs to be held accountable for carrying out these demolitions in breach of the contractual agreements with the lease holders. They should be compelled to compensate all the affected parties.

**The Temporary Speaker** (Sen. Pareno): I think you can leave it at that. The Committee will make the findings when they handle the matter.

**Sen. Mwangi:** Madam Temporary Speaker, I thank you.

**The Temporary Speaker** (Sen. Pareno): I will allow very brief comments from Sen. Halake and then I will allow Sen. Omogeni to make his comments.

**Sen. Halake:** Thank you, Madam Temporary Speaker. I will be very brief.

I also want to point out the fact that evictions of this nature is arbitrary evictions and demolitions are rights abuses in addition to being abuses to contractual obligations by

people that have actually contracted and the sanctity of leases and things like that. Our institutions need to respect the rights of the people.

Madam Temporary Speaker, they need to make sure that the dignity, legality and sanctity of our legal documentation and provisions are not taken for granted. If we do so, then it will make this country as Senators have said earlier become a place where everything becomes just a piece of paper that is not respected. It has adverse effect in the economy and the rights of our people.

I support and this should be taken seriously and dealt with conclusively.

**The Temporary Speaker** (Sen. Pareno): Sen. Omogeni, proceed.

**Sen. Omogeni:** Thank you, Madam Temporary Speaker. First, I want to thank my good friend, Sen. Mwangi, for highlighting the plight that is facing his constituents and people of the good County of Nyandarua. We passed or enacted our new Constitution 2010 so that we have sanctity of title deeds so that bodies, including Government parastatals like the Kenya Railways, can respect the right of Kenyans to own land either through freehold or leases.

In a country that prides itself with adhering to the rule of law, it is saddening that a Government agency like the Kenya Railways can wake up, evict people without giving them notices and without compensation. That is a conduct that we expect to come from people who maybe ignorant of the law and may not have services of advice by lawyers within that body.

Madam Temporary Speaker, looking at a body like the Kenya Railways, I am sure it has legal officers and company secretary. They should advise the corporation. It is not fair to just go to Nyandarua County, evict Kenyans from their pieces of land where they have valid leases without compensation. We are really degenerating as a country. We are throwing the rule of law through the window and we are now going to allow anarchy to generate. Kenyans are watching.

If the Kenya Railways can move to Nyandarua without a court order and notice and evict somebody from where they have lived for I do not know how many years, what do you expect from neighbour who may think that he owns a particular piece of land? He will also rise up one day, go and forcibly evict people from their pieces of land.

This is a matter that should extend even to the Committee on Justice, Legal Affairs and Human Rights. We are talking about the human rights of Kenyans who are innocent poor people. If you remember there was an inquiry that was brought to this House by the Senator for Nairobi City County. This House passed a resolution that during this period of COVID-19, we should not have evictions from either the Government or Government agencies. Kenya Railways is a Government agency. How can it do that to Kenyans during this period of COVID-19? Where do you expect those Kenyans to go?

I support Sen. Mwangi and affirm or state to this House that the issue he has raised should not be taken lightly. That is a serious issue. In fact, in civilized jurisdictions if such a matter happens, the Chief Executive Officer (CEO) of Kenya Railways would not be in office today. He would be forced to quit office because you cannot treat Kenyans like animals. Those are human beings. We should conduct our business in an orderly manner.

I support and I want the Committee that will be tasked to inquire into this matter to give it the importance that it deserves. They should make a serious inquiry, summon the CEO of Kenya Railways to this House and explain why that body is treating Kenyans in such inhumane manner. My sympathies to the people of Nyandarua who have been victims of this eviction. I hope this Senate can come out very forcibly on this corporation so that we do not see this happening in another county.

**The Temporary Speaker** (Sen. Pareno): I will allow just very few comments. Sen. (Dr.) Lang'at, proceed. Just very few because you have just come in and we have quite a list of business to transact.

**Sen. (Dr.) Lang'at:** Thank you, Madam Temporary Speaker for also giving me this chance to add my voice on this issue on irregular eviction of people by the KRC. I was shocked some few months ago when I was coming through Nakuru route to find out that people were doing a lot of demonstrations.

When I asked I was told that the KRC had demolished most of the businesses along their land. In fact, I later on asked the leadership from that region and they explained to me clearly that the houses of those people were demolished without notice. A lot of destruction took place. The economic empowerment was totally destroyed. I could remember some very beautiful hotels and petrol stations that were on that land.

Madam Temporary Speaker, I would have wished this corporation had given notice to these people. Currently, Kenya is going through a lot of challenges because of COVID-19 pandemic and more so unemployment among our youths. Most of the kiosks and business centres that were destroyed belonged to very learned Kenyans who were not employed. Most of their properties were sold to educate them.

This destruction is unwelcome. It is so bad that people are going through serious problems of unemployment and the COVID-19 pandemic and the Government is destroying their livelihoods. Currently, we have a very inhumane Government which consists of very inhumane beings who have no feelings.

**The Temporary Speaker** (Sen. Pareno): Sen. Farhiya, you have an intervention?

**Sen. Farhiya:** Madam Temporary Speaker, is Senator for Bomet County in order to call the Jubilee Government inhumane without substantiation?

**Sen. (Dr.) Lang'at:** Madam Temporary Speaker, it is interesting that Sen. Farhiya would like me to substantiate the obvious. You can see the inhumanity that is going on all over this country.

Even in Nairobi here, most of the property was destroyed when COVID-19 pandemic was at its worst. I know Sen. Farhiya you are not feeling it because you are inside the deep state. I would like to ask you with total humility to join other human beings in sympathizing with these destructive human beings.

I urge the Committee that will investigate this---

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Lang'at, you have to be very brief. You still have your Statement to make. We have other three Statements and a Bill. I told you to be brief.

**Sen. (Dr.) Lang'at:** Madam Temporary Speaker, I know when we are touching this Jubilee Government people do not want us to say more, but I want to be brief by saying that---

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Milgo has a point of order.

**Sen. (Dr.) Lang'at:** Madam Temporary Speaker, Sen. (Dr.) Milgo is in another deep state again, but she can say something. She is another member of the 'deep state'.

*(Laughter)*

**Sen. (Dr.) Milgo:** Madam Temporary Speaker, I wish Sen. (Dr.) Lang'at would substantiate what he means by deep state. He is constantly using it against Members here and we do not know what it actually means.

**Sen. (Dr.) Lang'at:** Madam Temporary Speaker, I can only describe it by saying that---

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Lang'at, are you threatening Members using the name deep state?

**Sen. (Dr.) Lang'at:** Madam Temporary Speaker, not really. I can only tell Sen. (Dr.) Milgo that 'deep state' is applied in organism and you are already applying it; you cannot see it nor understand it. Jus allow me to finish by saying this destruction of public resources---

**The Temporary Speaker** (Sen. Pareno): Order, Sen. (Dr.) Lang'at! There is a point of order by Sen. Farhiya.

**Sen. Farhiya:** Madam Temporary Speaker, I asked him to substantiate, but he is still continuing with assertions without clear evidence to his former statement. I think that is unfair.

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Lang'at, please, let us proceed with what you were submitting on the Statement. These issues of deep state and non-deep state let us leave it at that.

The Committee that will take over this Statement should do thorough investigations so that we get the amount of property these people lost. As a House, we shall look into it with a lot of seriousness so that some people somewhere may compensate these suffering Kenyans.

**The Temporary Speaker** (Sen. Pareno): We now move to the next Statement by Sen. Farhiya.

ALLEGED DISMISSAL OF MR. SPENCER SANKALE OLOLCHIKE  
BY THE MAASAI MARA UNIVERSITY COUNCIL

**Sen Farhiya:** Thank you, Madam Temporary Speaker. Allow me to make some amendments because when I was preparing this Statement, I did not know that the National Assembly had passed a law through supplementary legislation that the Cabinet Secretary has now no control over boards and that they are now independent in their decisions.

I am going to replace Ministry of Education with the Board of Maasai Mara. I am requesting that you indulge and allow me to do that.

**The Temporary Speaker** (Sen. Pareno): There is an intervention by Sen. Omogeni.

**Sen. Omogeni:** Madam Temporary Speaker, I did not hear you commit the Statement by the Senator of Nyandarua to any Committee. I do not know whether that was on oversight on your part.

**The Temporary Speaker** (Sen. Pareno): It was an oversight but I was laughing because the Senator of Nyandarua who is the Chair of the Committee on Lands, Environment and Natural resources, has sought the Statement. He is making a Statement to himself.

He has the hands to handle it even without reference to the House because it is in his Committee. Nonetheless, it goes to the relevant Committee which is his Committee.

**Sen. Mwangi:** Madam Temporary Speaker, the Statement was to the Committee on Energy, Roads and Transportation because Kenya Railways works under the Ministry of Transport.

**The Temporary Speaker** (Sen. Pareno): Okay, it is referred to the Committee on Energy, Roads and Transportation.

**Sen. Farhiya:** Madam Temporary Speaker, I rise pursuant to Standing Order No.48 (1) to request a Statement from the Committee on Education regarding the dismissal of Mr. CPA, Spencer Sankale by the Maasai Mara University Council.

In the Statement, the Committee should address the following-

- (1) Explain the circumstances under which Maasai Mara University Council unprocedurally dismissed Mr. CPA, Spencer Sankale, in his capacity as Finance Officer and a key witness in the ongoing case before the High Court

regarding the alleged misappropriation by the Vice-Chancellor and the administration of Kshs190 million.

- (2) Outline the measures the Board will put in place to ensure the University which is an independent institution to reinstate Mr. Sankale immediately and unconditionally.
- (3) State measures, if any, the Ministry has put in place to ensure whistle blowers and witnesses in graft cases are protected and not victimized for their exposé.

I wish to make a brief comment; not as a debate. Working as an accountant in Government institutions makes one an endangered species. Sometimes your manager wants you to commit a fraud on their behalf. When things go bad, you are the one who is blamed. When you whistle blow on a fraud, you become a victim and are fired.

Where is the role of an accountant because as an accounting professional, one has a duty to ensure they protect public interest all the time? Now given these circumstances, there are conflicting ideas. I want the Committee to do a thorough job in this matter until we get to the bottom of it. No accountant will be able to whistle blow on any major fraud if Mr. CPA, Sankale is allowed to be sacked just like that.

I thank you.

**The Temporary Speaker** (Sen. Pareno): I will allow a few comments. Let us be brief as I can see so much interest.

**Sen. (Dr.) Milgo:** Thank you, Madam Temporary Speaker. I thank Sen. Farhiya for bringing the Statement. It is quite unfortunate that we have the University Council being independent from the Ministry of Education. In this case, they will be able to do all shades of irregularities.

Maasai Mara is my former university where I taught. To date, I have not been paid. Many of the staff that have been complaining about pay have been sacked. The Chief Accountant is adding to the statistics. It is unfortunate that what is levelled against that accountant is simply cybercrime and libel issues that in this case needed further interrogation.

An employee inciting others should have been an immediate police case. Since this is coming to my Committee, we shall go deep into it and be able to suggest that the Council should not be allowed to have that independence. A few weeks ago, we learnt that in Eldoret, a university was fined several millions over two staff that had been fired. It lost after messing around with two lecturers.

**Sen. Halake:** Thank you, Madam Temporary Speaker. I also rise to support the Statement by Sen. Farhiya on this unfortunate incident where Mr. Sankale has been shown the door for whistle blowing on wrongdoings at the Maasai Mara University. He should be rewarded as opposed to being thrown out of his job.

Whistle blowing as a means of curbing corruption has so much potential but because of these kind of actions by the institutions and lack of support and protection by the State, this potential to fight corruption is being lost. There are so many Sankales across different sectors and institutions that could have come forth if only they knew there was protection of their job and the backlash they face is not so dire.

I think as representatives of the people, we, in this House, have the responsibility and obligation that if we are serious about the war on corruption, the Sankales across different institutions must be protected, empowered and made to feel they are part of this society and can work alongside the rest of us to fight this vice.

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This is where whistle blowing could be one way of multiplying efficiencies in the fight against corruption but that potential is being lost and people are being intimidated and shut. I do not see anybody now after this, ever shining the torch on corruption.

I support what Sen. Farhiya has done to make sure we, as representatives of the people, stand up and protect them.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for giving me this opportunity to support the Statement by Sen. Farhiya. It is important that the Committee to which the Statement will be committed does thorough investigation to find out if there is any tangible and justifiable evidence for the dismissal of Mr. Sankale.

There is need to make a follow-up so that we see if there was unfair dismissal. If there was, Mr. Sankale should be reinstated and compensated for even damaging his character.

As the Committee does its investigations, if it finds the dismissal justifiable, there is need for honesty and transparency to be done in this case. If he was whistle blowing rightly, he should be protected because sometimes whistle blowers face hard life.

The same case happened to the young man who blew the whistle in Kenya Airways. Eventually he was transferred to another place where he was not qualified.

There is need for justice to be done. If CPA Sankale was on the wrong, yes, the dismissal was right. If he was not on the wrong, he should be treated fairly.

I support this statement. I hope the Committee will do justice to it so that it also becomes an example to all Kenyans.

**The Temporary Speaker** (Sen. Pareno): Sen. Omogeni, proceed.

**Sen. Omogeni:** Madam Temporary Speaker, I hope what has been promoted to this House by Sen. Farhiya is not true. If it is, then it is very sad. We should not victimize people who come out to expose fraud in public bodies. If CPA Sankale is that patriotic Kenyan who has taken a risk to come out and volunteer information that exposes fraud in an organization, the best way to reward him is not to sack him. In fact, he should be promoted. I hope the Committee that will be tasked with this matter will go to the depth of this matter.

I served as the Chairperson of Anti-Corruption Commission for five years. For five years, we pushed the Government to enact a whistle blower legislation, so that people like CPA Sankale do not become victims when they step out to volunteer information that should assist the Government in fighting fraud. You can imagine what message we are passing across. We are telling Kenyans that if you come out and report corruption, then we will hit back at you and sack you. People will become fearful and will not step out to report corruption. As a result, cases of corruption will continue to spiral.

The other day, we had a sitting with the Ethics and Anti-Corruption Commission. I was shocked to hear EACC is pursuing four governors who have collectively stolen Kshs11.5 billion from Kenyans. That is money that can support operations and budgets of Nyamira County for two financial years. That is in a span of six years.

When they make a report to this House, we should also summon the Office of the Attorney-General. He should tell us what steps the Government is taking to ensure we protect whistle blowers. If possible, the people who sacked this patriotic Kenyan, CPA Sankale, should appear before us so that we interrogate if the dismissal process was fair.

What allegations were made against this patriotic Kenyan? Did he get a fair hearing during the trial that led to his dismissal?

Madam Temporary Speaker, we should be celebrating and not punishing people who come out to give information on fraud. I can tell you people who engage in corruption try to give a face of impunity and think they can get away with anything. You come out and expose them for corruption and instead of them being arrested, taken to court and charged, they hit back at you to show you that you will take them nowhere. It shows the level of impunity we have in this country. They turn around and sack the people who have volunteered information.

This is a matter that should be of interest to this House. I hope that this Kenyan, who is from your Maasai Community, receives justice from this House.

**The Temporary Speaker** (Sen. Pareno): The Statement by Sen. Farhiya on CPA Spencer Sankale Ololchike, CPA, is referred to the Committee on Education.

Let us now move to statements pursuant to Standing Order No.51(1)(b). I am informed that the Chairperson of the Committee on Health is around.

Yes, Sen. (Dr.) Langat?

**Sen. (Dr.) Langat:** On a point of order, Madam Temporary Speaker! With due respect, I had requested for my statement to come today. It is crucial and very urgent.

**The Temporary Speaker** (Sen. Pareno): Proceed, Sen. (Dr.) Langat.

#### ALLEGED IRREGULAR PROMOTION OF TEACHERS BY TSC

**Sen. (Dr.) Langat:** Thank you, Madam Temporary Speaker. I stand pursuant to Standing Order No.48(1) to seek a statement from the Committee on Education on the irregular promotion of teachers by the Teachers Service Commission (TSC).

In the Statement, the Committee should explain why:

1. Teachers who have served as head and deputy head teachers on acting capacity in Bomet County, some more than two years, were left out even after an interview. Instead, they were replaced by teachers from other counties.
2. Provide a countrywide list of all teachers who have been promoted in the just concluded exercise.
3. State whether there is a policy guideline on demotion of teachers who have served in acting capacity for so long without being rewarded.

Thank you,

**The Temporary Speaker** (Sen. Pareno): I will not allow any more comments on this. We need to move to the next statements. This statement by Sen. (Dr.) Langat on promotion of teachers is referred to the Committee on Education.

We now move to statements pursuant to Standing Order No. 51(1)(b).

#### ACTIVITIES OF THE COMMITTEE ON HEALTH

I am told the Chairperson of the Committee on Health is not there. So, that one is deferred.

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*(Statement deferred)*

ACTIVITIES OF THE COMMITTEE ON  
INFORMATION AND TECHNOLOGY

It is requested that this Statement be deferred to Tuesday. So, it is so deferred.

*(Statement deferred)*

Let us move to the Chairperson of the Committee on Justice, Legal Affairs and Human Rights.

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

**Sen. Omogeni:** Thank you, Madam Temporary Speaker. I will try to be very brief. This is a Statement on the activities of the Standing Committee on Justice, Legal Affairs and Human Rights for the period of 1<sup>st</sup> February to 30<sup>th</sup> June, 2021.

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

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

Madam Temporary Speaker, during the period under review, the Committee held 58 sittings, where we considered various legislative proposals, Bills, statements, petitions and inquiries. Of these, 38 were sittings of the Committee. Eighteen were joint sittings with the National Assembly Departmental Committee on Justice and Legal Affairs to consider the Constitution of Kenya (Amendment) Bill, 2020 popularly known as the Building Bridges Initiative (BBI) Bill. Two were joint sittings with the Senate Standing Committee on National Security, Defense and Foreign Relations to inquire on matters of county boundary disputes.

The Committee transacted various business during the period under review as explained below.

Madam Temporary Speaker, on legislative proposals, the Committee undertook pre-publication scrutiny on five legislative proposals. These were referred to the Committee, pursuant to Standing Order 125(3)(a). The Bills that were considered include:

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

- ii. The Constitution of Kenya (Amendment) Bill, sponsored by Sen. Enoch Wambua, MP.
- iii. The Elections (Amendment) Bill, sponsored by Sen. Kipchumba Murkomen, EGH, MP.
- iv. The Elections (Amendment) Bill, sponsored by Sen. Ledama Olekina, MP.
- v. The Penal Code (Amendment) Bill, sponsored by Sen. Abshiro Halake, MP.

The Committee considered the first four legislative proposals and pursuant to Senate Standing Order No.125(3)(a), transmitted its comments thereon to the Hon. Speaker. The Committee is scheduled to meet with the sponsor of the Draft Penal Code (Amendment) Bill on Tuesday next week and report to the House.

Madam Temporary Speaker, the Committee considered four Bills during the period under review, as follows –

- i. The Constitution of Kenya (Amendment) Bill, 2020. That is the BBI Bill. The Report was concluded and tabled before this House on Wednesday, 28<sup>th</sup> April, 2021.

Secondly, the Committee considered the Parliamentary Powers and Privileges (Amendment) Bill, Senate Bills No. 33 of 2020.

The report has been adopted by the Committee and is due for tabling before the House. We also considered the Political Parties Primaries Bill, Senate Bills No.35 of 2020 and the consideration of this particular Bill was deferred. We also considered the Law of Succession (Amendment) Bill, Senate Bills No. 15 of 2021 and the Committee wants to report that consideration of this Bill is still ongoing before the Committee.

On the BBI Bill, the Committee undertook extensive public participation including three full days of public hearings where it received submissions from a total of 65 organizations and individuals. The Committee, jointly with the National Assembly Committee of JLAC then retreated to consider the Bill and submissions thereon following which has already reported to the House. A joint report was adopted and tabled in the Senate and the National Assembly.

Madam Temporary Speaker, we want to report as a Committee that this was a historic occasion and represented the first time that Parliament considered a Bill to amend the Constitution by popular initiative. The report that was tabled by the Committee before this House was as a result of an extensive research work and deliberations by the Committee and will no doubt be referred to by the courts, as you saw what happened in the Court of Appeal, scholars and historians.

The Committee has also received additional three Bills which were read for the First Time before this House yesterday. These are:-

1. The County Boundaries Bill (Senate Bills No.20 of 2021).
2. The Preservation of Human Dignity and Protection of Economic and Social Rights Bill, Senate Bill No.21 of 2021.
- ~~3. The Alternative Dispute Resolution Bill, Senate Bills No.34 of 2021.~~

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The Committee will in due course consider these Bills and make a report to the House.

The third business that has been transacted by the Committee is Statements. The Committee considered a total of four Statements that were sought by the Senators during the period under review.

The first one is the Statement that was sought by Sen. Mutula Kilonzo Jnr. on the delays on the appointment of 41 Judges of the High Court and the Court of Appeal. The Committee held extensive engagements on this matter with the office of the Attorney-General and the Judiciary to have this matter concluded.

I want to report to the House that as we speak, a total of 34 judges have since been appointed and sworn into office. However, the Committee is saddened that His Excellency the President excluded the appointment six other Judges and this Committee

continues to robustly pursue the appointment and swearing-in of the said remaining six Judges as provided for in the Constitution and the Judicial Service Act. This Committee will be making a comprehensive report on this particular issue to the House next week but we have taken great exception that these six individuals remain condemned unheard.

We also considered a Statement by Sen. Johnes Mwaruma on the administrative boundary between Taita Taveta County and Makueni County. On this particular issue, the Committee considered this matter jointly with the Committee on National Security, Defence and Foreign Relations. Along the way, it transpired that there were a number of county disputes involving the counties of Meru and Isiolo; Garissa and Wajir; West Pokot and Turkana; Baringo and Samburu; Kisumu and Kericho; Kisumu and Nandi; Kisumu, Vihiga and Siaya; Taita Taveta and Kajiado; Nandi and Kakamega and Kisii and Nyamira, surrounding the boundary of Keroka Township.

The Committees have so far met and received submissions from the Independent Electoral and Boundaries Commission (IEBC), the National Committee on Integration and Cohesion, the CS for Lands and Physical Planning, the CS for Devolution and ASAL and the CS for Interior and Coordination of National Government.

The two Committees are scheduled to undertake a joint retreat next month with all the stakeholders to address the issues that have come up during this time.

The Committee wishes to report to the House that one notable aspect that has come up is that different Government agencies hold different maps of electoral and administrative areas leading to conflicts where some areas are in a different county administrative units and another area is in a different area for purposes of elections which has created serious conflicts.

The key challenge that these two committees have faced when considering this matter is that there has been persistent non-appearance of some Cabinet Secretaries who are invited to respond the matters aforesaid before the Committees. In this particular

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instance, it took six invitations before the CS for Lands was able to appear before the Committee.

I wish to report to the House that the Committee is pursuing this matter and a comprehensive report will be tabled before the House in conclusion.

Madam Temporary Speaker, the third Statement is the one that was sought by Sen. Mary Seneta on the roadmap of activities leading to the 2022 General Elections.

The Committee has held extensive engagements with stakeholders on this matter including the IEBC and civil society organizations under the umbrella of elections observers.

Some of the key observations that came to the fore is that the IEBC lacks the financial human and technical resources to prepare adequately for any referendum or elections within the remaining period before we have our General Elections in August next year.

Madam Temporary Speaker, we were shocked to learn that the IEBC has not been able to undertake any voter registration campaigns between the period of 2017 and 2021. On this particular aspect, we were informed that there are potential over 15 million registered voters that are yet to be captured by IEBC and they need adequate financial allocation to bring these Kenyans within the eligible voters in this country.

Also, we were informed that the IEBC is running short of time on creation of new polling stations to comply with the law that requires each polling station to constitute of 500 registered voters.

On a positive note, we were informed by the IEBC that in the next elections, they are going to implement fully the Elections Financing Act and Section 22 of the Elections Act that requires Members seeking elective posts for the position of MCA, Member of Parliament and Senator to have a minimum qualification of a university degree.

Madam Temporary Speaker, the IEBC informed us that they may not be in a position to undertake delimitation of constituency and ward boundaries until the year 2023 which is the earliest period they expect to conclude such an exercise.

The impact of this is that any new constituencies and wards that may be created may not apply to the 2022 elections.

Madam Temporary Speaker, we also considered a Statement sought by Sen. Cheragei on the operationalization of the proposed legal aid fund provided in the Legal Aid Act (2016). I want to report to the House that this particular exercise is ongoing.

On Petitions, this Committee received and concluded considerations on four Petitions that were pending before the Committee. They include-

- (1) A Petition regarding alleged corruption and mismanagement in the Nyamira County Government.
- (2) Petition regarding mass examination failure at the Kenya School of Law (KSL).

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(3) Petition on the arbitrary cancellation of Kimwarer Dam and scaling down of Aror Dam in Elgeyo-Marakwet County.

(4) Petition concerning lack of support to families of victims of the Ethiopian Airlines crash.

Madam Temporary Speaker, the Committee proceeded to consider the following two other Petitions-

(1) Petition regarding historical injustices against the Kipsigis Community by the colonial government

(2) Petition on access of justice under the COVID-19 pandemic and the appointment court reporters

This business is still pending before the Committee.

On inquiries, the Committee resumed and has concluded consideration of two inquiries which the Committee was undertaking. It projects to table these reports before the House in the coming week. They are-

(1) Inquiry into the policy, legislative and administrative framework on the fight against corruption.

(2) Inquiry into extra-judicial killings and enforced disappearances in Kenya.

These two comprehensive reports will be tabled before the House in the coming week.

Madam Temporary Speaker, on stakeholder engagements, the Committee continued to hold regular engagements with its key stakeholders to receive submissions and exchange views on legislative and other business under consideration of the Committee.

Among the key stakeholders that the Committee has met during the last two quarters are the Office of the Attorney-General, the Office of the Independent Electoral and Boundaries Commission (IEBC), and the Office of the Ethics and Anti-Corruption Commission (EACC).

From the latter, the Committee was informed that the EACC is pursuing illegally acquired wealth worth Kshs11.5 billion by four current and former governors. To put this into context, in the current financial year, only nine counties are receiving more than Kshs10 billion as per the County Allocation of Revenue Act (CARA) passed by this House and assented to. Further, this amount of Kshs11.5 billion is money that can support the budget and operations of two counties for their entire financial year.

Madam Temporary Speaker, this Committee notes that it is a shame that the amount of money being lost to corruption in counties while agencies charged with these investigations and prosecuting them seem to be helpless. This is robbing communities of their future livelihoods through lack of construction of Early Childhood Development (ECD) schools, hospitals, county roads and other infrastructure that these funds were meant to serve.

On the representation of the Senate in judicial proceedings, the Committee has continued to represent the Senate on a *pro bono* basis in key litigation at the High Court and the Court of Appeal to defend and uphold the mandate and functions of the Senate. As Senators may recall, last year in October, the Senate secured an incredibly significant ruling on its role in the processing of Bills by Parliament. The National Assembly being dissatisfied with the findings of the High Court appealed this decision to the Court of Appeal.

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We have three distinguished Senators being Sen. Orengo, Sen. Mutula Kilonzo Jnr. and myself appearing for the Senate *pro bono* in the Court of Appeal. As an update, I wish to inform the House that this matter is scheduled for hearing before the Court of Appeal on the 21<sup>st</sup> July 2021.

The said Senators will continue to robustly fight to protect and safeguard the mandate of this House. The Committee immensely thanks Sen. Orengo and Sen. Mutula Kilonzo Jnr. who have continued to provide *pro bono* legal services to this House.

Madam Temporary Speaker, in conclusion, the Committee has undertaken a number of county visits during the period under review. This includes having three joint retreats with the National Assembly, Departmental Committee on Justice and Legal Affairs, to consider as I have said, the Building Bridges Initiative (BBI) Bill. Holding sittings with stakeholders with the counties of Kericho and Nyamira.

The Committee wants to thank the Office of the Speaker and the secretariat for the support that has been extended to the said Committee.

Lastly, I wish to thank the Members of the Committee for their diligence in executing the mandate of the Committee.

I thank you.

**The Temporary Speaker** (Sen. Paredo): Job well done by the Committee on Justice, Legal Affairs, and Human Rights. That was really comprehensive. Can we have a few comments because we still have to try and conclude what we have in the Order Paper? I will allow two minutes for Sen. Halake and the rest.

**Sen. Halake:** Thank you very much, Madam Temporary Speaker, for allowing me to contribute to this. I have been a beneficiary of the good work of the Senate Committee on Justice, Legal Affairs and Human Rights under the able stewardship of Senior Counsel, Sen. Omogeni. He has done a fantastic job with the Committee. As you know - you are a lawyer yourself - this Committee deals with one of the most important pillars of the job of the Senate, which is legal and justice. It is actually the major mandate of the legislative and the legal and justice arm of our legislature.

Madam Temporary Speaker, from just the sheer volume of what you have seen Sen. Omogeni present, we are very proud of this Committee as the Senate, especially as Senators who have had the opportunity to appear before it and served it in various capacities, either as public participation with our Bills or just pre-publication scrutiny. I have had the pleasure of appearing before this Committee and working with it on my Bills the first time and now again.

I am really impressed by the work that Sen. Omogeni and his team have done. I would like to thank them. More than just contributing to his report is just to personally express my gratitude for the great input, guidance and great work they have done with my Bill. That is not to mean that other Bills are not treated the same.

Justice has been done to all the Bills I have seen go through this Committee just as the name suggests. Congratulations, Sen. Omogeni. Your team is fabulous.

Madam Temporary Speaker, they have served this country and us well. It is not easy to dispense justice, especially when the kind of things you are handling from legislative frameworks that are going to outlive us to electoral justice, boundary and land justice issues. You have done very well and the country should be proud of you.

I thank you and support the Report.

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Musuruve, proceed for two minutes.

**Sen. (Dr.) Musuruve:** Thank you, Madam Temporary Speaker, for giving me an opportunity to support the works of the Committee on Justice, Legal Affairs and Human Rights. Sen. Omogeni has always been very passionate about his work and truly committed to his cause.

I thank Members of his Committee for a job well done. I agree with my colleague, Sen. Halake, that it is usually not a very easy task to execute. Sen. Omogeni's team has persistently and consistently done a very good job with regards to executing justice in this country.

There are so many legal issues touching on human rights that have come to the Floor of this House from various Members. The Committee has done a commendable job on them.

There are other issues that have come to the Floor of this House with regard to security matters in north eastern and other parts of this country. The Committee has tirelessly ensured they got to the root of the matter. Congratulations for a job well done.

I support.

**The Temporary Speaker** (Sen. Pareno): Proceed, Sen. Farhiya, for two minutes.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker, for giving me this opportunity. I thank the Committee especially the Chairman for doing justice on behalf of the Senate. Our mandate was expanded and we were put in the rightful place.

I advise the Committee that given that the elections are around the corner, we need enhancement of electoral laws and boundary disputes resolved before we go to the elections. We cannot afford another election violence this time round. We have to get it right.

As you remember, the immediate former chief justice had ordered the Senate and National Assembly to be dissolved. I have a Bill that was going to resolve that. I request the Committee to fastrack it. There is also the lifestyle audit as well. The lifestyle audit had another bit that was covering economic crises amendments.

I have now separated the two incase the lifestyle audit gets stuck, at least the other passes because it has general provisions that will help in recovery of assets because there is an opportunity to negotiate with the Office of the Director of Public Prosecutions (DPP) so that if they agree, they settle quickly. This is because as the law stand right now, even if somebody is charged, it takes long on the corridors of justice and corrupt people can corrupt their way through. Things are never resolved even when there is clear evidence.

On the one of amending the Economic Crimes Act, at least I have separated the deferred prosecution element to be an amendment to economic crimes. Fastrack that one before we finish this term so that it can be passed by both Houses and there is a significant improvement on how we handle corruption.

Given the kind of corruption in this country, I am surprised that our economy is still surviving.

I support.

**The Temporary Speaker** (Sen. Pareno): That is all on Statements.

Next Order.

## BILL

### *Second Reading*

#### THE COMMUNITY HEALTH SERVICES BILL (SENATE BILLS NO. 34 OF 2020)

*(Resumption of debate interrupted on 6. 7. 2021)*

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, we do not have the quorum. Division will be taken on another day.

*(Division on the Bill deferred)*

Next Order.

**Sen. (Dr.) Milgo:** Thank you, Madam Temporary Speaker. I do not know how much time I have.

**BILL***Second Reading*THE INVESTMENT PROMOTION (AMENDMENT) BILL  
(SENATE BILLS NO.2 OF 2021)

*(The Temporary Speaker (Sen. Pareno) spoke off record)*

Thank you, Madam Temporary Speaker. I was inspired to amend this Bill based on the fact that times are challenging. In fact, investment and business markets---

**The Temporary Speaker** (Sen. Pareno): Sen. (Dr.) Milgo, you need to move that the Bill be read a Second Time.

**Sen. (Dr.) Milgo:** Sorry, Madam Temporary Speaker. I am advised.

I beg to move that Investment Promotion (Amendment) Bill (Senate Bills No.2 of 2021) be read a Second Time.

As I was saying, I was inspired to amend this Bill having looked at the marketing and investment environment right now. It is changing more than ever before. In fact, to remain on the competitive table, there must be very strong strategies at both the county and national Government levels. More specifically at the county level is the new investment front.

Unless there are proper strategies to attract, retrain and benefit investors, it will become a challenge to remain on the table. There is an emerging urban middle class as well as a new generation in the country right now. This group of people requires high quality goods and services.

Madam Temporary Speaker, together with this, technology is impacting the world more than ever before in the most challenging ways. Unless we leverage on technology, many businesses and investments will end up closing shop.

Looking at the business environment, I think right now more than ever before, a lot of bureaucracy is affecting businesses. In this case, we are going to one stop shop where you go to one place and get licenses, business permits and even obtain information based on the nature of investments available in whichever area.

Kenya is strategically positioned in East and Central African. In addition to that, it has very good infrastructure as well as very many forms of business with the newly devolved units.

Most contributions on statements this afternoon have talked about the tax regime that is affecting businesses, consumption and the economy generally. As I am moving this Bill, we have lost many businesses to our neighbouring countries of Tanzania and Uganda based on the nature of our tax regimes.

**The Temporary Speaker** (Sen. Pareno): Order, Sen. (Dr.) Milgo! You will have a balance of 55 minutes when this matter comes next on the Order Paper.

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. Therefore, the Senate stands adjourned until tomorrow, Thursday, 8<sup>th</sup> July, 2021 at 2.30 p.m.

The Senate rose at 6.30 p.m.